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Affairs Canada

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et du Nord Canada

Indian Acts and Amendments, 1868-1950

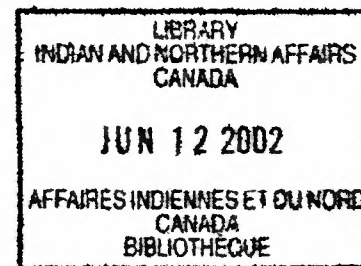
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INDIAN ACTS AND AMENDMENTS

1868-1950



Treaties and Historical Research Centre
Research Branch
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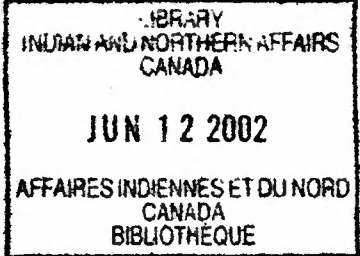
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FOREWORD

This two volume report is based on documentation originally collected by Gail Hinge under contract to the Office of Native Claims and contained in Part II of a four-part set entitled, The Consolidation of Indian Legislation. The Treaties and Historical Research Centre has since edited and updated the original report. The work focuses on the Indian Acts and their amendments, with the contents of both volumes arranged in chronological order.

Volume I, entitled, Indian Acts and Amendments 1868-1950, begins with the Statute of 1868. The various Acts and their amending acts are reproduced in their entirety; all amending sections are underlined, with citations to the amending acts given in the margin.

Volume II, entitled Contemporary Indian Legislation, 1951-1978 begins with the Indian Act of 1951 and includes amending acts, Statutory orders and Regulations, and other related contemporary legislation.



EXPLANATORY NOTE: VOLUME I

Contents

Briefly stated, this volume includes

- a) selected Acts from 1868 to 1875
- b) Indian Acts from 1876 on
- c) Amending Acts
- d) Appendix

The arrangement of legislation in this volume is chronological, based on the year in which the legislation was enacted by Parliament. The title, chapter, year of enactment, and in most cases, regnal year, is placed at the beginning of each Act. The chapter and year are indicated on subsequent pages.

References to Statutes

A statute is any particular law enacted and established by the will of the legislative department of government and is consequently a formal expression of legislative policy. Revised statutes are a collection of statutes which have been revised, arranged in order, and re-enacted as a whole. A revision of a statute may:

"constitute a restatement of the law in a corrected or improved form, in which case the statement may be with or without material change, and is substituted for and displaces and repeals the former law as it stood relating to the subjects within its purview."

(Black's Law Dictionary, Fourth ed.)

In general, revised statutes consolidate prior legislation through re-enactment and repeal former legislation. Turning to section 38, chapter 43 of the Revised Statutes of Canada, 1886, for example, the previous legislation incorporated by section 38 is indicated in the final line. See below.

Provisions respecting sale or lease of reserves.	38. No reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Act, excepting that in cases of aged, sick and infirm Indians and widows or children left without a guardian, or in the cases of Indians engaged in the practice of any one of the learned professions, or in teaching schools, or in pursuing a trade which interferes with their cultivating land on the reserve, the Superintendent General shall have the power to lease, for their support or benefit, the lands to which they are entitled. 43 V., c. 28, s. 36;—47 V., c. 27, s. 8.
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Thus section 38 above is consolidating and re-enacting section 36, chapter 28 of the Statutes of Canada, 1880, as well as a later amendment section 8, chapter 27 of the Statutes of Canada, 1884. 43 V. and 47 V. refer to the 43rd and 47th year of Victoria's reign (regnal year) or alternatively to the statutes of 1880 and 1884.

However, to determine the precise effect of revised statutes on earlier legislation, reference must be made to the revision authority. For example, An Act respecting the Revised Statutes of Canada, chapter 4, of the Revised Statutes of Canada 1886, authorized the consolidation and publication of the revised versions of the pre-1886 legislation. Then, as in 1906 and 1927, the Revised Statutes of 1886 were officially recognized as law, by proclamation of the Governor General.

Included in the appendix for the reader's convenience is the following documentation:

- a) legislation regarding the Revised Statutes of 1886, 1906 and 1927
- b) proclamations for 1886, 1906 and 1927
- c) extracts from schedules indicating the effect of the Revised Statutes for 1886, 1906 and 1927, on earlier legislation, with particular reference to the Indian Act.
- d) legislation for 1886, 1906 and 1927 pertaining to interpretation of the Revised Statutes (the rules of interpretation, the definitions applicable whenever certain terms appear in other legislation, such as in the Indian Act.)

Reference to Amendments

To facilitate the reader's usage of amending acts, all amending sections are underlined and citations to the amending acts are given in the margin opposite the section being amended. For example:

Power to establish industrial schools.	10. The Governor in Council may establish an industrial school or a boarding school for Indians, or may declare any existing Indian school to be such industrial school or boarding school for the purposes of this and the next following section. 57-58 V., c. 32, s. 11.	s. 10, c. 81, R.S.C. 1906 amended by s. 1, c. 35, S.C. 1914 and subsequently repealed and replaced by s. 1, c. 50, S.C. 1919-20.
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The citation opposite s. 10, c. 81, R.S.C. 1906 indicates that this section was amended in 1914 and in 1919-20. Where a section of an Act, as in the above example, has been amended more than once and by more than one Act, the reference is repeated in the margin opposite the subsequent amending section. Turning to section 1, c. 35, S.C. 1914, the citation reads:

<p>1. Section 10 of the <i>Indian Act</i>, chapter 81 of the Revised Statutes of Canada, 1906, is repealed and the following is substituted therefor:—</p>	<p>R.S., 1906, c. 81 amended.</p>	<p>s. 10, c. 81, R.S.C. 1906</p>
<p>“10. <u>The Governor in Council may establish an industrial school or a boarding school for Indians, or may declare any school or institution where children are provided with board and lodging as well as instruction, and with the managing authorities of which the Superintendent General has made an agreement for the admission of an Indian child or children, and for the inspection of the school or institution, to be an industrial school or boarding school for the purposes of this and the next following section.</u>”</p>	<p>Power to establish industrial, etc., schools.</p>	<p>amended by s.1, c. 35, S.C. 1914 and subsequently repealed and replaced by s.1, c. 50, S.C. 1919-20.</p>

Citation in the margin of amending acts are not provided for those amending sections which are the first or final amendment of a previous Act.

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An Act providing for the organisation of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands. S.C. 1868, c. 42 (31 Vict.)

C A P. X L I I .

An Act providing for the organisation of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands.

[Assented to 22nd May, 1868.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

1. There shall be a department to be called "The Department of the Secretary of State of Canada," over which the Secretary of State of Canada for the time being, appointed by the Governor General by commission under the Great Seal, shall preside; and the said Secretary of State shall have the management and direction of the Department, and shall hold office during pleasure. Department constituted.
Tenure of office.

2. The Governor General may also appoint an "Under Secretary of State," and such other officers as may be necessary for the proper conduct of the business of the said Department, all of whom shall hold office during pleasure. Under Secretary and officers.

3. It shall be the duty of the Secretary of State to have charge of the State correspondence, to keep all State records and papers not specially transferred to other Departments, and to perform such other duties as shall from time to time be assigned to him by the Governor General in Council. General duties of Secretary.

4. The Secretary of State shall be the Registrar General of Canada, and shall as such register all Instruments of Summons, Commissions, Letters Patent, Writs, and other Instruments and Documents issued under the Great Seal. To be Registrar General.

s. 4, c. 42, S.C. 1868, amended by s. 1, c. 6, S.C. 1875.

5. The Secretary of State shall be the Superintendent General of Indian affairs, and shall as such have the control and management of the lands and property of the Indians in Canada. And Superintendent of Indian affairs.

6. All lands reserved for Indians or for any tribe, band or body of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as before the passing of this Act, but subject to its provisions; and no such lands shall be sold, alienated or leased until they have been released or surrendered to the Crown for the purposes of this Act. Indian Lands, to be under this Act.
Alienation on certain conditions only.

7. All moneys or securities of any kind applicable to the support or benefit of the Indians or any tribe, band or body of Indians, and all moneys accrued or hereafter to accrue from the sale Moneys, securities, timber, &c., applicable to Indians, to

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1868. Department of Secretary of State. Cap. 42.

of any lands or of any timber on any lands reserved or held in trust as aforesaid, shall, subject to the provisions of this Act, be applicable to the same purposes, and be dealt with in the same manner as they might have been applied to or dealt with before the passing of this Act.

8. No release or surrender of lands reserved for the use of the Indians or of any tribe, band or body of Indians, or of any individual Indian, shall be valid or binding, except on the following conditions:

1. Such release or surrender shall be assented to by the chief, or if there be more than one chief, by a majority of the chiefs of the tribe, band or body of Indians, assembled at a meeting or council of the tribe, band or body summoned for that purpose according to their rules and entitled under this Act to vote thereat, and held in the presence of the Secretary of State or of an officer duly authorized to attend such council by the Governor in Council or by the Secretary of State; provided that no Chief or Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near the lands in question;

2. The fact that such release or surrender has been assented to by the Chief of such tribe, or if more than one, by a majority of the chiefs entitled to vote at such council or meeting, shall be certified on oath before some Judge of a Superior, County or District Court, by the officer authorized by the Secretary of State to attend such council or meeting, and by some one of the chiefs present thereat and entitled to vote, and when so certified as aforesaid shall be transmitted to the Secretary of State by such officer, and shall be submitted to the Governor in Council for acceptance or refusal.

9. It shall not be lawful to introduce at any council or meeting of Indians held for the purpose of discussing or of assenting to a release or surrender of lands, any strong or intoxicating liquors of any kind; and any person who shall introduce at such meeting, and any agent or officer employed by the Secretary of State, or by the Governor in Council, who shall introduce, allow or countenance by his presence the use of such liquors a week before, at, or a week after, any such council or meeting, shall forfeit two hundred dollars, recoverable by action in any of the Superior Courts of Law, one half of which penalty shall go to the informer.

10. Nothing in this Act shall confirm any release or surrender which would have been invalid if this Act had not been passed; and no release or surrender of any such lands to any party other than the Crown, shall be valid.

11. The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom the moneys arising from sales of Indian Lands, and from the property held or to be held in trust for the Indians, or from any timber thereon, or from any other source for the benefit of Indians, shall be invested from time to time, and how the payments or assistance to which the Indians may be entitled shall be made or given, and may provide for the general management of such lands, moneys and property, and direct what percentage or proportion thereof shall be set apart from time to time, to cover the cost of and attendam upon such management under the provisions of this Act, and for the construction or repair of roads passing through such lands, and by way of contribution to schools frequented by such Indians.

12. No person shall sell, barter, exchange or give to any Indian man, woman or child in Canada, any kind of spirituous liquors, in any manner or way, or cause or procure the same to be done for any purpose whatsoever;—and if any person so sells, bartera, exchanges or gives any such spirituous liquors to any Indian man, woman or child as aforesaid, or causes the same to be done, he shall on conviction thereof, before any Justice of the Peace upon the evidence of one credible witness, other than the informer or prosecutor, be fined not exceeding twenty dollars for each such offence, one moiety to go to the informer or prosecutor, and the other moiety to Her Majesty to form part of the fund for the benefit of that tribe, band or body of Indians with respect to one or more members of which the offence was committed; but no such penalty shall be incurred by furnishing to any Indian in case of sickness, any spirituous liquor, either by a medical man or under the direction of a medical man or clergyman.

13. No pawn taken of any Indian for any spirituous liquor, shall be retained by the person to whom such pawn is delivered, but the thing so pawned may be sued for and recovered, with costs of suit, by the Indian who has deposited the same, before any Court of competent jurisdiction.

14. No presents given to Indians nor any property purchased or acquired with or by means of any annuities granted to Indians, or any part thereof, or otherwise howsoever, and in the possession of any Tribe, band or body of Indians or of any Indian of any such Tribe, band or body, shall be liable to be taken, seized or distrained for any debt, matter or cause whatsoever.

15. For the purpose of determining what persons are entitled to hold, use or enjoy the lands and other immoveable property belonging to or appropriated to the use of the various tribes, bands or bodies of Indians in Canada, the following persons and classes of persons, and none other, shall be considered as

Governor in Council to direct the application of Indian moneys.

Penalty for giving or selling liquor to Indians.

How recovered and applied.

Proviso: in case of sickness.

Pawns not to be taken from Indians.

Presents, &c., not liable for debts.

What persons only shall be deemed Indians.

s. 12, c. 42, S.C. 1868, repealed and replaced by s. 1, c. 21, S.C. 1874.

s. 14, c. 42, S.C. 1868, amended by s. 2, c. 21, S.C. 1874.

Proviso added to s. 15, c. 42, S.C. 1868, by s. 6, c. 6, S.C. 1869.

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2. The fact that such release or surrender has been assented to by the Chief of such tribe, or if more than one, by a majority of the chiefs entitled to vote at such council or meeting, shall be certified on oath before some Judge of a Superior, County or District Court, by the officer authorized by the Secretary of State to attend such council or meeting, and by some one of the chiefs present thereat and entitled to vote, and when so certified as aforesaid shall be transmitted to the Secretary of State by such officer, and shall be submitted to the Governor in Council for acceptance or refusal.

9. It shall not be lawful to introduce at any council or meeting of Indians held for the purpose of discussing or of assenting to a release or surrender of lands, any strong or intoxicating liquors of any kind; and any person who shall introduce at such meeting, and any agent or officer employed by the Secretary of State, or by the Governor in Council, who shall introduce, allow or countenance by his presence the use of such liquors a week before, at, or a week after, any such council or meeting, shall forfeit two hundred dollars, recoverable by action in any of the Superior Courts of Law, one half of which penalty shall go to the informer.

10. Nothing in this Act shall confirm any release or surrender which would have been invalid if this Act had not been passed; and no release or surrender of any such lands to any party other than the Crown, shall be valid.

Conditions on which only Indian lands may be surrendered, &c.

Consent of the chief or chiefs of the tribe.

Proviso: who may vote.

Certificate of assent to be forwarded to Secretary of State.

Penalty for introducing liquor at any meeting for such assent.

Any surrender otherwise invalid, not hereby confirmed.

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11. The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom the moneys arising from sales of Indian Lands, and from the property held or to be held in trust for the Indians, or from any timber thereon, or from any other source for the benefit of Indians, shall be invested from time to time, and how the payments or assistance to which the Indians may be entitled shall be made or given, and may provide for the general management of such lands, moneys and property, and direct what percentage or proportion thereof shall be set apart from time to time, to cover the cost of and attendam upon such management under the provisions of this Act, and for the construction or repair of roads passing through such lands, and by way of contribution to schools frequented by such Indians.

Governor in Council to direct the application of Indian moneys.

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Penalty for giving or selling liquor to Indians.

How recovered and applied.

Proviso: in case of sickness.

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Presents, &c., not liable for debts.

15. For the purpose of determining what persons are entitled to hold, use or enjoy the lands and other immoveable property belonging to or appropriated to the use of the various tribes, bands or bodies of Indians in Canada, the following persons and classes of persons, and none other, shall be considered as

What persons only shall be deemed Indians.

s. 12, c. 42, S.C. 1868, repealed and replaced by s. 1, c. 21, S.C. 1874.

s. 14, c. 42, S.C. 1868, amended by s. 2, c. 21, S.C. 1874.

Proviso added to s. 15, c. 42, S.C. 1868, by s. 6, c. 6, S.C. 1869.

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Indians belonging to the tribe, band or body of Indians interested in any such lands or immoveable property:

Firstly. All persons of Indian blood, reputed to belong to the particular tribe, band or body of Indians interested in such lands or immoveable property, and their descendants;

Secondly. All persons residing among such Indians, whose parents were or are, or either of them was or is, descended on either side from Indians or an Indian reputed to belong to the particular tribe, band or body of Indians interested in such lands or immoveable property, and the descendants of all such persons; And

Thirdly. All women lawfully married to any of the persons included in the several classes hereinbefore designated; the children issue of such marriages, and their descendants.

How road labour shall be performed on Indian lands.

16. Indians and persons intermarried with Indians, residing upon any Indian Lands, and engaged in the pursuit of agriculture as their then principal means of support, shall be liable, if so directed by the Secretary of State, or any officer or person by him thereunto authorized, to perform labor on the public roads laid out or used in or through or abutting upon such Indian lands, such labor to be performed under the sole control of the said Secretary of State, officer or person, who may direct when, where and how and in what manner, the said labor shall be applied, and to what extent the same shall be imposed upon Indians or persons intermarried with Indians, who may be resident upon any of the said lands; and the said Secretary of State, officer or person shall have the like power to enforce the performance of all such labor by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in that one of the Provinces of Canada in which such lands lie, for the non-performance of statute labor; But the labor to be so required of any such Indian or person intermarried with an Indian, shall not exceed in amount or extent what may be required of other inhabitants of the same province, county or other local division, under the laws requiring and regulating such labor and the performance thereof.

Proviso.

None but persons deemed Indians to settle on Indian lands.

17. No persons other than Indians and those intermarried with Indians, shall settle, reside upon or occupy any land or road, or allowance for roads running through any lands belonging to or occupied by any tribe, band or body of Indians; and all mortgages or hypothecs given or consented to by any Indians or any persons intermarried with Indians, and all leases, contracts and agreements made or purporting to be made, by any Indians or any person intermarried with Indians, whereby persons other than Indians are permitted to reside upon such lands, shall be absolutely void.

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18. If any persons other than Indians or those intermarried with Indians do, without the license of the Secretary of State, (which license, however, he may at any time revoke,) settle, reside upon or occupy any such lands, roads or allowances for roads, the Secretary of State, or such officer or person as he may thereunto depute and authorize, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant signed and sealed, directed to the sheriff of the proper county or district, or if the said lands be not situated within any county or district, then directed to any literate person willing to act in the premises, commanding him forthwith to remove from the said lands or roads, or allowances for roads, all such persons and their families, so settled, residing upon or occupying the same; and such sheriff or other person shall, accordingly, remove such persons, and for that purpose shall have the same powers as in the execution of criminal process; but the provisions in this and the four next following sections shall extend to such Indian lands only, as the Governor, from time to time, by Proclamation published in the *Canada Gazette*, declares and makes subject to the same, and so long only as such proclamation remains in force.

Removal of unauthorized persons settling on Indian lands, provided for.

Proviso.

19. If any person after having been removed as aforesaid returns to, settles upon, resides upon, or occupies, any of the said lands or roads or allowances for roads, the Secretary of State or any officer or person deputed and authorized, as aforesaid, upon view, or upon proof on oath made before him or to his satisfaction, that the said person has returned to, settled or resided upon or occupied any of the said lands or roads or allowances for roads, shall direct and send his warrant signed and sealed, to the Sheriff of the proper County or District, or to any literate person therein, and if the said lands be not situated within any County, then to any literate person, commanding him forthwith to arrest such person and commit him to the Common Gaol of the said County or District or to the Common Gaol of the nearest County or District to the said lands, if the said lands be not within any County or District, there to remain for the time ordered by such warrant, but which shall not exceed thirty days.

Arrest and imprisonment of persons so removed, if they return to the lands.

20. Such Sheriff or other person shall accordingly arrest the said party, and deliver him to the Gaoler or Sheriff of the proper County or District who shall receive such person, and imprison him in the said Common Gaol for the term aforesaid, there to remain without bail and without being entitled to the liberties or limits of the said Gaol.

Sheriff, &c., to arrest such persons.

21. The said Secretary of State, or such officer or person as aforesaid, shall cause the judgment or order against the offender to be drawn up, and such judgment shall not be removed by *Certiorari* or otherwise, or be appealed from, but shall be final.

Judgment:— It shall be final.

Cap. 42. Department of Secretary of State. 31 Vicr.

22. If any person without the license in writing of the Secretary of State, or of some officer or person deputed by him for that purpose, trespasses upon any of the said lands or roads or allowances for roads, by cutting, carrying away or removing therefrom, any of the trees, saplings, shrubs, underwood or timber thereon, or by removing any of the stone or soil of the said lands, roads or allowances for roads, the person so trespassing shall for every tree he cuts, carries away or removes, forfeit and pay the sum of twenty dollars, and for cutting, carrying or removing any of the saplings, shrubs, underwood or timber, if under the value of one dollar, the sum of four dollars, but if over the value of one dollar, then the sum of twenty dollars, and for removing any of the stone or soil aforesaid, the sum of twenty dollars, such fine to be recovered by the said Secretary of State, or any officer or person by him deputed, by distress and sale of the goods and chattels of the party or parties fined, or the said Secretary of State, officer or person without proceeding by distress and sale as aforesaid, may, upon the non-payment of the said fine, order the party or parties to be imprisoned in the Common Gaol as aforesaid, for a period not exceeding thirty days, when the fine does not exceed twenty dollars, or for a period not exceeding three months, where the fine does exceed twenty dollars; and upon the return of any warrant for distress or sale, if the amount thereof has not been made, or if any part of it remains unpaid, the said Secretary of State, officer or person, may commit the party in default upon such warrant, to the Common Gaol as aforesaid, for a period not exceeding thirty days if the sum claimed by the Secretary of State, upon the said warrant, does not exceed twenty dollars, or for a time not exceeding three months if the sum claimed does exceed twenty dollars; all such fines shall be paid to the Receiver General, to be disposed of for the use and benefit of the Tribe, band or body of Indians for whose benefit the lands are held, in such manner as the Governor may direct.

23. In all orders, writs, warrants, summonses and proceedings whatsoever made, issued or taken by the Secretary of State, or any officer or person by him deputed as aforesaid, it shall not be necessary for him or such officer or person, to insert or express the name of the person summoned, arrested, distrained upon, imprisoned or otherwise proceeded against therein, except when the name of such person is truly given to or known by the Secretary of State, officer or person, and if the name be not truly given to or known by him, he may name or describe the person by any part of the name of such person given to or known by him; and if no part of the name be given to or known by him he may describe the person proceeded against in any manner by which he may be identified; and all such proceedings containing or purporting to give the name or description of any such person as aforesaid shall *prima facie* be sufficient.

Penalty on persons cutting timber or removing stone, &c. from Indian lands.

How enforced and applied.

Manner in which writs, warrants, &c., not to invalidate them.

1868. Department of Secretary of State. Cap. 42.

24. All Sheriffs, Gaolers or Peace Officers to whom any such process is directed by the said Secretary of State, or by any officer or person by him deputed as aforesaid, shall obey the same, and all other officers upon reasonable requisition shall assist in the execution thereof.

25. If any Railway, road or public work passes through or causes injury to any land belonging to or in possession of any tribe, band or body of Indians, compensation shall be made to them therefor, in the same manner as is provided with respect to the lands or rights of other persons; the Secretary of State shall act for them in any matter relating to the settlement of such compensation, and the amount awarded in any case shall be paid to the Receiver General for the use of the tribe, band or body of Indians for whose benefit the lands are held.

26. The Secretary of State is hereby substituted for the Commissioner of Indian Lands for Lower Canada, under the fourteenth chapter of the Consolidated Statutes for Lower Canada, respecting Indians and Indian lands, which shall continue to apply to Indians and Indian lands, in the Province of Quebec, in so far as it is not inconsistent with this Act, and shall have all the powers and duties assigned to such Commissioner by the said Act, except that the lands and property heretofore vested in the said Commissioner shall henceforth be vested in the Crown, and shall be under the management of the Secretary of State, who shall manage the same on behalf of the Crown, and the suits respecting them shall be brought in the name of the Crown, and the said Secretary of State shall not be bound to have any domicile in the Province of Quebec or to give security; and so much of the said Act as is inconsistent with this Act is repealed.

27. The period limited by the sixth section of the Act last cited, as that within which informations may be brought under that Act, shall be one year instead of six months.

28. In all cases of encroachment upon any lands set apart for Indian reservations or for the use of the Indians, not hereinbefore provided for, it shall be lawful to proceed by information in the name of Her Majesty in the Superior Courts of Law or Equity, notwithstanding the legal title may not be vested in the Crown.

29. The Governor may authorize surveys, plans and reports to be made of any lands reserved for Indians shewing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as may be required.

30. The proceeds arising from the sale or lease of any Indian lands or from the timber thereon shall be paid to the Receiver General to the credit of Indian Fund.

Sheriffs, &c., to obey orders under this Act.

As in compensation when any Railway, &c., passes through Indian lands.

Powers under Cap. 14, Cons. Stat. L. C., vested in Secretary of State.

Secretary not to give security, &c.

Period in Sect. 6, extended.

Proceedings in case of encroachment on Indian lands.

Surveys of Indian lands.

Proceeds of timber.

Cap. 42. Department of Secretary of State. 31 Vicr.

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26. The Secretary of State is hereby substituted for the Commissioner of Indian Lands for Lower Canada, under the fourteenth chapter of the Consolidated Statutes for Lower Canada, respecting Indians and Indian lands, which shall continue to apply to Indians and Indian lands, in the Province of Quebec, in so far as it is not inconsistent with this Act, and shall have all the powers and duties assigned to such Commissioner by the said Act, except that the lands and property heretofore vested in the said Commissioner shall henceforth be vested in the Crown, and shall be under the management of the Secretary of State, who shall manage the same on behalf of the Crown, and the suits respecting them shall be brought in the name of the Crown, and the said Secretary of State shall not be bound to have any domicile in the Province of Quebec or to give security; and so much of the said Act as is inconsistent with this Act is repealed.

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29. The Governor may authorize surveys, plans and reports to be made of any lands reserved for Indians shewing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as may be required.

30. The proceeds arising from the sale or lease of any Indian lands or from the timber thereon shall be paid to the Receiver General to the credit of Indian Fund.

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Secretary not to give security, &c.

Period in Sect. 6, extended.

Proceedings in case of encroachment on Indian lands.

Surveys of Indian lands.

Proceeds of timber.

Cap. 42. Department of Secretary of State. 31 Vict.

Cap. 57 of Revised Stat. N.S. repealed: monies to be paid over.

31. The fifty-seventh chapter of the Revised Statutes of Nova Scotia, Third Series, is hereby repealed, and the chief Commissioner and Deputy Commissioners under the said chapter, shall forthwith pay over all monies in their hands arising from the selling or leasing of Indian lands, or otherwise under the said chapter, to the Receiver General of Canada by whom they shall be credited to the Indian Fund of Nova Scotia; and all such monies in the hands of the Treasurer of Nova Scotia, shall be paid over by him to the Receiver General of Canada, by whom they shall be credited to the said Indian Fund. And all Indian lands and property now vested in the said Chief Commissioner, Deputy Commissioner, or other person whomsoever, for the use of Indians, shall henceforth be vested in the Crown and shall be under the management of the Secretary of State.

Indian lands vested in Secretary.

Cap. 85 of Rev. Stat. N. B. repealed: monies to be paid over.

32. The eighty-fifth chapter of the Revised Statutes of New Brunswick respecting Indian Reserves is hereby repealed, and the Commissioners under the said chapter, shall forthwith pay over all monies in their hands arising from the selling or leasing of Indian Lands or otherwise under the said chapter, to the Receiver General of Canada, by whom they shall be credited to the Indians of New Brunswick, and all such monies now in the hands of the Treasurer of New Brunswick shall be paid over to the Receiver General of Canada, to be credited to the said Indians. And all Indian lands and property now vested in the said Commissioner, or other person whomsoever, for the use of Indians, shall henceforth be vested in the Crown and shall be under the management of the Secretary of State.

Indian lands vested in Secretary.

Act not to affect Cap. 9 of Con. Stat. Can. &c.

33. Nothing in this Act contained shall affect the provisions of the ninth chapter of the Consolidated Statutes of Canada, intituled: *An Act respecting the civilization and enfranchisement of certain Indians*, in so far as respects Indians in the Provinces of Quebec and Ontario, nor of any other Act when the same is not inconsistent with this Act.

Secretary of State to manage Ordnance lands.

34. The Secretary of State is hereby substituted for the Commissioner of Crown Lands as regards the Ordnance and Admiralty lands transferred to the late Province of Canada and lying in the Provinces of Quebec and Ontario.

Powers under certain Acts vested in him, in place of Commissioner of Crown Lands. 23 V. c. 2.

35. All powers and duties vested in the Commissioner of Crown Lands with respect to the said Ordnance or Admiralty Lands, in the Provinces of Quebec and Ontario, by the Act of the Parliament of the late Province of Canada, passed in the twenty-third year of Her Majesty's reign, and chaptered two, intituled: *An Act respecting the sale and management of the Public Lands*, or by the twenty-third chapter of the Consolidated Statutes of the said late Province, intituled: *An Act respecting the sale and management of Timber on Public Lands*, (both which Acts shall continue to apply to the said lands;)—or by any other

C. 23, Con. Stat. Can.

1868. Department of Secretary of State. Cap. 42.

Act or law in force in any of the Provinces now composing the Dominion of Canada, at the time of the Union of the said Provinces, are hereby transferred to and vested in the said Secretary of State, and shall be exercised and performed by him; Provided that in construing the two Acts cited in this Section, with reference to the said lands, the words "Secretary of State" shall be substituted for the words "Commissioner of Crown Lands," and for the words "Registrar of the Province,"—the words "Governor General" shall be substituted for the word "Governor" and the words "Governor General in Council" for the words "Governor in Council,"—and the Governor General in Council may direct that the said two Acts or either of them, or any part or parts of either or both of them shall apply to the Indian Lands in the Provinces of Quebec and Ontario, or to any of the said lands, and may from time to time repeal any such Order in Council and make another or others instead thereof; and provided further, that all the powers and duties by this section vested in the Secretary of State, shall be deemed to have been so vested from and after the first day of July now last past, and may be by him exercised with reference to any act or thing done or performed since that date, in connection with Ordnance or Indian Lands.

Provide: How such Acts shall be construed.

Provide: Act to refer to 1st July, 1867.

36. The Secretary of State shall also have the control and management of all Crown Lands being the property of the Dominion, that are not specially under the control of the Public Works Department.

Powers as to certain other Crown Lands.

37. The Governor in Council may, from time to time, make such Regulations as he deems expedient for the protection and management of the Indian lands in Canada or any part thereof, and of the timber thereon or cut from off the said lands, whether surrendered for sale or reserved or set apart for the Indians, and for ensuring and enforcing the collection of all moneys payable in respect of the said lands or timber, and for the direction and government of the officers and persons employed in the management thereof or otherwise with reference thereto, and generally for carrying out and giving effect to the provisions of this Act;—and by such Regulations the Governor in Council may impose such fines not exceeding in any case two hundred dollars, as he deems necessary for ensuring the due observance of such Regulations, the payment of all such moneys as aforesaid, and the enforcing of due obedience to the provisions of this Act,—and may by such Regulations provide for the forfeiture, or the seizure and detention of any timber in respect of which the said Regulations have been infringed, or on which any sum payable in respect thereof has not been paid, and for the sale of such timber (if not forfeited,) in case the dues, damages and fine be not paid within the time limited by such regulations, and the payment thereof out of the proceeds of the sale; and if forfeited such

Governor in Council may make Regulations as to Indian Lands, and timber cut on them; and may impose fines for breach of the same, &c.

s. 37, c. 42, S.C. 1868, repealed by s. 99, c. 18, S.C. 1876.

S.C. 1868, c. 42, cont'd.

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timber shall be dealt with as the regulation may direct:—and may appropriate any such fines in such manner he may see fit; and the Governor in Council may by such regulations provide for the forfeiture of any lease, licence of occupation, licence to cut timber, or other licence or permission of any kind with respect to such lands, if the conditions on which such licence or permission is granted are not observed; but no such provision imposing any penalty or forfeiture shall impair or diminish any right or remedy of the Crown to recover any money or enforce the performance of the conditions of any such sale, lease, contract, obligation, licence, or permission in the ordinary course of law.

Proviso: not to impair other remedies.

Publication, effect and proof of Regulations.

38. All Regulations or Orders in Council made under the next preceding section shall be published in the *Canada Gazette*, and being so published shall have the force of law, from the date of their publication or from such later date as may be therein appointed for their coming into force; and any such regulation may be repealed, amended or re-enacted by any subsequent regulation, and shall be in force until so repealed or amended unless an earlier period be therein appointed for their ceasing to be in force; and a copy of any such Regulations purporting to be printed by the Queen's Printer shall be *prima facie* evidence thereof.

s. 38, c. 42,
S.C. 1868,
repealed by
s. 99, c. 18,
S.C. 1876.

Governor may appoint agents &c., under this Act.

39. The Governor may, from time to time, appoint officers and agents to carry out this Act, and any Orders in Council made under it, which officers and agents shall be paid in such manner and at such rates as the Governor in Council may direct.

Governor in Council may transfer duties under this Act, to any other department.

40. The Governor in Council may at any time assign any of the duties and powers hereby assigned to and vested in the Secretary of State, to any other member of the Queen's Privy Council for Canada, and his department, and from the period appointed for that purpose by any order in Council such duties and powers shall be transferred to, and vested in such other member of Her Majesty's Privy Council for Canada and his department.

Yearly report to Parliament.

41. The Secretary of State shall annually lay before Parliament, within ten days after the meeting thereof, a report of the proceedings, transactions and affairs of the department during the year then next preceding.

Repeal of inconsistent enactments.

42. So much of any Act or law as may be inconsistent with this Act, or as makes any provision in any matter provided for by this Act, other than such as is hereby made, is repealed, except only as to things done, obligations contracted, or penalties incurred before the coming into force of this Act.

S.C. 1868, c. 42, cont'd.

Cap. 42. *Department of Secretary of State.* 31 VICT.

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An Act for the gradual enfranchisement of Indians, the better management of Indian Affairs, and to extend the provisions of the Act 31st Victoria, Chapter 42. S.C. 1869, c. 6. (32-33 Vict.)

S.C. 1869, c. 6, cont'd.

CAP VI.

An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act 31st Victoria, Chapter 42.

[Assented to 22nd June, 1869.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

What shall be deemed lawful possession of lands by Indians.

1. In Townships or other tracts of land set apart or reserved for Indians in Canada, and subdivided by survey into lots, no Indian or person claiming to be of Indian blood, or intermarried with an Indian family, shall be deemed to be lawfully in possession of any land in such Townships or tracts, unless he or she has been or shall be located for the same by the order of the Superintendent General of Indian affairs; and any such person or persons, assuming possession of any lands of that description, shall be dealt with as illegally in possession, and he liable to be summarily ejected therefrom, unless that within six months from the passing of this Act, a location title be granted to such person or persons by the said Superintendent General of Indian affairs or such officer or person as he may thereunto depute and authorize; but the conferring of any such location title shall not have the effect of rendering the land covered thereby transferable or subject to seizure under legal process.

Proceedings to eject parties not lawfully in possession.

2. Any person liable to be summarily ejected, under the next preceding section, may be removed from the land of which he may have assumed possession, in the manner provided by the eighteenth section of the Act passed in the thirty-first year of Her Majesty's reign, chapter forty-two, with respect to persons other than Indians or those intermarried with Indians settling on the lands therein referred to without license of the Secretary of State; and the said section and the nineteenth, twentieth and twenty-first sections of the said Act, are hereby extended to and shall apply to persons liable to be summarily ejected under this Act, as fully in all respects as to persons liable to be removed from lands under the said Act.

Punish an persons selling intoxicating liquors to Indians.

3. Any person who shall sell, barter, exchange or give to any Indian man, woman, or child, any kind of spirituous or other intoxicating liquors, or cause or procure the same to be done, or open and keep or cause to be opened and kept, on any land set apart or reserved for Indians a tavern, house or building where spirituous or intoxicating liquors are sold or disposed of, shall, upon conviction in the manner provided by section twelve of the said Act thirty-first Victoria, chapter forty-two, be subject to the fine therein mentioned; and in default of payment such fine, or of any fine imposed by the above mentioned twelfth section of the said Act, any person so offending may be committed to

s. 3, c. 6, S.C. 1869, repealed and replaced by s. 1, c. 21, S.C. 1874.

Imprisonment in default of payment.

1869.

Indians.

Cap. 6.

prison by the Justice of the Peace before whom the conviction shall take place, for a period not more than three months, or until such fine be paid; and the commander of any steamer or other vessel, or boat, from on board or on board of which, any spirituous or other intoxicating liquor shall have been, or may be sold or disposed of to any Indian man, woman, or child, shall be liable to a similar penalty.

4. In the division among the members of any tribe, band, or body of Indians, of any annuity money, interest money or rents, no person of less than one-fourth Indian blood, born after the passing of this Act, shall be deemed entitled to share in any annuity, interest or rents, after a certificate to that effect is given by the Chief or Chiefs of the band or tribe in Council, and sanctioned by the Superintendent General of Indian affairs.

Division of annuity money, &c.

5. Any Indian or person of Indian blood who shall be convicted of any crime punishable by imprisonment in any Penitentiary or other place of confinement, shall, during such imprisonment, be excluded from participating in the annuities, interest money, or rents payable to the Indian tribe, band, or body, of which he or she is a member; and whenever any Indian shall be convicted of any crime punishable by imprisonment in a Penitentiary, or other place of confinement, the legal costs incurred in procuring such conviction, and in carrying out the various sentences recorded, may be defrayed by the Superintendent General of Indian Affairs, and paid out of any annuity or interests coming to such Indian, or to the band or tribe, as the case may be.

Indians convicted of crime excluded.

How costs may be paid.

6. The fifteenth section of the thirty-first Victoria, Chapter forty-two, is amended by adding to it the following proviso:

Proviso added to 31 V., c. 4, s. 15.

"Provided always that any Indian woman marrying any other than an Indian, shall cease to be an Indian within the meaning of this Act, nor shall the children issue of such marriage be considered as Indians within the meaning of this Act; Provided also, that any Indian woman marrying an Indian of any other tribe, band or body, shall cease to be a member of the tribe, band or body to which she formerly belonged, and become a member of the tribe, band or body of which her husband is a member, and the children, issue of this marriage, shall belong to their father's tribe only."

Indian women marrying other than Indians, not to be Indians within this Act.

7. The Superintendent General of Indian affairs shall have power to stop the payment of the annuity and interest money of any person of Indian blood who may be proved to the satisfaction of the Superintendent General of Indian affairs to have been guilty of deserting his wife or child, and the said Superintendent may apply the same towards the support of any woman or child so deserted.

Power of Superintendent General in cases of desertion.



Cap. 6.	<i>Indians.</i>	32-33 Vict.
Aid to sick or destitute persons.	8. The Superintendent General of Indian Affairs in cases where sick or disabled, or aged and destitute persons are not provided for by the tribe, band or body of Indians of which they are members, may furnish sufficient aid from the funds of each tribe, band or body, for the relief of such sick, disabled, aged or destitute persons.	
Property of Indians to descend to their children, for their lives only.	9. Upon the death of any Indian holding under location title any lot or parcel of land, the right and interest therein of such deceased Indian shall, together with his goods and chattels, devolve upon his children, on condition of their providing for the maintenance of their mother, if living; and such children shall have a life estate only in such land which shall not be transferable or subject to seizure under legal process, but should such Indian die without issue, such lot or parcel of land and goods and chattels shall be vested in the Crown for the benefit of the tribe, band or body of Indians, after providing for the support of the widow (if any) of such deceased Indian.	
Election of chiefs.	10. The Governor may order that the Chiefs of any tribe, band or body of Indians shall be elected by the male members of each Indian Settlement of the full age of twenty-one years at such time and place, and in such manner, as the Superintendent General of Indian Affairs may direct, and they shall in such case be elected for a period of three years, unless deposed by the Governor for dishonesty, intemperance, or immorality, and they shall be in the proportion of one Chief and two Second Chiefs for every two hundred people; but any such band composed of thirty people may have one Chief; Provided always that all life Chiefs now living shall continue as such until death or resignation, or until their removal by the Governor for dishonesty, intemperance or immorality.	
Proviso as to life chiefs.	11. The Chief or Chiefs of any tribe, band or body of Indians shall be bound to cause the roads, bridges, ditches and fences within their Reserve to be put and maintained in proper order, in accordance with the instructions received from time to time from the Superintendent General of Indian Affairs; and whenever in the opinion of the Superintendent General of Indian Affairs the same are not so put or maintained in order, he may cause the work to be performed at the cost of the said tribe, band or body of Indians, or of the particular Indian in default, as the case may be either out of their annual allowances, or otherwise.	
Duties of chiefs with respect to roads, &c.	12. The Chief or Chiefs of any Tribe in Council may frame, subject to confirmation by the Governor in Council, rules and regulations for the following subjects, viz:	
Chiefs to frame rules for certain purposes.	<ol style="list-style-type: none"> 1. The care of the public health. 2. The observance of order and decorum at assemblies of the people in General Council, or on other occasions. 	

1869. *Indians.* Cap. 6.

3. The repression of intemperance and profligacy.
4. The prevention of trespass by cattle.
5. The maintenance of roads, bridges, ditches and fences.
6. The construction of and maintaining in repair of school houses, council houses and other Indian public buildings.
7. The establishment of pounds and the appointment of pound-keepers.

13. The Governor General in Council may on the report of the Superintendent General of Indian Affairs order the issue of Letters Patent granting to any Indian who from the degree of civilization to which he has attained, and the character for integrity and sobriety which he bears, appears to be a safe and suitable person for becoming a proprietor of land, a life estate in the land which has been or may be allotted to him within the Reserve belonging to the tribe land or body of which he is a member; and in such case such Indian shall have power to dispose of the same by will, to any of his children, and if he dies intestate as to any such lands, the same shall descend to his children according to the laws of that portion of the Dominion of Canada in which such lands are situate, and the said children to whom such land is so devised or descends shall have the fee simple thereof.

14. If any enfranchised Indian owning land by virtue of the thirteenth and sixteenth sections of this Act, dies without leaving any children, such land shall escheat to the Crown for the benefit of the tribe, band, or body of Indians to which he, or his father, or mother (as the case may be) belonged; but if he leaves a widow, she shall, instead of dower to which she shall not be entitled, have the said land for life or until her re-marriage, and upon her death or re-marriage it shall escheat to the Crown for the benefit of the tribe, band or body of Indians to which he, or his father, or mother (as the case may be) belonged.

15. The wife or unmarried daughters of any deceased Indian who may, in consequence of the operation of the thirteenth and sixteenth sections of this Act be deprived of all benefit from their husband's or father's land, shall in the periodical division of the annuity and interest money or other revenues of their husband's or father's tribe or band, and so long as she or they continue to reside upon the reserve belonging to the tribe or band, and remain in widowhood or unmarried, be entitled to and receive two shares instead of one share of such annuity and interest money.

16. Every such Indian shall, before the issue of the letters patent mentioned in the thirteenth section of this Act, declare to the Superintendent General of Indian Affairs, the name and

Life estates in lands may be granted in certain cases.

Descent of lands in case of death of an enfranchised Indian.

Provision for widows and unmarried daughters.

Duties of Indians with respect to enfranchisement.

Cap. 6. *Indians.* 32-33 Vict.

8. The Superintendent General of Indian Affairs in cases where sick or disabled, or aged and destitute persons are not provided for by the tribe, band or body of Indians of which they are members, may furnish sufficient aid from the funds of each tribe, band or body, for the relief of such sick, disabled, aged or destitute persons.

9. Upon the death of any Indian holding under location title any lot or parcel of land, the right and interest therein of such deceased Indian shall, together with his goods and chattels, devolve upon his children, on condition of their providing for the maintenance of their mother, if living; and such children shall have a life estate only in such land which shall not be transferable or subject to seizure under legal process, but should such Indian die without issue, such lot or parcel of land and goods and chattels shall be vested in the Crown for the benefit of the tribe, band or body of Indians, after providing for the support of the widow (if any) of such deceased Indian.

10. The Governor may order that the Chiefs of any tribe, band or body of Indians shall be elected by the male members of each Indian Settlement of the full age of twenty-one years at such time and place, and in such manner, as the Superintendent General of Indian Affairs may direct, and they shall in such case be elected for a period of three years, unless deposed by the Governor for dishonesty, intemperance, or immorality, and they shall be in the proportion of one Chief and two Second Chiefs for every two hundred people; but any such band composed of thirty people may have one Chief; Provided always that all life Chiefs now living shall continue as such until death or resignation, or until their removal by the Governor for dishonesty, intemperance or immorality.

11. The Chief or Chiefs of any tribe, band or body of Indians shall be bound to cause the roads, bridges, ditches and fences within their Reserve to be put and maintained in proper order, in accordance with the instructions received from time to time from the Superintendent General of Indian Affairs; and whenever in the opinion of the Superintendent General of Indian Affairs the same are not so put or maintained in order, he may cause the work to be performed at the cost of the said tribe, band or body of Indians, or of the particular Indian in default, as the case may be either out of their annual allowances, or otherwise.

12. The Chief or Chiefs of any Tribe in Council may frame, subject to confirmation by the Governor in Council, rules and regulations for the following subjects, viz:

1. The care of the public health.
2. The observance of order and decorum at assemblies of the people in General Council, or on other occasions.

Aid to sick or destitute persons.

Property of Indians to descend to their children, for their lives only.

Election of chiefs.

Proviso as to life chiefs.

Duties of chiefs with respect to roads, &c.

Chiefs to frame rules for certain purposes.

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3. The repression of intemperance and profligacy.

4. The prevention of trespass by cattle.

5. The maintenance of roads, bridges, ditches and fences.

6. The construction of and maintaining in repair of school houses, council houses and other Indian public buildings.

7. The establishment of pounds and the appointment of pound-keepers.

13. The Governor General in Council may on the report of the Superintendent General of Indian Affairs order the issue of Letters Patent granting to any Indian who from the degree of civilization to which he has attained, and the character for integrity and sobriety which he bears, appears to be a safe and suitable person for becoming a proprietor of land, a life estate in the land which has been or may be allotted to him within the Reserve belonging to the tribe land or body of which he is a member; and in such case such Indian shall have power to dispose of the same by will, to any of his children, and if he dies intestate as to any such lands, the same shall descend to his children according to the laws of that portion of the Dominion of Canada in which such lands are situate, and the said children to whom such land is so devised or descends shall have the fee simple thereof.

Life estates in lands may be granted in certain cases.

14. If any enfranchised Indian owning land by virtue of the thirteenth and sixteenth sections of this Act, dies without leaving any children, such land shall escheat to the Crown for the benefit of the tribe, band, or body of Indians to which he, or his father, or mother (as the case may be) belonged; but if he leaves a widow, she shall, instead of dower to which she shall not be entitled, have the said land for life or until her re-marriage, and upon her death or re-marriage it shall escheat to the Crown for the benefit of the tribe, band or body of Indians to which he, or his father, or mother (as the case may be) belonged.

Descent of lands in case of death of an enfranchised Indian.

15. The wife or unmarried daughters of any deceased Indian who may, in consequence of the operation of the thirteenth and sixteenth sections of this Act be deprived of all benefit from their husband's or father's land, shall in the periodical division of the annuity and interest money or other revenues of their husband's or father's tribe or band, and so long as she or they continue to reside upon the reserve belonging to the tribe or band, and remain in widowhood or unmarried, be entitled to and receive two shares instead of one share of such annuity and interest money.

Provision for widows and unmarried daughters.

16. Every such Indian shall, before the issue of the letters patent mentioned in the thirteenth section of this Act, declare to the Superintendent General of Indian Affairs, the name and

Duties of Indians with respect to enfranchisement.



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Effect of enfranchisement

surname by which he wishes to be enfranchised and thereafter known, and on his receiving such letters patent, in such name and surname, he shall be held to be also enfranchised, and he shall thereafter be known by such name and surname, and his wife and minor unmarried children, shall be held to be enfranchised; and from the date of such letters patent, the provisions of any Act or law making any distinction between the legal rights and liabilities of Indians and those of Her Majesty's other subjects shall cease to apply to any Indian, his wife or minor children as aforesaid, so declared to be enfranchised, who shall no longer be deemed Indians within the meaning of the laws relating to Indians, except in so far as their right to participate in the immunities and interest money and rents, of the tribe, band, or body of Indians to which they belonged is concerned; except that the twelfth, thirteenth, and fourteenth sections of the Act thirty-first Victoria, chapter forty-two, and the eleventh section of this Act, shall apply to such Indian, his wife and children.

Allotment of locations.

17. In the allotting of locations, and in the issue of Letters Patent to Indians for land, the quantity of land located or to be located or passed into Patent, shall, except in special cases to be reported upon to the Governor in Council, bear (as nearly as may be) the same proportion to the total quantity of land in the Reserve, as the number of persons to whom such lands are located or patented bears to the total number of heads of families of the tribe, band or body of Indians and male members thereof not being heads of families, but being above the age of fourteen years, in such reserve.

Appointment of tutor to minor children of enfranchised Indians.

18. If any Indian enfranchised under this Act dies leaving any child under the age of twenty-one years, the Superintendent General of Indian Affairs shall appoint some person to be the tutor or guardian as the case may be of such child as to property and rights until it attains the age of twenty-one years; and the widow of such Indian, being also the mother of any such child, shall receive its share of the proceeds of the estate of such Indian during the minority of the child, and shall be entitled to reside on the land left by such Indian, so long as in the opinion of the Superintendent General she lives respectably.

Indians falsely declaring themselves enfranchised.

19. Any Indian falsely representing himself as enfranchised under this Act when he is not so, shall be liable, on conviction before any one Justice of the Peace, to imprisonment for any period not exceeding three months.

Lands of enfranchised Indians exempt from seizure.

20. Such lands in any Indian Reserve as may be conveyed to any enfranchised Indian by Letters Patent, shall not, as long as the life estate of such Indian continues, be subject to seizure under legal process, or be mortgaged, hypothecated, sold, exchanged, transferred, leased, or otherwise disposed of.

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21. Indians not enfranchised shall have the right to sue for legal remedy due to them, or for any wrong inflicted upon them, or to compel the performance of obligations made with them.

22. The Under Secretary of State shall be charged, under the Secretary of State of Canada, with the performance of the Departmental duties of the Secretary of State under the said Act, and with the control and management of the officers, clerks, and servants of the Department, and with such other powers and duties as may be assigned to him by the Governor in Council.

23. Chapter nine of the Consolidated Statutes of Canada is hereby repealed.

24. This Act shall be construed as one Act with the Act thirty-first Victoria, chapter forty-two.

Chapter 6, S.C. 1869, repealed by s. 99, c. 18, S.C. 1876.

CHAP. 4.

An Act to provide for the establishment of "The Department of the Interior."

[Assented to 3rd May, 1873.]

Preamble.

Department of the Interior.

Minister to manage the North West Territories.

s. 3, c. 4, S.C. 1873, repealed and replaced by s. 1, c. 6, S.C. 1883.

The Indians in Canada.

The Ordnance and Public Lands.

Exception.

Substituted for former Commissioner.

And for the Secretary of State of Canada in the cases named.

Deputy of the Minister of the Interior. His duties.

Application of s. 1, Vic. c. 34, to such Deputy.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. There shall be a Department of the Civil Service of Canada to be called "The Department of the Interior," over which the Minister of the Interior, for the time being, appointed by the Governor General, by Commission under the Great Seal of Canada, shall preside; and he shall hold office during pleasure, and shall have the management of the Department of the Interior.

2. The Minister of the Interior shall have the control and management of the affairs of the North West Territories.

3. The Minister of the Interior shall be the Superintendent General of Indian affairs, and shall, as such, have the control and management of the lands and property of the Indians in Canada.

4. The Minister of the Interior shall have the control and management of all Crown Lands being the property of the Dominion, including those known as Ordnance and Admiralty Lands, and all other public lands not specially under the control of the Public Works Department, or of that of Militia and Defence, (and excepting also Marine Hospitals and Light Houses and land connected therewith, and St. Paul's, Sable and Portage Islands,) and he is hereby substituted for the former Commissioner of Crown Lands, as regards Ordnance and Admiralty Lands, transferred to the late Province of Canada, and lying in Ontario and Quebec.

5. The Minister of the Interior is hereby substituted for the Secretary of State of Canada in all the powers, attributes, functions, restrictions, and duties laid down and prescribed in the "Dominion Lands Act, 1872;" and wherever the words "Secretary of State" are used in that Act, the words "Minister of the Interior" shall be deemed to be substituted therefor; and wherever the words "Department of the Secretary of State" are used, the words "Department of the Interior" shall be deemed to be substituted therefor; and all the provisions of the said Act shall be and continue obligatory upon the Minister of the Interior; and all the officers appointed under the said Act shall become, and continue to be officers of the Department of the Interior.

6. The Governor may appoint, and at his pleasure remove, a "Deputy of the Minister of the Interior," who shall be charged, under the Minister of the Interior, with the performance of the Departmental duties of the Minister of the Interior, and with the control and management of the Officers, Agents, Clerks and Servants of the Department, and with such other powers and duties as may be assigned to him by the Minister of the Interior; and the fourteenth section of "The Canada Civil Service Act, 1868," shall apply to the Deputy of the Minister of the Interior, as if the Department of the Interior were mentioned in Schedule A to that Act; and the words "Deputy of the Minister of the Interior" shall be deemed to be substituted for the words "Under Secretary of

1873.

Department of the Interior.

Chap. 4.

7. The Governor may also appoint, subject to the "Civil Service Act, 1868," and at his pleasure remove such Departmental Officers, agents, clerks and servants as may be requisite for the proper conduct of the business of the Department at Ottawa, and also such agents, officers, clerks and servants as may be necessary for the same purposes in the North West Territories, and amongst the Indians, and elsewhere, in the Dominion.

Departmental and other officers may be appointed.

8. The several clauses of chapter forty-two of the Statutes passed in the thirty-first year of Her Majesty's reign, entitled "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," relating to the management of Indian affairs and lands, and of Ordnance Lands, shall govern the Minister of the Interior in the several matters to which they relate; and wherever the words "Secretary of State" or "Department of the Secretary of State" occur in those clauses, the words "Minister of the Interior" and "Department of the Interior" shall be deemed to be substituted therefor.

Former Act to remain in force and apply.

Subject to the substitution of certain words

9. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this Act, and of the said Act, chapter forty-two of the Statutes passed in the thirty-first year of Her Majesty's reign, or of any one or more of the clauses thereof, the Indians, or any tribe of them, or the Indian Lands, or any portion of them, in the North West Territories, or in the Province of Manitoba, or in the Province of British Columbia, and may again, by like proclamation; from time to time, remove such exemption.

Indians may be exempted from the operation of this Act.

10. The Geological Survey of Canada as now existing shall be attached to the Department of the Interior.

Geological Survey.

11. The Minister of the Interior shall annually lay before Parliament within fifteen days after the meeting thereof, a report of the proceedings, transactions and affairs of the Department during the year then next preceding.

Yearly report to Parliament.

12. The Secretary of State of Canada shall have charge of the State Correspondence with the Governments of the several Provinces included, or which may be hereafter included within the Dominion of Canada,

Secretary of State of Canada to have charge of State correspondence.

13. The remaining duties hitherto discharged by the Secretary of State for the Provinces, as regards matters other than those relating to the subjects by this Act transferred to the Department of the Interior, shall devolve upon, and be discharged by the Secretary of State of Canada, to whom also is transferred the duty of supplying the stationery required by the several Departments of the Government, and the charge of that Branch of the Public Service; and the Queen's Printer shall be held to be an officer of this Department.

Other duties of Secretary of State for Canada.

Stationery Department.

Queen's Printer.

14. The Office of Secretary of State for the Provinces is and stands abolished.

Certain office abolished.

15. This Act shall only come into force after the expiration of one month from the publication in the Canada Gazette of a Proclamation to that effect under an order of the Governor in Council.

When this Act shall come in force.

16. So much of any Act or law as may be inconsistent with this Act, or as makes any provision in any matter provided for by this Act, other than such as is hereby made is repealed, excepting as to things done, obligations contracted or penalties incurred before the coming into force of this Act.

Repeal of inconsistent enactments.

An Act to amend certain Laws respecting Indians, and to extend certain Laws relating to matters connected with Indians to the Provinces of Manitoba and British Columbia. S.C. 1874, c. 21. (37 Vict.)

S.C. 1874, c. 21, cont'd.

CHAP. 21.

An Act to amend certain Laws respecting Indians, and to extend certain Laws relating to matters connected with Indians to the Provinces of Manitoba and British Columbia.

(Assented to 26th May, 1874.)

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

31 V., c. 42, s. 12, and 32; 31 V., c. 6, s. 3 repealed, and new section substituted for the latter.

1. The twelfth section of the Act thirty-first Victoria, chapter forty-two, intitled "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," and the third section of the Act thirty-second and thirty-third Victoria, chapter six, intitled "An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, chapter forty-two," are hereby repealed, and the following shall be read in lieu of the last mentioned section:—

Provisions for preventing the supplying of intoxicating liquors to Indians.

"3. 1. Whoever sells, exchanges with, barter, supplies, or gives to any Indian man, woman or child in Canada, any kind of intoxicating liquor, or causes or procures the same to be done, or connives or attempts therat or opens or keeps, or causes to be opened or kept on any land set apart or reserved for Indians, a tavern, house, or building where intoxicating liquor is sold, bartered, exchanged, or given, or is found in possession of intoxicating liquor in the house, tent, wigwam, or place of abode of any Indian, shall, on conviction thereof before any Justice of the Peace upon the evidence of one credible witness other than the informer or prosecutor, be liable to imprisonment for a period not exceeding two years, and be fined not more than five hundred dollars, one moiety to go to the informer or prosecutor, and the other moiety to Her Majesty, to form part of the fund for the benefit of that tribe or body of Indians with respect to one or more members of which the offence was committed; and the commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicating liquor shall have been sold, bartered, exchanged, supplied or given to any Indian man, woman or child, shall be liable, on conviction thereof before any Justice of the Peace, upon the evidence of one credible witness other than the informer or prosecutor, to be fined not exceeding five hundred dollars for each such offence, the moieties thereof to be applicable as hereinbefore mentioned, and in default of immediate payment of such fine any person so fined may be committed to any common gaol, house of correction, lock-up, or other place of confinement by the Justice of the Peace before whom the conviction shall take place, for a period of not more than twelve months, or until such fine shall be paid; and in all cases arising under this section, Indians shall be competent witnesses: but no penalty shall be incurred in case of sickness where any intoxicating liquor is made use of under the sanction of any medical man or under the directions of a minister of religion."

Punishment for contravention, by fine and imprisonment.

If supplied from or on board any vessel.

Indians competent as witnesses. Proviso.

Chap. 21.

Indians.

37 Vict.

"2. The keg, barrel, case, box, package or receptacle ^{Forfeiture of the package containing such liquors,} in which intoxicating liquor has been sold, exchanged, bartered, supplied or given, and as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the balance of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid respectively, can be identified, and any intoxicating liquor imported or manufactured or brought into and upon any land set apart or reserved for Indians, or into the house, tent, wigwam or place of abode of any Indian, may be seized by any constable wheresoever found on such land; and on complaint before any Judge, Stipendiary Magistrate or Justice of the Peace, he may, on the evidence of any credible witness that this Act has been contravened in respect thereof, declare the same forfeited, and cause the same to be forthwith destroyed; and the person in whose possession they were found may be condemned to pay a penalty not exceeding one hundred dollars, nor less than fifty dollars, and the costs of prosecution; and one-half of such penalty shall belong to the prosecutor, and the other half to Her Majesty for the purposes hereinbefore mentioned, and in default of immediate payment the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement for any time not exceeding six months unless such fine and costs are sooner paid."

Seizure of liquor.

And, forfeiture.

Penalty on persons having such packages, &c., in possession.

"3. When it shall be proved before any Judge, Stipendiary Magistrate or Justice of the Peace that any vessel, boat, canoe, or conveyance of any description upon the sea or sea-coast, or upon any river, lake or stream in Canada, is employed in carrying intoxicating liquor, to be supplied to any Indian or Indians, such vessel, boat, canoe, or conveyance so employed may be seized and declared forfeited as in the last sub-section mentioned, and sold, and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned."

Forfeiture of the vessel, boat, canoe, &c., carrying liquors to be supplied to Indians.

"4. It shall be lawful for any constable, without process of law, to arrest any Indian whom he may find in a state of intoxication, and to convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he shall have become sober; and such Indian shall, when sober, be brought before any Judge, Stipendiary Magistrate, or Justice of the Peace, and if convicted of being so found in a state of intoxication, shall be liable to imprisonment in any common gaol, house of correction, lock-up or other place of confinement, for any period not exceeding one month. And if any Indian having been so convicted as aforesaid, shall refuse, upon examination, to state or give information of the person, place, and time, from whom, where and when he procured intoxicating liquor, and if from any other Indian, then, if within his knowledge, from whom, where and when such intoxicating liquor was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days."

Indian found drunk may be arrested.

And must, on conviction, declare how he got the liquor. Punishment for refusal.

1874, *Indians*, Chap. 21,

Interpretation clause. "5. The words 'intoxicating liquor' shall mean and include all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink of any kind whatsoever, and intoxicating liquor or fluid; as also opium and any preparation thereof, whether liquid or solid; and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drug or substance, and whether the same, or any of them, be liquid or solid."

Want of form not to invalidate process. "6. No prosecution, conviction or commitment under this Act shall be invalid on account of want of form so long as the same is according to the true meaning of this Act."

31 V., c. 42, s. 14 amended. "2. The following shall be taken and read as part of the fourteenth section of the thirty-first Victoria, chapter forty-two, that is to say:—

Certain sales, exchanges, &c., to be void. "Nor shall the same be sold, bartered, exchanged or given by any tribe, band or body of Indians or any Indian of any such tribe, band or body to any person or persons other than a tribe, band or body of Indians or any Indian of any tribe; and any such sale, barter, exchange or gift, shall be absolutely null or void, unless any such sale, barter, exchange or gift be made with the written assent of the Indian agent; and any person who may buy or otherwise acquire any presents or property purchased as aforesaid without the written consent of the Indian agent as aforesaid shall be guilty of a misdemeanor, and be punishable by fine not exceeding two hundred dollars, or by imprisonment not exceeding six months in any place of confinement other than a Penitentiary."

Punishment of purchaser, &c.

Manner in which Indians, &c., may give evidence in criminal cases. "3. Upon any inquest, or upon any enquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, or by whomsoever committed, it shall be lawful for any Court, Judge, Stipendiary Magistrate, Coroner or Justice of the Peace to receive the evidence of any Indian or aboriginal native or native of mixed blood, who is destitute of the knowledge of God, and of any fixed and clear belief in religion or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian, aboriginal native or native of mixed blood as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as may be approved by such Court, Judge, Stipendiary Magistrate, Coroner or Justice of the Peace, as most binding in his conscience.

Further provision in the same matter. "4. Provided that in the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian, aboriginal native or native of mixed blood as aforesaid, shall be reduced to writing, and signed by a mark of the person giving the same, and verified by the signature or mark of the person acting as interpreter (if any), and of the judge, Stipendiary Magistrate, Coroner or Justice of the Peace or person before whom such information shall have been given.

Court to warn Indian of his liability to punishment for false statement. "5. The court, judge, Stipendiary Magistrate, or Justice of the Peace shall, before taking any such evidence, information or examination, caution every such Indian, aboriginal native or native of mixed blood as aforesaid, that he will be liable to incur punishment if he do not so as aforesaid tell the truth.

Chap. 21, *Indians*, 37 VICT.

"6. The written declaration or examination made, taken and verified in manner aforesaid, of any such Indian, aboriginal native or native of mixed blood as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal suit or proceedings when, under the like circumstances, the written affidavit, examination, deposition or confession of any person, might be lawfully read and received as evidence.

"7. Every solemn affirmation or declaration in whatever form made or taken by any person as aforesaid shall be of the same force and effect, as if such person had taken an oath in the usual form, and shall, in like manner, incur the penalty of perjury in case of falsehood.

"8. An Indian is hereby defined to be a person within the definition contained in the fifteenth section of the thirty-first Victoria, chapter forty-two, as amended by the sixth section of the thirty-second and thirty-third Victoria, chapter six, and who shall participate in the annuities and interest moneys and rents of any tribe, band or body of Indians.

"9. Upon, from and after the passing of this Act, the Acts and portions of Acts hereinafter mentioned of the Parliament of Canada shall be and are hereby extended to and shall be in force in the Provinces of Manitoba and of British Columbia; and all enactments and laws theretofore in force in the said Provinces, inconsistent with the said Acts, or making any provision in any matter provided for by the said Acts, other than such as is made by the said Acts, shall be repealed on and after the passing of this Act.

"10. The Acts and portions of Acts hereinbefore mentioned and hereby extended to and to be in force in the Provinces of Manitoba and of British Columbia, are as follows:—

1. Sections six to twenty-five both inclusive, and sections twenty-eight, twenty-nine, thirty, thirty-seven, thirty eight, thirty-nine and forty-two, of the Act passed in the thirty-first year of Her Majesty's reign, and intitled: "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;"

2. Sections one to twenty-one, both inclusive, and section twenty-four of the Act passed in the thirty-second and thirty-third years of Her Majesty's reign, intitled: "An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, chapter forty-two;"

3. Sections one, three, six, seven, eight, nine and sixteen, of the Act passed in the thirty-sixth year of Her Majesty's reign, and intitled: "An Act to provide for the establishment of the Department of the Interior.

When written declarations of Indians may be used in criminal proceedings.

Effect of declaration, &c., taken by any person as aforesaid.

Indian defined.

Certain Acts and laws to be in force in British Columbia and Manitoba.

Others repealed.

The Acts and parts of Acts extended by a. 9.

S.C. 1874, c. 21, cont'd.

1874. *Indians.* Chap. 21.

Governor in Council may exempt Indians or Indian lands in Manitoba or British Columbia, from the operation of certain Acts, &c. and again subject them to the same.

11. The Governor in Council may, by proclamation from time to time, exempt from the operation of the Act passed in the thirty-first year of Her Majesty's reign, and intituled: "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," or from the operation of an Act passed in the thirty-second and thirty-third years of Her Majesty's reign, intituled "An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, chapter forty-two," or from the operation of the Act passed in the thirty-first year of Her Majesty's reign, and intituled: "An Act to provide for the establishment of the Department of the Interior," or from the operation of this Act, or from the operation of any one or more of the clauses of any one or more of the said Acts, the Indians or any of them, or any tribe of them or the Indian lands or any portions of them in the Province of Manitoba, or in the Province of British Columbia, or in either of them, and may again, by proclamation, from time to time, remove such exemption.

And may extend and apply certain other Acts and Ordinances, generally to any Indians or Indian lands in N. W. Territories.

12. The Governor in Council may, by proclamation from time to time, direct the application of the Act passed in the thirty-first year of Her Majesty's reign, and intituled "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," and of an Act passed in the thirty-second and thirty-third years of Her Majesty's reign, intituled "An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, chapter forty-two," and an Act passed in the thirty-sixth year of Her Majesty's reign, and intituled "An Act to provide for the establishment of the Department of the Interior;" or of any one or more of the clauses of any one or more of the said Acts to the Indians or any of them or any tribe of them or the Indian lands or any portions of them, or that the same be in force generally in the North West Territories.

Ordinance of R. S. of B. C. repealed in part.

13. The second, third, and seventh sections of the Ordinance, No. 85, of the Revised Statutes of British Columbia are hereby repealed.

Act how to be construed.

14. This Act shall be construed as one Act with the Acts thirty-first Victoria, chapter forty-two, and thirty-second and thirty-third Victoria, chapter six.

An Act to amend the Act providing for the organization of the Department of the Secretary of State of Canada.
S.C. 1875, c. 6. (38 Vict.)

CHAP. 6.

An Act to amend the Act providing for the organization of the Department of the Secretary of State of Canada.

[Assented to 8th April, 1875.]

HER Majesty, by and with the advice of the Senate and Preamble. House of Commons of Canada, enacts as follows:—

1. The following words are hereby added to, and shall Addition form part of the fourth section of the said Act, passed in the made to sec. 4 of 31 V., thirty-first year of Her Majesty's reign, chapter forty-two, c. 42, that is to say:—

"And the Deputy Registrar-General of Canada from time Signature of to time appointed under the second section of this Act, may Deputy Registrar sign and certify the registration of all instruments and documents required to be registered, and all such copies of General of Canada to the same, or of any records in the custody of the Registrar avail in certain cases. General as may be required to be certified or authenticated as being copies of any instruments or documents as aforesaid."

Chapter 21, S.C. 1874, repealed by s. 99, c. 18, S.C. 1876.

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CHAP. 18.

An Act to amend and consolidate the laws respecting
Indians,

[Assented to 12th April, 1876.]

WHEREAS it is expedient to amend and consolidate the ^{Presuble.} laws respecting Indians: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act shall be known and may be cited as "*The Indian Act, 1876*;" and shall apply to all the Provinces, and to the North West Territories, including the Territory of ^{Short title and extent of Act.} Keewatin.

2. The Minister of the Interior shall be Superintendent- ^{Superintend- ent General.} General of Indian Affairs, and shall be governed in the supervision of the said affairs, and in the control and management of the reserves, lands, moneys and property of Indians in Canada by the provisions of this Act.

TERMS.

3. The following terms contained in this Act shall be held ^{Meanings as- signed to terms in this Act.} to have the meaning hereinafter assigned to them, unless such meaning be repugnant to the subject or inconsistent with the context:—

1. The term "band" means any tribe, band or body of ^{Band.} Indians who own or are interested in a reserve or in Indian lands in common, of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities or interest moneys for which the Government of Canada is responsible; the term "the band" means the band to which the context relates; and the term "band," when action is being taken by the band as such, means the band in council.

2. The term "irregular band" means any tribe, band or ^{Irregular Band.} body of persons of Indian blood who own no interest in any reserve or lands of which the legal title is vested in the Crown, — who possess no common fund managed by the Government of Canada, or who have not had any treaty relations with the Crown.

3. The term "Indian" means ^{Indians.}

First. Any male person of Indian blood reputed to belong to a particular band;

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Secondly. Any child of such person ;

Thirdly. Any woman who is or was lawfully married to such person :

As to illegitimate. (a) Provided that any illegitimate child, unless having shared with the consent of the band in the distribution moneys of such band for a period exceeding two years, may, at any time, be excluded from the membership thereof by the band, if such proceeding be sanctioned by the Superintendent-General :

Absentees. (b). Provided that any Indian having for five years continuously resided in a foreign country shall with the sanction of the Superintendent-General, cease to be a member thereof and shall not be permitted to become again a member thereof, or of any other band, unless the consent of the band with the approval of the Superintendent-General or his agent, be first had and obtained ; but this provision shall not apply to any professional man, mechanic, missionary, teacher or interpreter, while discharging his or her duty as such :

Woman marrying other than an Indian. (c) Provided that any Indian woman marrying any other than an Indian or a non-treaty Indian shall cease to be an Indian in any respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and rents ; but this income may be commuted to her at any time at ten years' purchase with the consent of the band :

Marrying non-treaty Indians. (d) Provided that any Indian woman marrying an Indian of any other band, or a non-treaty Indian shall cease to be a member of the band to which she formerly belonged, and become a member of the band or irregular band of which her husband is a member :

As to half-breeds. (e) Provided also that no half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian ; and that no half-breed head of a family (except the widow of an Indian, or a half-breed who has already been admitted into a treaty), shall, unless under very special circumstances, to be determined by the Superintendent-General or his agent, be accounted an Indian, or entitled to be admitted into any Indian treaty.

Paragraph 3(3) (e), c. 18, S.C. 1876, amended by s. 1, c. 34, S.C. 1879.

Non-treaty Indian. 4 The term " non-treaty Indian " means any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even though such person be only a temporary resident in Canada.

Enfranchised Indian. 5. The term " enfranchised Indian " means any Indian, his

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wife or minor unmarried child, who has received letters patent granting him in fee simple any portion of the reserve which may have been allotted to him, his wife and minor children, by the band to which he belongs, or any unmarried Indian who may have received letters patent for an allotment of the reserve.

6. The term " reserve " means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, but which is unsurrendered, and includes all the trees, wood, timber, soil, stone, minerals, metals, or other valuables thereon or therein.

7. The term " special reserve " means any tract or tracts of land and everything belonging thereto set apart for the use or benefit of any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued, or in a person or persons of European descent, but which land is held in trust for, or benevolently allowed to be used by, such band or irregular band of Indians

8. The term " Indian lands " means any reserve or portion of a reserve which has been surrendered to the Crown.

9 The term " intoxicants " means and includes all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, as also opium and any preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them be liquid or solid

10. The term " Superintendent-General " means the Superintendent-General of Indian Affairs.

11. The term " agent " means a commissioner, superintendent, agent, or other officer acting under the instructions of the Superintendent-General.

12. The term " person " means an individual other than an Indian, unless the context clearly requires another construction.

RESERVES.

4. All reserves for Indians or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as before the passing of this Act, but subject to its provisions.

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Surveys authorized.	5. The Superintendent-General may authorize surveys, plans and reports to be made of any reserve for Indians, shewing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as may be required; and may authorize that the whole or any portion of a reserve be subdivided into lots.	
What Indians only deemed holders of lots.	6. In a reserve, or portion of a reserve, subdivided by survey into lots, no Indian shall be deemed to be lawfully in possession of one or more of such lots, or part of a lot, unless he or she has been or shall be located for the same by the band, with the approval of the Superintendent-General:	
Indemnity to Indians dispossessed.	Provided that no Indian shall be dispossessed of any lot or part of a lot, on which he or she has improvements, without receiving compensation therefor, (at a valuation to be approved by the Superintendent-General) from the Indian who obtains the lot or part of a lot, or from the funds of the band, as may be determined by the Superintendent-General.	
Location ticket; in triplicate; how dealt with.	7. On the Superintendent-General approving of any location as aforesaid, he shall issue in triplicate a ticket granting a location title to such Indian, one triplicate of which he shall retain in a book to be kept for the purpose; the other two he shall forward to the local agent, one to be delivered to the Indian in whose favor it was issued, the other to be filed by the agent, who shall permit it to be copied into the register of the band, if such register has been established:	
Effect of such ticket limited.	8. The conferring of any such location title as aforesaid shall not have the effect of rendering the land covered thereby subject to seizure under legal process, or transferable except to an Indian of the same band, and in such case, only with the consent of the council thereof and the approval of the Superintendent-General, when the transfer shall be confirmed by the issue of a ticket in the manner prescribed in the next preceding section.	
Property of deceased Indian, how to descend.	9. Upon the death of any Indian holding under location or other duly recognized title any lot or parcel of land, the right and interest therein of such deceased Indian shall together with his goods and chattels, devolve one-third upon his widow, and the remainder upon his children equally; and such children shall have a like estate in such land as their father; but should such Indian die without issue but leaving a widow, such lot or parcel of land and his goods and chattels shall be vested in her, and if he leaves no widow, then in the Indian nearest akin to the deceased, but if he have no heir nearer than a cousin, then the same shall be vested in the Crown for the benefit of the band: But what-	
Proviso		

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ever may be the final disposition of the land, the claimant or claimants shall not be held to be legally in possession until they obtain a location ticket from the Superintendent-General in the manner prescribed in the case of new locations.

10. Any Indian or non-treaty Indian in the Province of British Columbia, the Province of Manitoba, in the North-West Territories, or in the Territory of Keewatin, who has, or shall have, previously to the selection of a reserve, possession of and made permanent improvements on a plot of land which has been or shall be included in or surrounded by a reserve, shall have the same privileges, neither more nor less, in respect of such plot, as an Indian enjoys who holds under a location title.

PROTECTION OF RESERVES.

11. No person, or Indian other than an Indian of the band, shall settle, reside or hunt upon, occupy or use any land or marsh, or shall settle, reside upon or occupy any road, or allowance for roads running through any reserve belonging to or occupied by such band; and all mortgages or hypothecs given or consented to by any Indian, and all leases, contracts and agreements made or purporting to be made by any Indian, whereby persons or Indians other than Indians of the band are permitted to reside or hunt upon such reserve, shall be absolutely void.

12. If any person or Indian other than an Indian of the band, without the license of the Superintendent-General (which license, however, he may at any time revoke), settles, resides or hunts upon or occupies or uses any such land or marsh; or settles, resides upon or occupies any such roads or allowances for roads, on such reserve, or if any Indian is illegally in possession of any lot or part of a lot in a subdivided reserve, the Superintendent-General or such officer or person as he may thereunto depute and authorize, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant signed and sealed, directed to the sheriff of the proper county or district, or if the said reserve be not situated within any county or district, then directed to any literate person willing to act in the premises, commanding him forthwith to remove from the said land or marsh, or roads or allowances for roads, or lots or parts of lots, every such person or Indian and his family so settled, residing or hunting upon or occupying, or being illegally in possession of the same, or to notify such person or Indian to cease using as aforesaid the said lands, marshes, roads or allowances for roads; and such sheriff or other person shall accordingly remove or notify such person or Indian, and for that purpose shall have the same powers as in the execution of crimi-

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Costs of removal. ual process; and the expenses incurred in any such removal or notification shall be borne by the party removed or notified, and may be recovered from him as the costs in any ordinary suit:

Provido: residence by consent of Superintendent-General. Provided that nothing contained in this Act shall prevent an Indian or non-treaty Indian, if five years a resident in Canada, not a member of the band, with the consent of the band and the approval of the Superintendent-General, from residing upon the reserve, or receiving a location thereon.

Removal and punishment of person returning after removal. 13. If any person or Indian, after having been removed or notified as aforesaid, returns to, settles upon, resides or hunts upon or occupies, or uses as aforesaid, any of the said land, marsh or lots, or parts of lots; or settles, resides upon or occupies any of the said roads, allowances for roads, or lots or parts of lots, the Superintendent-General, or any officer or person deputed and authorized as aforesaid, upon view, or upon proof on oath made before him, or to his satisfaction, that the said person or Indian has returned to, settled, resided or hunted upon or occupied or used as aforesaid any of the said lands, marshes, lots or parts of lots, or has returned to, settled or resided upon or occupied any of the said roads or allowances for roads, or lots or parts of lots, shall direct and send his warrant signed and sealed to the sheriff of the proper county or district, or to any literate person therein, and if the said reserve be not situated within any county or district, then to any literate person, commanding him forthwith to arrest such person or Indian, and commit him to the common gaol of the said county or district, or if there be no gaol in the said county or district, then to the gaol nearest to the said reserve in the Province or Territory there to remain for the time ordered by such warrant, but which shall not exceed thirty days.

Arrest and imprisonment. 14. Such sheriff or other person shall accordingly arrest the said party, and deliver him to the gaoler or sheriff of the proper county, district, Province or Territory, who shall receive such person or Indian and imprison him in the said gaol for the term aforesaid.

Order to be drawn up and filed. 15. The Superintendent-General, or such officer or person as aforesaid, shall cause the judgment or order against the offender to be drawn up and filed in his office, and such judgment shall not be removed by certiorari or otherwise, or be appealed from, but shall be final.

Punishment of others than Indians trespassing on reserves. 16. If any person or Indian other than an Indian of the band to which the reserve belongs, without the license in writing of the Superintendent-General or of some officer or person deputed by him for that purpose, trespasses upon

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any of the said land, roads or allowances for roads in the said reserve, by cutting, carrying away or removing therefrom any of the trees, saplings, shrubs, underwood, timber or hay thereon, or by removing any of the stone, soil, minerals, metals or other valuables off the said land, roads or allowances for roads, the person or Indian so trespassing shall, for every tree he cuts, carries away or removes, forfeit and pay the sum of twenty dollars; and for cutting, carrying away or removing any of the saplings, shrubs, underwood, timber or hay, if under the value of one dollar, the sum of four dollars, but if over the value of one dollar, then the sum of twenty dollars; and for removing any of the stone, soil, minerals, metals or other valuables aforesaid, the sum of twenty dollars, such fine to be recovered by the Superintendent-General, or any officer or person by him deputed, by distress and sale of the goods and chattels of the party or parties fined: or the Superintendent-General, or such officer or person, without proceeding by distress and sale as aforesaid, may, upon the non-payment of the said fine, order the party or parties to be imprisoned in the common gaol as aforesaid, for a period not exceeding thirty days, when the fine does not exceed twenty dollars, or for a period not exceeding three months when the fine does exceed twenty dollars: and upon the return of any warrant for distress or sale, if the amount thereof has not been made, or if any part of it remains unpaid, the said Superintendent-General, officer or person, may commit the party in default upon such warrant, to the common gaol as aforesaid for a period not exceeding thirty days if the sum claimed by the Superintendent-General, upon the said warrant does not exceed twenty dollars, or for a time not exceeding three months if the sum claimed does exceed twenty dollars: all such fines shall be paid to the Receiver-General, to be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council may direct.

17. If any Indian, without the license in writing of the Superintendent-General, or of some officer or person deputed by him for that purpose, trespasses upon the land of an Indian who holds a location title, or who is otherwise recognized by the department as the occupant of such land, by cutting, carrying away, or removing therefrom, any of the trees, saplings, shrubs, underwood, timber or hay thereon, or by removing any of the stone, soil, minerals, metals or other valuables off the said land; or if any Indian, without license as aforesaid, cuts, carries away or removes from any portion of the reserve of his band for sale (and not for the immediate use of himself and his family) any trees, timber or hay thereon, or removes any of the stone, soil, minerals, metals, or other valuables therefrom for sale as aforesaid, he shall be liable to all the fines and penalties provided in the next preceding section in respect to Indians of other bands and other persons.

s. 16, c. 18, S.C. 1876, repealed and replaced by s. 2, c. 34, S.C. 1879.

Penalties for offences by trespassers.

Levying penalties or imprisonment of offender for non-payment.

Application of fines.

Punishment of Indians so trespassing. s. 17, c. 18 S.C. 1876, amended by s. 3, c. 34, S.C. 1879.

Or removing timber, &c.

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Name of offender need not be mentioned in warrant in certain cases.

18. In all orders, writs, warrants, summonses and proceedings whatsoever made, issued or taken by the Superintendent-General, or any officer or person by him deputed as aforesaid, it shall not be necessary for him or such officer or person to insert or express the name of the person or Indian summoned, arrested, distrained upon, imprisoned, or otherwise proceeded against therein, except when the name of such person or Indian is truly given to or known by the Superintendent-General, or such officer or person, and if the name be not truly given to or known by him, he may name or describe the person or Indian by any part of the name of such person or Indian given to or known by him; and if no part of the name be given to or known by him he may describe the person or Indian proceeded against in any manner by which he may be identified; and all such proceedings containing or purporting to give the name or description of any such person or Indian as aforesaid shall *prima facie* be sufficient.

Sheriffs, &c., to assist Superintendent.

19. All sheriffs, gaolers or peace officers to whom any such process is directed by the Superintendent-General, or by any officer or person by him deputed as aforesaid, shall obey the same, and all other officers upon reasonable requisition shall assist in the execution thereof.

Superintendent to appoint an arbitrator when property is taken from a band for improvements.

20. If any railway, road, or public work passes through or causes injury to any reserve belonging to or in possession of any band of Indians, or if any act occasioning damage to any reserve be done under the authority of any Act of Parliament, or of the legislature of any province, compensation shall be made to them therefor in the same manner as is provided with respect to the lands or rights of other persons; the Superintendent-General shall in any case in which an arbitration may be had, name the arbitrator on behalf of the Indians, and shall act for them in any matter relating to the settlement of such compensation; and the amount awarded in any case shall be paid to the Receiver General for the use of the band of Indians for whose benefit the reserve is held, and for the benefit of any Indian having improvements thereon.

SPECIAL RESERVES.

Crown's name may be used in writs respecting special reserves.

21. In all cases of encroachment upon, or of violation of trust respecting any special reserve, it shall be lawful to proceed by information in the name of Her Majesty, in the superior courts of law or equity, notwithstanding the legal title may not be vested in the Crown.

As to trusteeship of reserves lapsing

22. If by the violation of the conditions of any such trust as aforesaid, or by the breaking up of any society, corporation, or community, or by the death of any person

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or persons without a legal succession of trusteeship, in whom the title to a special reserve is held in trust, the said title lapses or becomes void in law, then the legal title shall become vested in the Crown in trust, and the property shall be managed for the band or irregular band previously interested therein, as an ordinary reserve.

REPAIR OF ROADS.

23. Indians residing upon any reserve, and engaged in the pursuit of agriculture as their then principal means of support, shall be liable, if so directed by the Superintendent-General, or any officer or person by him thereunto authorized, to perform labor on the public roads laid out or used in or through, or abutting upon such reserve, such labor to be performed under the sole control of the said Superintendent-General, officer or person, who may direct when, where and how and in what manner the said labor shall be applied, and to what extent the same shall be imposed upon Indians who may be resident upon any of the said lands; and the said Superintendent-General, officer or person shall have the like power to enforce the performance of all such labor by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the province or territory in which such reserve lies, for the non-performance of statute labor; but the labor to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same province, territory, county, or other local division, under the laws requiring and regulating such labor and the performance thereof.

Indians liable to labor on public roads in reserves, and to what extent.

Powers of Superintendent.

Proviso: as to amount of labor.

24. Every band of Indians shall be bound to cause the roads, bridges, ditches and fences within their reserve to be put and maintained in proper order, in accordance with the instructions received from time to time from the Superintendent-General, or from the agent of the Superintendent-General; and whenever in the opinion of the Superintendent-General the same are not so put or maintained in order, he may cause the work to be performed at the cost of such band, or of the particular Indian in default, as the case may be, either out of their or his annual allowances, or otherwise.

Band to cause roads, &c., to be maintained in order.

Powers of Superintendent.

SURRENDERS.

25. No reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Act.

Necessary conditions previous to a sale.

26. No release or surrender of a reserve, or portion of a reserve, held for the use of the Indians of any band or of

On what conditions release or sur-

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render to be valid.	any individual Indian, shall be valid or binding, except on the following conditions:—		
Assent of band.	1. The release or surrender shall be assented to by a majority of the male members of the band of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose according to their rules, and held in the presence of the Superintendent-General, or of an officer duly authorized to attend such council by the Governor in Council or by the Superintendent-General; Provided, that no Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near and is interested in the reserve in question;		
Proviso.	—		
Proof of assent.	2. The fact that such release or surrender has been assented to by the band at such council or meeting, shall be certified on oath before some judge of a superior, county, or district court, or stipendiary magistrate, by the Superintendent-General or by the officer authorized by him to attend such council or meeting, and by some one of the chiefs or principal men present thereat and entitled to vote, and when so certified as aforesaid shall be submitted to the Governor in Council for acceptance or refusal;		
Superintendent-General may grant license to cut trees, &c.	3. But nothing herein contained shall be construed to prevent the Superintendent-General from issuing a license to any person or Indian to cut and remove trees, wood, timber and hay, or to quarry and remove stone and gravel on and from the reserve; Provided he, or his agent acting by his instructions, first obtain the consent of the band thereto in the ordinary manner as hereinafter provided.		
Proviso.	—		
No intoxicant to be permitted at council of Indians.	27. It shall not be lawful to introduce at any council or meeting of Indians held for the purpose of discussing or of assenting to a release or surrender of a reserve or portion thereof, or of assenting to the issuing of a timber or other license, any intoxicant; and any person introducing at such meeting, and any agent or officer employed by the Superintendent-General, or by the Governor in Council, introducing, allowing or countenancing by his presence the use of such intoxicant among such Indians a week before, at, or a week after, any such council or meeting, shall forfeit two hundred dollars, recoverable by action in any of the superior courts of law, one half of which penalty shall go to the informer.		
Invalid surrenders not confirmed hereby.	28. Nothing in this Act shall confirm any release or surrender which would have been invalid if this Act had not been passed; and no release or surrender of any reserve to any party other than the Crown, shall be valid.		

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MANAGEMENT AND SALE OF INDIAN LANDS.

29. All Indian lands, being reserves or portions of reserves surrendered or to be surrendered to the Crown, shall be deemed to be held for the same purposes as before the passing of this Act; and shall be managed, leased and sold as the Governor in Council may direct, subject to the conditions of surrender, and to the provisions of this Act.

How to be managed.

30. No agent for the sale of Indian lands shall, within his division, directly or indirectly, unless under an order of the Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency; and any such purchase or interest shall be void; and if any such agent offends in the premises, he shall forfeit his office and the sum of four hundred dollars for every such offence, which may be recovered in action of debt by any person who may sue for the same.

Agents not to purchase.

Punishment for contravention.

31. Every certificate of sale or receipt for money received on the sale of Indian lands, heretofore granted or made or to be granted or made by the Superintendent-General or any agent of his, so long as the sale to which such receipt or certificate relates is in force and not rescinded, shall entitle the party to whom the same was or shall be made or granted, or his assignee, by instrument registered under this or any former Act providing for registration in such cases, to take possession of and occupy the land therein comprised, subject to the conditions of such sale, and thereunder, unless the same shall have been revoked or cancelled, to maintain suits in law or equity against any wrongdoer or trespasser, as effectually as he could do under a patent from the Crown;—and such receipt or certificate shall be *prima facie* evidence for the purpose of possession by such person, or the assignee under an instrument registered as aforesaid, in any such suit; but the same shall have no force against a license to cut timber existing at the time of the making or granting thereof.

Effect of former certificates of sale or receipts, unless rescinded.

Evidence of possession.

Proviso.

32. The Superintendent-General shall keep a book for registering (at the option of the parties interested) the particulars of any assignment made, as well by the original purchaser or lessee of Indian lands or his heir or legal representative, as by any subsequent assignee of any such lands, or the heir or legal representative of such assignee;—and upon any such assignment being produced to the Superintendent-General, and, except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the time and place of such execution, and the names, residences and occupations of the witnesses, or, as regards lands in the province of Quebec, upon the pro-

Registers of assignments to be kept.

Entries thereon, on what proof made.

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<p>Their effect.</p> <p>Proviso.</p> <p>If a subscribing witness be dead, &c.</p> <p>Proof on application for patent.</p> <p>Proviso.</p> <p>Con. Stat. U. C., c. 80.</p> <p>Duty of Superintendent in case of fraud.</p> <p>Cancelling patent.</p> <p>Obtaining possession after such cancellation, in case of resistance.</p>	<p>duction of such assignment executed in notarial form, or of a notarial copy thereof, the Superintendent-General shall cause the material parts of every such assignment to be registered in such book of registry, and shall cause to be endorsed on every such assignment a certificate of such registration, to be signed by himself or his deputy, or any other officer of the department by him authorized to sign such certificates;—And every such assignment so registered shall be valid against any one previously executed, but subsequently registered, or unregistered; but all the conditions of the sale, grant or location must have been complied with, or dispensed with by the Superintendent-General, before such registration is made.</p> <p>33. If any subscribing witness to any such assignment is deceased, or has left the province, the Superintendent-General may register such assignment upon the production of an affidavit proving the death or absence of such witness and his handwriting, or the handwriting of the party making such assignment.</p> <p>34. On any application for a patent by the heir, assignee or devisee of the original purchaser from the Crown, the Superintendent-General may receive proof in such manner as he may direct and require in support of any claim for a patent when the original purchaser is dead, and upon being satisfied that the claim has been equitably and justly established, may allow the same, and cause a patent to issue accordingly; but nothing in this section shall limit the right of a party claiming a patent to land in the province of Ontario to make application at any time to the commissioner, under the</p> <p><i>“Act respecting claims to lands in Upper Canada for which no patents have issued.”</i></p> <p>35. If the Superintendent-General is satisfied that any purchaser or lessee of any Indian lands, or any assignee claiming under or through him, has been guilty of any fraud or imposition, or has violated any of the conditions of sale or lease, or if any such sale or lease has been or is made or issued in error or mistake, he may cancel such sale or lease, and resume the land therein mentioned, or dispose of it as if no sale or lease thereof had ever been made; and all such cancellations heretofore made by the Governor in Council or the Superintendent-General shall continue valid until altered.</p> <p>36. When any purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale or lease as aforesaid, or when any person is wrongfully in possession of any Indian lands and refuses to vacate or abandon possession of the same, the Superintendent-General may apply to the county judge of the county, or to a judge of the superior court in the circuit.</p>	<p>1876.</p> <p style="text-align: center;">Indians.</p> <p style="text-align: right;">Chap. 18.</p> <p>in which the land lies in Ontario or Quebec, or to any judge of a superior court of law or any county judge of the county in which the land lies in any other province, or to any stipendiary magistrate in any territory in which the land lies, for an order in the nature of a writ of <i>habere facias possessionem</i>, or writ of possession, and the said judge or magistrate, upon proof to his satisfaction that the right or title of the party to hold such land has been revoked or cancelled as aforesaid, or that such person is wrongfully in possession of Indian lands, shall grant an order upon the purchaser, lessee or person in possession, to deliver up the same to the Superintendent-General, or person by him authorized to receive the same; and such order shall have the same force as a writ of <i>habere facias possessionem</i>, or writ of possession; and the sheriff, or any bailiff or person to whom it may have been trusted for execution by the Superintendent-General, shall execute the same in like manner as he would execute such writ in an action of ejectment or possessory action.</p> <p>37. Whenever any rent payable to the Crown on any lease of Indian lands is in arrear, the Superintendent-General, or any agent or officer appointed under this Act and authorized by the Superintendent-General to act in such cases, may issue a warrant, directed to any person or persons by him named therein, in the shape of a distress warrant as in ordinary cases of landlord and tenant, or as in the case of distress and warrant of a justice of the peace for non-payment of a pecuniary penalty; and the same proceedings may be had thereon for the collection of such arrears as in either of the said last mentioned cases; or an action of debt as in ordinary cases of rent in arrear may be brought therefor in the name of the Superintendent-General; but demand of rent shall not be necessary in any case.</p> <p>38. When by law or by any deed, lease or agreement relating to any of the lands herein referred to, any notice is required to be given, or any act to be done, by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Superintendent-General.</p> <p>39. Whenever letters patent have been issued to or in the name of the wrong party, through mistake, or contain any clerical error or misnomer, or wrong description of any material fact therein, or of the land thereby intended to be granted, the Superintendent-General (there being no adverse claim) may direct the defective letters patent to be cancelled and a minute of such cancellation to be entered in the margin of the registry of the original letters patent, and correct letters patent to be issued in their stead, which corrected letters patent shall relate back to the date of those so cancelled, and have the same effect as if issued at the date of such cancelled letters patent.</p>

Order in the nature of writ of possession.

Execution.

Enforcing payment of rent.

Proceeding for.

Notice required by law, how to be given.

Cancelling patents issued by mistake.

New patents.

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40. In all cases in which grants or letters patent have issued for the same land inconsistent with each other through error, and in all cases of sales or appropriations of the same land inconsistent with each other, the Superintendent-General may, in cases of sale, cause a repayment of the purchase money, with interest, or when the land has passed from the original purchaser or has been improved before a discovery of the error, he may in substitution assign land or grant a certificate entitling the party to purchase Indian lands, of such value and to such extent as to him, the Superintendent-General, may seem just and equitable under the circumstances; but no such claim shall be entertained unless it be preferred within five years from the discovery of the error.

41. Whenever by reason of false survey or error in the books or plans in the Indian Branch of the Department of the Interior, any grant, sale or appropriation of land is found to be deficient, or any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Superintendent-General may order the purchase money of so much land as is deficient, with the interest thereon from the time of the application therefor, or, if the land has passed from the original purchaser, then the purchase money which the claimant (provided he was ignorant of a deficiency at the time of his purchase) has paid for so much of the land as is deficient, with interest thereon from the time of the application therefor, to be paid to him in land or in money, as he, the Superintendent-General, may direct;—But no such claim shall be entertained unless application has been made within five years from the date of the patent, nor unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the particular lot or parcel of land granted.

42. In all cases wherein patents for Indian lands have issued through fraud or in error or improvidence, the Exchequer Court of Canada, or a superior court of law or equity in any province may, upon action, bill or plaint, respecting such lands situate within their jurisdiction, and upon hearing of the parties interested, or upon default of the said parties after such notice of proceeding as the said courts shall respectively order, decree such patents to be void; and upon a registry of such decree in the office of the Registrar General of Canada, such patents shall be void to all intents. The practice in court, in such cases, shall be regulated by orders to be from time to time made by the said courts respectively; and any action or proceeding commenced under any former Act may be continued under this section, which, for the purpose of any such action or proceeding shall be construed as merely continuing the provisions of such former Act.

Lands patented twice over.

Repayment of price in certain cases.

Limitation of time for claim.

Case of deficiency of land provided for.

Compensation.

Limitation of time for claim.

Certain courts may avoid patents issued in error, &c.

Practice in such cases.

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43. If any agent appointed or continued in office under this Act knowingly and falsely informs, or causes to be informed, any person applying to him to purchase any land within his division and agency, that the same has already been purchased, or refuses to permit the person so applying to purchase the same according to existing regulations, such agent shall be liable therefor to the person so applying in the sum of five dollars for each acre of land which the person so applying offered to purchase, to be recovered by action of debt in any court, having jurisdiction in civil cases to the amount.

44. If any person, before or at the time of the public sale of any Indian lands, by intimidation, combination, or unfair management, hinders or prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any lands so offered for sale, every such offender, his, her, or their aiders and abettors, shall, for every such offence, be guilty of a misdemeanor, and on conviction thereof shall be liable to a fine not exceeding four hundred dollars, or imprisonment for a term not exceeding two years, or both, in the discretion of the court.

MANAGEMENT AND SALE OF TIMBER.

45. The Superintendent-General, or any officer or agent authorized by him to that effect, may grant licenses to cut timber on reserves and ungranted Indian lands at such rates, and subject to such conditions, regulations and restrictions, as may from time to time be established by the Governor in Council, such conditions, regulations and restrictions to be adapted to the locality in which such reserves or lands are situated.

46. No license shall be so granted for a longer period than twelve months from the date thereof; and if in consequence of any incorrectness of survey or other error, or cause whatsoever, a license is found to comprise land included in a license of a prior date, or land not being reserves or ungranted Indian lands, the license granted shall be void in so far as it comprises such land, and the holder or proprietor of the license so rendered void shall have no claim upon the Government for indemnity or compensation by reason of such avoidance.

47. Every license shall describe the lands upon which the timber may be cut, and shall confer for the time being on the nominee, the right to take and keep exclusive possession of the land so described, subject to such regulations and restrictions as may be established;—And every license shall vest in the holder thereof all rights of property whatsoever in all trees, timber and lumber cut within the limits of the

Punishment of agents giving false information as to lands.

Penalty.

Recovery.

Punishment for preventing sale.

Misdemeanor, fine and imprisonment.

Licenses to cut timber, how granted.

For what time. As to error in description, &c.

License must describe the lands: its effect.

Further rights of holders as to trespassers.

license during the term thereof, whether such trees, timber and lumber are cut by authority of the holder of such license or by any other person, with or without his consent;—And every license shall entitle the holder thereof to seize in re- ventionation or otherwise, such trees, timber or lumber where the same are found in the possession of any unauthorized person, and also to institute any action or suit at law or in equity against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any;—And all proceedings pending at the expiration of any license may be continued to final termination as if the license had not expired.

Return to be made by licensee.

48. Every person obtaining a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Superintendent-General a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square timber, manufactured and carried away under such license; and such statement shall be sworn to by the holder of the license, or his agent, or by his foreman; And any person refusing or neglecting to furnish such statement, or evading or attempting to evade any regulation made by Order in Council, shall be held to have cut without authority, and the timber made shall be dealt with accordingly.

Punishment for evasion.

Timber to be liable for dues.

49. All timber cut under license shall be liable for the payment of the dues thereon, so long as and wheresoever the said timber or any part of it may be found, whether in the original logs or manufactured into deals, boards or other stuff,—and all officers or agents entrusted with the collection of such dues may follow all such timber and seize and detain the same wherever it is found, until the dues are paid or secured.

Notes, etc., taken, not to affect lien.

50. Bonds or promissory notes taken for the dues, either before or after the cutting of the timber, as collateral security or to facilitate collection, shall not in any way affect the lien of the Crown on the timber, but the lien shall subsist until the said dues are actually discharged.

Sale of timber seized after a certain time.

51. If any timber so seized and detained for non-payment of dues remains more than twelve months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid,—then the Superintendent-General, with the previous sanction of the Governor in Council, may order a sale of the said timber to be made after sufficient notice,—and the balance of the proceeds of such sale, after retaining the amount of dues and costs incurred, shall be handed over to the owner or claimant of such timber.

Balance of proceeds.

52. If any person without authority cuts or employs or induces any other person to cut, or assists in cutting any timber of any kind on Indian lands, or removes or carries away or employs or induces or assists any other person to remove or carry away any merchantable timber of any kind so cut from Indian lands aforesaid, he shall not acquire any right to the timber so cut, or any claim to any remuneration for cutting, preparing the same for market, or conveying the same to or towards market,—and when the timber or saw-logs made, has or have been removed out of the reach of the officers of the Indian Branch of the Department of the Interior, or it is otherwise found impossible to seize the same, he shall in addition to the loss of his labour and disbursements, forfeit a sum of three dollars for each tree (rafting stuff excepted), which he is proved to have cut or caused to be cut or carried away.—and such sum shall be recoverable with costs, at the suit and in the name of the Superintendent-General or resident agent, in any court having jurisdiction in civil matters to the amount of the penalty;—And in all such cases it shall be incumbent on the party charged to prove his authority to cut; and the averment of the party seizing or prosecuting, that he is duly employed under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary.

Punishment for unlawfully cutting timber, forfeiture.

Penalty if timber is removed.

How recoverable.

Proof.

53. Whenever satisfactory information, supported by affidavit made before a justice of the peace or before any other competent authority, is received by the Superintendent-General, or any other officer or agent acting under him, that any timber or quantity of timber has been cut without authority on Indian lands, and describing where the said timber can be found, the said Superintendent-General, officer, or agent, or any one of them, may seize or cause to be seized, in Her Majesty's name, the timber so reported to have been cut without authority, wherever it is found, and place the same under proper custody, until a decision can be had in the matter from competent authority;

Seizure of timber cut without authority.

2. And where the timber so reported to have been cut without authority on Indian lands, has been made up with other timber into a crib, dram or raft, or in any other manner has been so mixed up at the mills or elsewhere, as to render it impossible or very difficult to distinguish the timber so cut on reserves or Indian lands without license, from other timber with which it is mixed up, the whole of the timber so mixed shall be held to have been cut without authority on Indian lands, and shall be liable to seizure and forfeiture accordingly, until satisfactorily separated by the holder.

When it has been indistinguishably mixed with other timber.

All to be deemed cut on Indian lands.

54. Any officer or person seizing timber, in the discharge

Officer seizing

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<p>may command assistance. Punishment for resistance.</p> <p>Felony.</p>	<p>of his duty under this Act, may in the name of the Crown call in any assistance necessary for securing and protecting the timber so seized; and whosoever under any pretences either by assault, force or violence, or by threat of such assault, force or violence, in any way resists or obstructs any officer or person acting in his aid, in the discharge of his duty under this Act, is guilty of felony, and liable to punishment accordingly.</p>	
<p>Conveying away without authority to be stealing.</p>	<p>55. Whosoever, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away, or causes to be taken or carried away, without permission of the officer or person who seized the same, or of some competent authority, any timber seized and detained as subject to forfeiture under this Act, before the same has been declared by competent authority to have been seized without due cause, shall be deemed to have stolen such timber being the property of the Crown, and guilty of felony, and is liable to punishment accordingly;</p>	
<p>Onus of proof that dues have been paid.</p>	<p>2. And whenever any timber is seized for non-payment of Crown dues or for any other cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this Act, and any question arises whether the said dues have been paid on such timber, or whether the said timber was cut on other than any of the lands aforesaid, the burden of proving payment, or on what land the said timber was cut, shall lie on the owner or claimant of such timber, and not on the officer who seizes the same, or the party bringing such prosecution.</p>	
<p>When to be deemed condemned.</p>	<p>56. All timber seized under this Act shall be deemed to be condemned, unless the person from whom it was seized, or the owner thereof, within one month from the day of the seizure, gives notice to the seizing officer, or nearest officer or agent of the Superintendent-General, that he claims or intends to claim the same; failing such notice, the officer or agent seizing shall report the circumstances to the Superintendent-General, who may order the sale of the said timber by the said officer or agent, after a notice on the spot, of at least thirty days:</p>	
<p>Sale.</p>	<p>2. And any Judge having competent jurisdiction, may, whenever he deems it proper, try and determine such seizures, and may order the delivery of the timber to the alleged owner, on receiving security by bond with two good and sufficient sureties to be first approved by the said agent, to pay double the value in case of condemnation,—and such bond shall be taken in the name of the Superintendent-General, to Her Majesty's use, and shall be delivered up to and kept by the Superintendent-General,—and if such seized</p>	
<p>How seizures may be tried and determined.</p>	<p>2. And any Judge having competent jurisdiction, may, whenever he deems it proper, try and determine such seizures, and may order the delivery of the timber to the alleged owner, on receiving security by bond with two good and sufficient sureties to be first approved by the said agent, to pay double the value in case of condemnation,—and such bond shall be taken in the name of the Superintendent-General, to Her Majesty's use, and shall be delivered up to and kept by the Superintendent-General,—and if such seized</p>	
<p>Security may be ordered by bond.</p>	<p>2. And any Judge having competent jurisdiction, may, whenever he deems it proper, try and determine such seizures, and may order the delivery of the timber to the alleged owner, on receiving security by bond with two good and sufficient sureties to be first approved by the said agent, to pay double the value in case of condemnation,—and such bond shall be taken in the name of the Superintendent-General, to Her Majesty's use, and shall be delivered up to and kept by the Superintendent-General,—and if such seized</p>	
<p>If timber be condemned.</p>	<p>2. And any Judge having competent jurisdiction, may, whenever he deems it proper, try and determine such seizures, and may order the delivery of the timber to the alleged owner, on receiving security by bond with two good and sufficient sureties to be first approved by the said agent, to pay double the value in case of condemnation,—and such bond shall be taken in the name of the Superintendent-General, to Her Majesty's use, and shall be delivered up to and kept by the Superintendent-General,—and if such seized</p>	

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timber is condemned, the value thereof shall be paid forthwith to the Superintendent-General, or agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered.

57. Every person availing himself of any false statement or oath to evade the payment of dues under this Act, shall forfeit the timber on which dues are attempted to be evaded. Evasion of dues to forfeit timber.

MONEYS.

58. All moneys or securities of any kind applicable to the support or benefit of Indians, or any band of Indians, and all moneys accrued or hereafter to accrue from the sale of any Indian lands or of any timber on any reserves or Indian lands shall, subject to the provisions of this Act, be applicable to the same purposes, and be dealt with in the same manner as they might have been applied to or dealt with before the passing of this Act. To be dealt with as heretofore.

59. The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom the moneys arising from sales of Indian lands, and from the property held or to be held in trust for the Indians, or from any timber on Indian lands or reserves, or from any other source for the benefit of Indians (with the exception of any small sum not exceeding ten per cent. of the proceeds of any lands, timber or property, which may be agreed at the time of the surrender to be paid to the members of the band interested therein), shall be invested from time to time, and how the payments or assistance to which the Indians may be entitled shall be made or given, and may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart from time to time, to cover the cost of and attendant upon the management of reserves, lands, property and moneys under the provisions of this Act, and for the construction or repair of roads passing through such reserves or lands, and by way of contribution to schools frequented by such Indians. Governor in Council may direct investment of Indian funds. And the management thereof; expenses how payable.

60. The proceeds arising from the sale or lease of any Indian lands, or from the timber, hay, stone, minerals or other valuables thereon, or on a reserve, shall be paid to the Receiver General to the credit of the Indian fund. Proceeds of sales to Receiver General.

COUNCILS AND CHIEFS.

61. At the election of a chief or chiefs, or the granting of any ordinary consent required of a band of Indians under this Act, those entitled to vote at the council or meeting thereof shall be the male members of the band of the full Votes at election of chiefs.

age of twenty-one years; and the vote of a majority of such members at a council or meeting of the band summoned according to their rules, and held in the presence of the Superintendent-General, or an agent acting under his instructions, shall be sufficient to determine such election, or grant such consent;

In ordinary cases.

Provided that in the case of any band having a council of chiefs or councillors, any ordinary consent required of the band may be granted by a vote of a majority of such chiefs or councillors at a council summoned according to their rules, and held in the presence of the Superintendent-General or his agent.

Periods of election how fixed: and term of office.

62. The Governor in Council may order that the chiefs of any band of Indians shall be elected, as hereinbefore provided, at such time and place, as the Superintendent-General may direct, and they shall in such case be elected for a period of three years, unless deposed by the Governor for dishonesty, intemperance, immorality, or incompetency; and they may be in the proportion of one head chief and two second chiefs or councillors for every two hundred Indians; but any such band composed of thirty Indians may have one chief: Provided always, that all life chiefs now living shall continue as such until death or resignation, or until their removal by the Governor for dishonesty, intemperance, immorality, or incompetency.

Number of chiefs.

Provide: as to life chiefs.

Chiefs to make regulations for certain purposes.

63. The chief or chiefs of any band in council may frame, subject to confirmation by the Governor in Council, rules and regulations for the following subjects, viz.:

1. The care of the public health;
2. The observance of order and decorum at assemblies of the Indians in general council, or on other occasions;
3. The repression of intemperance and profligacy;
4. The prevention of trespass by cattle;
5. The maintenance of roads, bridges, ditches and fences;
6. The construction and repair of school houses, council houses and other Indian public buildings;
7. The establishment of pounds and the appointment of pound-keepers;
8. The locating of the land in their reserves, and the establishment of a register of such locations.

s. 63, c. 18,
S.C. 1876,
amended by
s. 4, c. 34,
S.C. 1879.

PRIVILEGES OF INDIANS.

64. No Indian or non-treaty Indian shall be liable to be taxed for any real or personal property, unless he holds real estate under lease or in fee simple, or personal property, outside of the reserve or special reserve, in which case he shall be liable to be taxed for such real or personal property at the same rate as other persons in the locality in which it is situate.

To be taxable in certain cases only.

65. All land vested in the Crown, or in any person or body corporate, in trust for or for the use of any Indian or non-treaty Indian, or any band or irregular band of Indians or non-treaty Indians shall be exempt from taxation.

Land held in trust for Indians not taxable.

66. No person shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgment or otherwise, upon real or personal property of any Indian or non-treaty Indian within Canada, except on real or personal property subject to taxation under section sixty-four of this Act: Provided always, that any person selling any article to an Indian or non-treaty Indian may, notwithstanding this section, take security on such article for any part of the price thereof which may be unpaid.

No mortgage to be taken from Indians.

67. Indians and non-treaty Indians shall have the right to sue for debts due to them or in respect of any tort or wrong inflicted upon them, or to compel the performance of obligations contracted with them.

May sue for wrong.

68. No pawn taken of any Indian or non-treaty Indian for any intoxicant shall be retained by the person to whom such pawn is delivered, but the thing so pawned may be sued for and recovered, with costs of suit, by the Indian or non-treaty Indian who has deposited the same, before any court of competent jurisdiction.

Pawn for intoxicants not to be held.

69. No presents given to Indians or non-treaty Indians, nor any property purchased, or acquired with or by means of any annuities granted to Indians or any part thereof or otherwise howsoever, and in the possession of any band of such Indians or of any Indian of any band or irregular band, shall be liable to be taken, seized or distrained for any debt, matter or cause whatsoever. Nor in the province of British Columbia, the province of Manitoba, the North-West Territories or in the territory of Keewatin, shall the same be sold, hartered, exchanged or given by any band or irregular band of Indians or any Indian of any such band to any person or Indian other than an Indian of such band; and any such sale, harter, exchange or gift shall be absolutely null and void, unless such sale, harter, exchange or gift be made with the written assent of the

Presents not to be taken for debts.

Nor sold in certain provinces, &c.

Except with assent of Superintendent-General.

s. 69, c. 18,
S.C. 1876,
amended by
s. 5, c. 34,
S.C. 1879.

S.C. 1876, c. 18, cont'd.

S.C. 1876, c. 18, cont'd.

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Penalty for
contraven-
tion.

Superintendent-General or his agent; and whosoever buys or otherwise acquires any presents or property purchased as aforesaid, without the written consent of the Superintendent-General, or his agent as aforesaid, is guilty of a misdemeanor, and is punishable by fine not exceeding two hundred dollars, or by imprisonment not exceeding six months, in any place of confinement other than a penitentiary.

DISABILITIES AND PENALTIES.

Indian may
not have
homestead in
Manitoba and
N. W. Terri-
tories except
as specified.

70. No Indian or non-treaty Indian, resident in the province of Manitoba, the North-West Territories or the territory of Keewatin, shall be held capable of having acquired or acquiring a homestead or pre-emption right to a quarter section, or any portion of land in any surveyed or unsurveyed lands in the said province of Manitoba, the North-West Territories or the territory of Keewatin, or the right to share in the distribution of any lands allotted to half-breeds, subject to the following exceptions:

(a) He shall not be disturbed in the occupation of any plot on which he has or may have permanent improvements prior to his becoming a party to any treaty with the Crown:

(b) Nothing in this section shall prevent the Government of Canada, if found desirable, from compensating any Indian for his improvements on such a plot of land without obtaining a formal surrender therefor from the band:

(c) Nothing in this section shall apply to any person who withdrew from any Indian treaty prior to the first day of October, in the year one thousand eight hundred and seventy-four.

Indians un-
dergoing
punishment
by imprison-
ment, not to
receive share
of annuity.

71. Any Indian convicted of any crime punishable by imprisonment in any penitentiary or other place of confinement, shall, during such imprisonment, be excluded from participating in the annuities, interest money, or rents payable to the hand of which he or she is a member; and whenever any Indian shall be convicted of any crime punishable by imprisonment in a penitentiary or other place of confinement, the legal costs incurred in procuring such conviction, and in carrying out the various sentences recorded, may be defrayed by the Superintendent-General, and paid out of any annuity or interest coming to such Indian, or to the band, as the case may be.

Payment of
annuity may
be refused to
Indian desert-
ing his family.

72. The Superintendent-General shall have power to stop the payment of the annuity and interest money of any Indian who may be proved, to the satisfaction of the Superintendent-General, to have been guilty of deserting his or her family, and the said Superintendent-General may apply the same

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towards the support of any family, woman or child so deserted; also to stop the payment of the annuity and interest money of any woman having no children, who deserts her husband and lives immorally with another man.

And so as to
women.

73. The Superintendent-General in cases where sick, or disabled, or aged and destitute persons are not provided for by the band of Indians of which they are members, may furnish sufficient aid from the funds of the band for the relief of such sick, disabled, aged or destitute persons.

Provision for
sick, &c., not
provided for
by the Band.

EVIDENCE OF NON-CHRISTIAN INDIANS.

74. Upon any inquest, or upon any enquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever or by whomsoever committed, it shall be lawful for any court, judge, stipendiary magistrate, coroner or justice of the peace to receive the evidence of any Indian or non-treaty Indian, who is destitute of the knowledge of God and of any fixed and clear belief in religion or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian, or non-treaty Indian, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as may be approved by such court, judge, stipendiary magistrate, coroner or justice of the peace as most binding on the conscience of such Indian or non-treaty Indian.

How Heaten
Indians may
be sworn.

75. Provided that in the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian, or non-treaty Indian, as aforesaid, shall be reduced to writing, and signed by the person (by mark if necessary) giving the same, and verified by the signature or mark of the person acting as interpreter (if any) and by the signature of the judge, stipendiary magistrate or coroner, or justice of the peace or person before whom such evidence or information has been given.

Substance of
evidence to
be reduced to
writing and
attested

76. The court, judge, stipendiary magistrate, or justice of the peace shall, before taking any such evidence, information or examination, caution every such Indian, or non-treaty Indian, as aforesaid, that he will be liable to incur punishment if he do not so as aforesaid tell the truth.

Indian to be
cautioned to
tell the truth;

77. The written declaration or examination, made, taken and verified in manner aforesaid, of any such Indian or non-treaty Indian as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal suit or proceedings, when under the like circumstances the writ-

Written de-
claration, &c.,
of Indians
may be used
in like cases
as those of
other persons.

ten affidavit, examination, deposition or confession of any other person, might be lawfully read and received as evidence.

False testimony to be perjury.

78. Every solemn affirmation or declaration in whatever form made or taken by any Indian or non-treaty Indian as aforesaid shall be of the same force and effect as if such Indian or non-treaty Indian had taken an oath in the usual form, and he or she shall in like manner incur the penalty of perjury in case of falsehood.

INTOXICANTS.

Punishment of persons furnishing intoxicants to Indians.

79. Whoever sells, exchanges with, barter, supplies or gives to any Indian, or non-treaty Indian in Canada, any kind of intoxicant, or causes or procures the same to be done, or connives or attempts thereat or opens or keeps, or causes to be opened or kept, on any reserve or special reserve, a tavern, house or building where any intoxicant is sold, bartered, exchanged or given, or is found in possession of any intoxicant in the house, tent, wigwam or place of abode of any Indian or non-treaty Indian, shall, on conviction thereof before any judge, stipendiary magistrate or two justices of the peace, upon the evidence of one credible witness other than the informer or prosecutor, be liable to imprisonment for a period not less than one month nor exceeding six months, with or without hard labor, and be fined not less than fifty nor more than three hundred dollars, with costs of prosecution,—one moiety of the fine to go to the informer or prosecutor, and the other moiety to Her Majesty, to form part of the fund for the benefit of that body of Indians or non-treaty Indians, with respect to one or more members of which the offence was committed: and the commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicant has been sold, bartered, exchanged, supplied or given to any Indian or non-treaty Indian, shall be liable, on conviction thereof before any judge, stipendiary magistrate or two justices of the peace, upon the evidence of one credible witness other than the informer or prosecutor, to be fined not less than fifty nor exceeding three hundred dollars for each such offence, with costs of prosecution,—the moieties of the fine to be applicable as hereinbefore mentioned; and in default of immediate payment of such fine and costs any person so fined shall be committed to any common gaol, house of correction, lock-up, or other place of confinement by the judge, stipendiary magistrate or two justices of the peace before whom the conviction has taken place, for a period of not less than one nor more than six months, with or without hard labor, or until such fine and costs are paid: and any Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or

Penalties and application.

Of Commanders of vessels furnishing the same.

Penalties and application.

Imprisonment in default of payment.

Punishment of Indian making, selling or having

who sells, exchanges with, barter, supplies or gives to any other Indian or non-treaty Indian in Canada any kind of intoxicant shall, on conviction thereof, before any judge, stipendiary magistrate or two justices of the peace, upon the evidence of one credible witness other than the informer or prosecutor, be liable to imprisonment for a period of not less than one month nor more than six months, with or without hard labor; and in all cases arising under this section, Indians or non-treaty Indians, shall be competent witnesses: but no penalty shall be incurred in case of sickness where the intoxicant is made use of under the sanction of a medical man or under the directions of a minister of religion.

in possession of any intoxicant.

Exception.

80. The keg, barrel, case, box, package or receptacle whence any intoxicant has been sold, exchanged, bartered, supplied or given, and as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid respectively, can be identified, and any intoxicant imported or manufactured or brought into and upon any reserve or special reserve, or into the house, tent, wigwam or place of abode of any Indian or non-treaty Indian, may be seized by any constable wheresoever found on such land or in such place; and on complaint before any judge, stipendiary magistrate or justice of the peace, he may, on the evidence of any credible witness that this Act has been contravened in respect thereof, declare the same forfeited, and cause the same to be forthwith destroyed; and may condemn the Indian or other person in whose possession they were found to pay a penalty not exceeding one hundred dollars nor less than fifty dollars, and the costs of prosecution; and one-half of such penalty shall belong to the prosecutor and the other half to Her Majesty, for the purposes hereinbefore mentioned; and in default of immediate payment, the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement with or without hard labor, for any time not exceeding six nor less than two months unless such fine and costs are sooner paid.

Keg or cask, &c., in which intoxicants are carried to be forfeited.

Intoxicants and vessels containing them may be seized.

And destroyed by order of J. P.

Person in whose possession they were found subject to penalty from \$50 to \$100. Imprisonment in default of payment.

81. When it is proved before any judge, stipendiary magistrate or two justices of the peace that any vessel, boat, canoe or conveyance of any description upon the sea or sea coast, or upon any river, lake or stream in Canada, is employed in carrying any intoxicant, to be supplied to Indians or non-treaty Indians, such vessel, boat, canoe or conveyance so employed may be seized and declared forfeited, as in the next preceding section, and sold, and the

Vessels used in conveying intoxicants in contravention of this Act, subject to seizure and forfeiture.

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proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned.

Articles exchanged for intoxicants may be seized and forfeited.

82. Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which in contravention of this Act the consideration, either wholly or in part, may be any intoxicant, shall be forfeited to Her Majesty and shall be seized as in the eightieth section in respect to any receptacle of any intoxicant, and may be sold and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned.

Indians intoxicated may be arrested and imprisoned until sober.

83. It shall be lawful for any constable, without process of law, to arrest any Indian or non-treaty Indian whom he may find in a state of intoxication, and to convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he shall have become sober; and such Indian or non-treaty Indian shall, when sober, be brought before any judge, stipendiary magistrate, or justice of the peace, and if convicted of being so found in a state of intoxication shall be liable to imprisonment in any common gaol, house of correction, lock-up or other place of confinement, for any period not exceeding one month. And if any Indian or non-treaty Indian, having been so convicted as aforesaid, refuses upon examination to state or give information of the person, place and time from whom, where and when, he procured such intoxicant; and if from any other Indian or non-treaty Indian, then, if within his knowledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days.

And fined.

And further punished if they refuse to say from whom they got the intoxicants.

To what Judges only an appeal shall lie from conviction under five next preceding sections.

84. No appeal shall lie from any conviction under the five next preceding sections of this Act, except to a Judge of any superior court of law, county, or circuit, or district court, or to the Chairman or Judge of the Court of the Sessions of the Peace, having jurisdiction where the conviction was had, and such appeal shall be heard, tried, and adjudicated upon by such judge without the intervention of a jury; and no such appeal shall be brought after the expiration of thirty days from the conviction.

Want of form not to invalidate conviction.

85. No prosecution, conviction or commitment under this Act shall be invalid on account of want of form, so long as the same is according to the true meaning of this Act.

ENFRANCHISEMENT

Report of Agent when Indian obtains con-

86. Whenever any Indian man, or unmarried woman, of the full age of twenty-one years, obtains the consent of the band of which he or she is a member to become enfranchised,

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and whenever such Indian has been assigned by the band a suitable allotment of land for that purpose, the local agent shall report such action of the band, and the name of the applicant to the Superintendent-General; whereupon the said Superintendent-General, if satisfied that the proposed allotment of land is equitable, shall authorize some competent person to report whether the applicant is an Indian who, from the degree of civilization to which he or she has attained, and the character for integrity, morality and sobriety which he or she bears, appears to be qualified to become a proprietor of land in fee simple; and upon the favorable report of such person, the Superintendent-General may grant such Indian a location ticket as a probationary Indian, for the land allotted to him or her by the band.

sent of Band to be enfranchised.

Inquiry there upon.

Location ticket on favourable report.

(1.) Any Indian who may be admitted to the degree of Doctor of Medicine, or to any other degree by any University of Learning, or who may be admitted in any Province of the Dominion to practice law either as an Advocate or as a Barrister or Counsellor or Solicitor or Attorney or to be a Notary Public, or who may enter Holy Orders or who may be licensed by any denomination of Christians as a Minister of the Gospel, shall *ipso facto* become and be enfranchised under this Act.

Indians admitted to degrees in Universities, &c.

87. After the expiration of three years (or such longer period as the Superintendent-General may deem necessary in the event of such Indian's conduct not being satisfactory), the Governor may, on the report of the Superintendent-General, order the issue of letters patent, granting to such Indian in fee simple the land which had, with this object in view, been allotted to him or her by location ticket.

Patent after certain period of probation.

s. 87, c. 18, S.C. 1876, amended by s. 6, c. 34, S.C. 1879.

88. Every such Indian shall, before the issue of the letters patent mentioned in the next preceding section, declare to the Superintendent-General the name and surname by which he or she wishes to be enfranchised and thereafter known, and on his or her receiving such letters patent, in such name and surname, he or she shall be held to be also enfranchised, and he or she shall thereafter be known by such name or surname, and if such Indian be a married man his wife and minor unmarried children also shall be held to be enfranchised; and from the date of such letters patent the provisions of this Act and of any Act or law making any distinction between the legal rights, privileges, disabilities and liabilities of Indians and those of Her Majesty's other subjects shall cease to apply to any Indian, or to the wife or minor unmarried children of any Indian as aforesaid, so declared to be enfranchised, who shall no longer be deemed Indians within the meaning of the laws relating to Indians, except in so far as their right to participate in the annuities and interest moneys, and rents and councils of the band of

Indian to declare name chosen; and to be known by it.

Wife and minor children enfranchised. Effect of such enfranchisement.

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Proviso as to children attaining majority before their father's probation expires.

Indians to which they belonged is concerned: Provided always, that any children of a probationary Indian, who being minors and unmarried when the probationary ticket was granted to such Indian, arrive at the full age of twenty-one years before the letters patent are issued to such Indian, may, at the discretion of the Governor in Council, receive letters patent in their own names for their respective shares of the land allotted under the said ticket, at the same time that letters patent are granted to their parent: and provided, that if any Indian child having arrived at the full age of twenty-one years, during his or her parents' probationary period, be unqualified for enfranchisement, or if any child of such parent, having been a minor at the commencement of such period, be married during such period, then a quantity of land equal to the share of such child shall be deducted in such manner as may be directed by the Superintendent-General, from the allotment made to such Indian parent on receiving his probationary ticket.

Proviso as to children found unqualified, or being married.

Case of Indian dying before expiration of probation or failing to qualify.

98. If any probationary Indian should fail in qualifying to become enfranchised, or should die before the expiration of the required probation, his or her claim, or the claim of his or her heirs to the land, for which a probationary ticket was granted, or the claim of any unqualified Indian, or of any Indian who may marry during his or her parents' probationary period, to the land deducted under the operation of the next preceding section from his or her parents' probationary allotment, shall in all respects be the same as that conferred by an ordinary location ticket, as provided in the sixth, seventh, eighth and ninth sections of this Act:

As to children of widows probationary or enfranchised.

99. The children of any widow who becomes either a probationary or enfranchised Indian shall be entitled to the same privileges as those of a male head of a family in like circumstances.

Rules for allotting lands to probationary Indians.

Proviso as to power of band in this behalf.

101. In allotting land to probationary Indians, the quantity to be located to the head of a family shall be in proportion to the number of such family compared with the total quantity of land in the reserve, and the whole number of the band, but any band may determine what quantity shall be allotted to each member for enfranchisement purposes, provided each female of any age, and each male member under fourteen years of age receive not less than one-half the quantity allotted to each male member of fourteen years of age and over.

As to Indians not members of the band, but permitted to reside on their reserve.

102. Any Indian, not a member of the band, or any non-treaty Indian, who, with the consent of the band and the approval of the Superintendent-General, has been permitted to reside upon the reserve, or obtain a location thereon, may, on being assigned a suitable allotment of land by the band

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for enfranchisement, become enfranchised on the same terms and conditions as a member of the band; and such enfranchisement shall confer upon such Indian the same legal rights and privileges, and make such Indian subject to such disabilities and liabilities as affect Her Majesty's other subjects; but such enfranchisement shall not confer upon such Indian any right to participate in the annuities, interest moneys, rents and councils of the band.

103. Whenever any band of Indians, at a council summoned for the purpose according to their rules, and held in the presence of the Superintendent-General or of an agent duly authorized by him to attend such council, decides to allow every member of the band who chooses, and who may be found qualified, to become enfranchised, and to receive his or her share of the principal moneys of the band, and sets apart for such member a suitable allotment of land for the purpose, any applicant of such band after such a decision may be dealt with as provided in the seven next preceding sections until his or her enfranchisement is attained; and whenever any member of the band, who for the three years immediately succeeding the date on which he or she was granted letters patent, or for any longer period that the Superintendent-General may deem necessary, by his or her exemplary good conduct and management of property, proves that he or she is qualified to receive his or her share of such moneys, the Governor may, on the report of the Superintendent-General to that effect, order that the said Indian be paid his or her share of the capital funds at the credit of the band, or his or her share of the principal of the annuities of the band, estimated as yielding five per cent. out of such moneys as may be provided for the purpose by Parliament; and if such Indian be a married man then he shall also be paid his wife and minor unmarried children's share of such funds and other principal moneys, and if such Indian be a widow, she shall also be paid her minor unmarried children's share: and the unmarried children of such married Indians, who become of age during either the probationary period for enfranchisement or for payment of such moneys, if qualified by the character for integrity, morality and sobriety which they bear, shall receive their own share of such moneys when their parents are paid, and if not so qualified, before they can become enfranchised or receive payment of such moneys they must themselves pass through the probationary periods; and all such Indians and their unmarried minor children who are paid their share of the principal moneys of their band as aforesaid, shall thenceforward cease in every respect to be Indians of any class within the meaning of this Act, or Indians within the meaning of any other Act or law.

104. Sections eighty-six to ninety-three, both inclusive, of

Proviso.

Provision when Band decides that all its members may become enfranchised.

Or when Indian becomes qualified by exemplary conduct.

If such Indian be a married man or widow.

And as to unmarried children of such enfranchised married Indians.

Provision as to Indians in

British Columbia, the Province of Manitoba, the North-West Territories, or the Territory of Keewatin, in so far as the said sections may, by proclamation of the Governor-General, be from time to time extended, as they may be, to any band of Indians in any of the said provinces or territories.

MISCELLANEOUS PROVISIONS.

95. All affidavits required under this Act, or intended to be used in reference to any claim, business or transaction in the Indian Branch of the Department of the Interior, may be taken before the Judge or clerk of any county or circuit court, or any Justice of the Peace, or any Commissioner for taking affidavits in any of the courts, or the Superintendent-General, or any Indian agent, or any surveyor duly licensed and sworn, appointed by the Superintendent-General to enquire into or take evidence or report in any matter submitted or pending before such Superintendent-General, or if made out of Canada, before the mayor or chief magistrate of, or the British consul in, any city, town or other municipality; and any witness swearing in any such affidavit shall be perjury.

96. Copies of any records, documents, books or papers belonging to or deposited in the Department of the Interior, attested under the signature of the Superintendent-General or of his deputy shall be competent evidence in all cases in which the original records, documents, books or papers, could be evidence.

97. The Governor in Council may, by proclamation from time to time, exempt from the operation of this Act, or from the operation of any one or more of the sections of this Act, Indians or non-treaty Indians, or any of them, or any band or irregular band of them, or the reserves or special reserves, or Indian lands or any portions of them, in any province, in the North-West Territories, or in the Territory of Keewatin, or in either of them, and may again, by proclamation from time to time, remove such exemption.

98. The Governor may, from time to time, appoint officers and agents to carry out this Act, and any Orders in Council made under it, which officers and agents shall be paid in such manner and at such rates as the Governor in Council may direct out of any fund that may be appropriated by law for that purpose.

99. Section fifty-six of chapter sixty-one and section fifty of chapter sixty-eight of the Consolidated Statutes of Canada, S. 56 of c. 61, section twenty-nine of chapter forty-nine of the Consolidated

Statutes for Upper Canada, and so much of chapter eighty-six of the Consolidated Statutes for Upper Canada as relates to Indians or Indian lands, sections five to thirty-three, inclusive, and sections thirty-seven and thirty-eight of the Act passed in the session held in the thirty-first year of Her Majesty's reign, chaptered forty-two, and the Act passed in the session held in the thirty-second year of Her Majesty's reign, chaptered thirty-one, and the Act passed in the thirty-seventh year of Her Majesty's reign, chaptered twenty-one, are hereby repealed, with so much of any Act or law as may be inconsistent with this Act, or as makes any provision in any matter provided for by this Act, except only as to things done, rights acquired, obligations contracted, or penalties incurred before the coming into force of this Act; and this Act shall be construed not as a new law but as a consolidation of those hereby repealed in so far as they make the same provision that is made by this Act in any matter hereby provided for.

100. No Act or enactment repealed by any Act hereby repealed shall revive by reason of such repeal.

Chap. 34. *Indian Act, 1876, amended.* 42 VICT.

CHAP. 34.

An Act to amend "The Indian Act, 1876."

[Assented to 15th May, 1879.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Seal. 3 of 39
V., c. 18, sub-
section 3
amended.

1. Paragraph (e) of sub-section three, of section three of "The Indian Act 1876," is hereby amended by adding at the end thereof the words "And any half-breed who may have been admitted into a treaty shall be allowed to withdraw therefrom on refunding all annuity money, received by him or her under the said treaty, or suffering a corresponding reduction in the quantity of any land, or scrip, which such half-breed as such may, be entitled to receive from the Government."

Section 16
repealed.

2. Section sixteen of the Act aforesaid is hereby repealed, and the following section substituted in lieu thereof:—

New section
substituted.
Punishment
of persons
trespassing
on Indian
Reserve.

"16. If any person or Indian, other than an Indian of the band to which the reserve belongs, without the license in writing of the Superintendent-General, or of some officer or person deputed by him for that purpose, trespasses upon any of the said land, roads or allowances for roads in the said reserve, by cutting, carrying away, or removing therefrom any of the trees, saplings, shrubs, underwood, timber or hay thereon, or by removing any of the stone, soil, minerals, metals or other valuables, off the said land, roads or allowances for roads, the person or Indian so trespassing shall, on conviction thereof before any Stipendiary Magistrate, Police Magistrate or Justice of the Peace, for every tree he cuts, carries away or removes, forfeit and pay the sum of twenty dollars; and for cutting, carrying away, or removing any of the saplings, shrubs, underwood, timber or hay, if under the value of one dollar, the sum of four dollars; but if over the value of one dollar, then the sum of twenty dollars; and for removing any of the stone, soil, minerals, metals or other valuables aforesaid, the sum of twenty dollars, with costs of prosecution in all cases; and in default of immediate payment of the said penalties and costs, the Superintendent-General, or such other person as he may have authorized in that behalf, may issue a warrant, directed to any person or persons by him named therein, to levy the amount of the said penalties and costs by distress and sale of the goods and chattels of the person liable to

Recovery of
of penalties
if not forth-
with paid.

1879. *Indian Act, 1876, amended.* Chap. 34.

pay, the same; and similar proceedings may be had upon such warrant as if it had been issued by the Magistrate or Justice of the Peace before whom the person was convicted; or the Superintendent-General, or such other person as aforesaid, without proceeding by distress or sale, may, upon non-payment of the said penalties and costs, order the person liable therefor to be imprisoned in the common gaol of the county or district in which the said reserve or any part thereof lies, for a period not exceeding thirty days when the penalty does not exceed twenty dollars, or for a period not exceeding three months when the penalty does exceed twenty dollars; and upon the return of any warrant for distress or sale, if the amount thereof has not been made, or if any part of it remains unpaid, the said Superintendent-General, or such other person as aforesaid, may commit the person in default to the common gaol, as aforesaid, for a period not exceeding thirty days, if the sum claimed upon the said warrant does not exceed twenty dollars, or for a time not exceeding three months if the sum does exceed twenty dollars: all such penalties shall be paid to the Receiver-General to be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council may direct."

Or by im-
prisonment.

And if the
amount is not
levied under
the warrant.

Application
of penalties.

3. Section seventeen of the said Act is hereby amended by adding thereto the words "and similar proceedings may be had for the recovery thereof as are provided for in the next preceding section."

Section 17
amended.

4. Section sixty-three of the said Act is hereby amended by adding to the fourth subsection thereof the words "also for the protection of sheep:"

Section 63
amended.

And by substituting for the words "maintenance of" in the fifth subsection thereof, the words "construction and maintenance of water courses;"

And by adding to the said section the two following sub-sections:—

"9. The repression of noxious weeds;

"10. The imposition of punishment, by fine or penalty, or by imprisonment, or both, for infraction of any, of such rules or regulations,—the fine or penalty in no case to exceed thirty dollars, and the imprisonment in no case to exceed thirty days."

5. Section sixty-nine of the said Act is hereby amended by striking out the words "or otherwise, howsoever," in the fourth line thereof, and by adding at the end of the said section

Section 69
amended.

S.C. 1879, c. 34, cont'd.

Chaps. 34. *Indian Act, 1876, amended, &c.* 42 VICT.

Additional provisions as to presents to Indians.

the words "if any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians be unlawfully in the possession of any person, within the true intent and meaning of this section, any person acting under the authority (either general or special) of the Superintendent-General, may, with such assistance in that behalf as he may think necessary, seize and take possession of the same, and he shall deal therewith as the Superintendent-General may direct."

Section 87 amended.

6. Section eighty-seven is hereby amended by adding thereto the words "and in such cases compliance with the provisions of sections twenty-five and twenty-six and the sub-sections thereof shall not be necessary."

Penalties on keepers of public houses committing certain offences.

7. If any person, being the keeper of any house, allows or suffers any Indian woman to be or remain in such house, knowing, or having probable cause for believing, that such Indian woman is in or remains in such house with the intention of prostituting herself therein, such person shall be deemed guilty of an offence against this Act, and shall, on conviction thereof, in a summary way, before any Stipendiary Magistrate, Police Magistrate or Justice of the Peace, be liable to a fine of not less than ten dollars, or more than one hundred dollars, or to imprisonment in any gaol or place of confinement other than a penitentiary, for a term not exceeding six months.

How enforced.

Who shall be deemed master or mistress of such house.

8. Any person who appears, acts or behaves as master or mistress, or as the person having the care, government or management of any house in which any Indian woman is, or remains for the purpose of prostituting herself therein, shall be deemed and taken to be the keeper thereof, notwithstanding he or she may not in fact be the real keeper thereof.

Chapter 34, S.C. 1879
repealed by s. 112,
c. 28, S.C. 1880.

CHAP. 28

An Act to amend and consolidate the laws respecting Indians.

[Assented to 7th May, 1880.]

Preamble. WHEREAS it is expedient to amend and consolidate the laws respecting Indians: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title and extent of Act. 1. This Act shall be known and may be cited as "*The Indian Act, 1880*;" and shall, subject to the exceptions herein contained, apply to all the Provinces, and to the North-West Territories, including the District of Keewatin.

Meanings assigned to terms in this Act. 2. The following terms contained in this Act shall be held to have the meaning hereinafter assigned to them, unless such meaning be repugnant to the subject or inconsistent with the context:—

Band. 1. The term "band" means any tribe, band or body of Indians who own or are interested in a reserve or in Indian lands in common, of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities or interest moneys for which the Government of Canada is responsible; the term "the band" means the band to which the context relates; and the term "band," when action is being taken by the band as such, means the band in council.

Irregular Band. 2. The term "irregular band" means any tribe, band or body of persons of Indian blood who own no interest in any reserve or lands of which the legal title is vested in the Crown, who possess no common fund managed by the Government of Canada, or who have not had any treaty relations with the Crown.

Indian. 3. The term "Indian" means—

1880. *Indians.* Chap. 28.

First. Any male person of Indian blood reputed to belong to a particular band;

Secondly. Any child of such person;

Thirdly. Any woman who is or was lawfully married to such person.

4. The term "non-treaty Indian" means any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even though such person be only a temporary resident in Canada.

5. The term "enfranchised Indian" means any Indian, his wife or minor unmarried child, who has received letters patent granting him in fee simple any portion of the reserve which may have been allotted to him, his wife and minor children, by the band to which he belongs, or any unmarried Indian who may have received letters patent for an allotment of the reserve.

6. The term "reserve" means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, but which is unsurrendered, and includes all the trees, wood, timber, soil, stone, minerals, metals and other valuables thereon or therein.

7. The term "special reserve" means any tract or tracts of land and everything belonging thereto set apart for the use or benefit of any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued, or in a person or persons of European descent, but which land is held in trust for such band or irregular band of Indians.

8. The term "Indian lands" means any reserve or portion of a reserve which has been surrendered to the Crown.

9. The term "intoxicants" means and includes all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, as also opium and any preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them be liquid or solid.

10. The term "Superintendent-General" means the Superintendent-General of Indian Affairs.

Non-treaty Indian.

Enfranchised Indian.

Reserve.

subsection 2(6),
c. 28, S.C. 1880,
amended by s. 1,
c. 30, S.C. 1882.

Special Reserve.

Indian lands.

Intoxicants.

Superintendent-General.

Chap. 23. *Indians.* 43 VICT.

Agent. 11. The term "agent" includes a commissioner, superintendent, agent, or other officer acting under the instructions of the Superintendent-General.

Person 12. The term "person" means an individual other than an Indian, unless the context clearly requires another construction.

s. 3, c. 28, S.C. 1880, repealed and replaced by s. 1, c. 6, S.C. 1883.

Superintendent-General of Indian Affairs. 13. The Minister of the Interior shall be the Superintendent-General of Indian Affairs.

Department of Indian Affairs. 14. There shall be a Department of the Civil Service of Canada to be called the Department of Indian Affairs, over which the Superintendent-General of Indian Affairs shall preside.

Deputy Superintendent-General of Indian Affairs, his powers and duties. 15. The Governor General in Council may, by commission under the Great Seal, appoint a Deputy of the Superintendent-General of Indian Affairs, who shall be charged under the Superintendent-General with the performance of his Departmental duties, and with the control and management of the officers, clerks and servants of the Department, and with such other powers and duties as may be assigned to him by the Governor in Council.

Schedule A of 31 V, c. 34 amended. 16. Schedule A of the "Canada Civil Service Act, 1868," is hereby amended by adding thereto the words "Deputy of the Superintendent-General of Indian Affairs."

Division of present business, and of officers and employees of Department of the Interior between it and the Department of Indian Affairs. 17. Upon the passing of this Act, so much of the business of the Department of the Interior as relates to Indian Affairs, and which has hitherto been conducted in what is usually known as the "Indian Branch" of that Department, shall fall under the management, charge and direction of the Department of Indian Affairs; and the Governor in Council may from time to time assign to the Department of Indian Affairs any of the present officers and employees of the Department of the Interior, or may direct any one or more of the officers and employees of the last-named Department to act as an officer of both Departments.

Appointment of officers, clerks and servants of the new Department. 18. The Governor in Council may also appoint, subject to "The Canada Civil Service Act, 1868," such officers, clerks and servants as may be requisite for the proper conduct of the business of the Department of Indian Affairs.

Appointment of an Indian Commissioner and of an Indian Superintendent. 19. The Governor in Council may appoint an Indian Commissioner for Manitoba, Kewatin and the North-West Territories, or an Indian Commissioner for Manitoba and Kewatin and an Indian Commissioner for the North-West Territories, with such powers and duties as may be provided by Order in Council. The Governor in Council may

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also appoint an Indian Superintendent for the Province of British Columbia, with such powers and duties as may be provided by Order in Council.

10. Any illegitimate child, unless having shared with the consent of the band whereof the father or mother of such child is a member in the distribution moneys of such band for a period exceeding two years, may, at any time, be excluded from the membership thereof by the Superintendent-General. Exclusion of natural children from bands.

11. Any Indian having for five years continuously resided in a foreign country without the consent in writing of the Superintendent-General or his agent, shall cease to be a member of the band of which he or she was formerly a member, nor shall he or she become again a member of that band, or become a member of any other band, unless the consent of the band with the approval of the Superintendent-General or his agent, be first had and obtained. Loss of membership through residence in a foreign country without leave.

12. Any Indian woman marrying any other than an Indian or a non-treaty Indian shall cease to be an Indian in any respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and rents; but this income may be commuted to her at any time at ten years' purchase with the consent of the band. Effect of marriage of an Indian woman with any other than an Indian or a non-treaty Indian.

13. Any Indian woman marrying an Indian of any other band, or a non-treaty Indian, shall cease to be a member of the band to which she formerly belonged, and become a member of the band or irregular band of which her husband is a member; but should she marry a non-treaty Indian, while becoming a member of the irregular band of which her husband is a member, she shall be entitled to share equally with the members of the band of which she was formerly a member in the distribution of their moneys; but this income may be commuted to her at any time at ten years' purchase with the consent of the band. Effect of marriage of an Indian woman with a non-treaty Indian.

14. No half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian; and no half-breed head of a family (except the widow of an Indian or a half-breed who has already been admitted into a treaty) shall, unless under very special circumstances, to be determined by the Superintendent-General or his agent, be accounted an Indian, or entitled to be admitted into any Indian treaty; and any half-breed who may have been admitted into a treaty shall be allowed to withdraw therefrom on refunding all annuity money received by him or her under the said treaty; or suffering a As to half-breeds in Manitoba. Withdrawal from treaty.

subsection 14(1), c. 28, S.C. 1880, amended by s. 4, c. 27, S.C. 1884.

corresponding reduction in the quantity of any land, or scrip, which such half-breed, as such, may be entitled to receive from the Government.

Half-breeds of Canghnavuga confirmed in certain rights.

2. The Half-breeds who are by the father's side either wholly or partly of Indian blood now settled in the Seignior of Canghnavuga, and who have inhabited the said Seignior for the last twenty years, are hereby confirmed in their possession and right of residence and property, but not beyond the tribal rights and usages which others of the band enjoy.

Reserves to be subject to this Act.

15. All reserves for Indians or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as before the passing of this Act, but subject to its provisions.

Surveys, plans, reports and subdivision of reserves may be authorized.

16. The Superintendent-General may authorize surveys, plans and reports to be made of any reserve for Indians, showing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as may be required; and may authorize that the whole or any portion of a reserve be subdivided into lots.

What Indians only to be deemed lawful possessors of land in reserves.

17. No Indian shall be deemed to be lawfully in possession of any land in a reserve, unless he or she has been or shall be located for the same by the band or council of the band, with the approval of the Superintendent-General: Provided that no Indian shall be dispossessed of any land on which he or she has improvements, without receiving compensation therefor (at a valuation to be approved by the Superintendent-General) from the Indian who obtains the land, or from the funds of the band, as may be determined by the Superintendent-General.

Location ticket in triplicate, and how dealt with.

18. On the Superintendent-General approving of any location as aforesaid, he shall issue in triplicate a ticket granting a location title to such Indian, one triplicate of which he shall retain in a book to be kept for the purpose; the other two he shall forward to the local agent,—one to be delivered to the Indian in whose favor it was issued, the other to be filed by the agent, who shall also cause the same to be copied into a register of the band to be provided for the purpose.

Effect of such tickets limited.

19. The conferring of any such location title as aforesaid shall not have the effect of rendering the land covered thereby subject to seizure under legal process, and such title shall be transferable only to an Indian of the same band, and then only with the consent and approval of the Superintendent-General, whose consent and approval shall be given only by the issue of a ticket in the manner prescribed in the next preceding section.

20. Upon the death of any Indian holding under location or other duly recognized title any parcel of land, the right and interest therein of such deceased Indian shall, together with his goods and chattels, devolve one-third upon his widow (if any), and the remainder upon his children in equal shares; and such children shall have a like estate in such land as their father had. During the minority of such children the administration and charge of such land and goods and chattels as they may be entitled to under this clause, shall devolve upon the widow (if any) of such deceased Indian. As each male child attains the age of twenty-one, and as each female child attains that age, or marries before that age with the consent of the said widow, his or her share is to be handed to him or her: Provided always, that the Superintendent-General may, at any time, remove the widow from such administration and charge, and confer the same upon some other person, and in like manner remove such other person and appoint another, and so on as occasion may require. Should such Indian die without issue but leaving a widow, such lot or parcel of land and his goods and chattels shall be vested in her, and if he leaves no widow, then in the Indian nearest akin to the deceased; but if he have no heir nearer than a cousin then the same shall be vested in the Crown for the benefit of the band; but whatever may be the final disposition of the land, the claimant or claimants shall not be held to be legally in possession until he, she or they obtains or obtain a location ticket from the Superintendent-General in the manner prescribed in the case of new locations: Provided always, that the Superintendent-General may, whenever there are minor children, appoint a fit and proper person to take charge of such children and their property, and remove such person and appoint another, and so on as occasion may require: Provided also, that the Superintendent-General shall have power to decide all questions which may arise respecting the distribution, among those entitled, of the land and goods and chattels of a deceased Indian; also to do whatever he may, under the circumstances, think will best give to each claimant his or her share, according to the true meaning and spirit of this Act, whether such share be a part of the lands or goods and chattels themselves, or be part of the proceeds thereof, in case it be thought best to dispose thereof,—regard always being had in any such disposition to the restrictions upon the disposition of property in a reserve.

Distribution of lands, goods and chattels of deceased Indians provided for.

Minority of children.

S. 20, c. 28, S.C. 1880, repealed and replaced by S. 5, c. 27, S.C. 1884.

Provision as to persons in charge of minors.

Widow and no child

Location ticket must be obtained.

Provision: care of minors.

Provision: Powers of Superintendent-General.

21. Any Indian or non-treaty Indian in the Province of British Columbia, in the Province of Manitoba, in the North-West Territories, or in the District of Keewatin, who has, or shall have, previously to the selection of a reserve, possession of and made permanent improvements on a plot of land which has been or shall be included in or surrounded by a reserve, shall have the same privileges, neither more

Privileges of Indians and non-treaty Indians having improved lands included in reserves in certain Provinces.

S.C. 1880, c. 28, cont'd.

S.C. 1880, c. 28, cont'd.

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nor less, in respect of such plot, as an Indian enjoys who holds under a location title.

Only Indians of the band may settle, reside and hunt upon the reserve of the band. All permissions to the contrary to be void.

22. No person, or Indian other than an Indian of the band, shall settle, reside or hunt upon, occupy or use any land or marsh, or shall settle, reside upon or occupy any road, or allowance for roads running through any reserve belonging to or occupied by such band; and all mortgages or hypothecs given or consented to by any Indian, and all leases, contracts and agreements made or purporting to be made by any Indian, whereby persons or Indians other than Indians of the band are permitted to reside or hunt upon such reserve, shall be absolutely void.

Power to remove Indians or other persons unlawfully occupying land, etc., in reserves.

23. If any person or Indian other than an Indian of the band, without the license of the Superintendent-General (which license, however, he may at any time revoke), settles, resides or hunts upon or occupies or uses any such land or marsh; or settles, resides upon or occupies any such roads or allowances for roads, on such reserve, or if any Indian is illegally in possession of any land in a reserve, the Superintendent-General, or such officer or person as he may thereunto depute and authorize, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant signed and sealed, directed to the sheriff of the proper county or district, or if the said reserve be not situated within any county or district, then directed to any literate person willing to act in the premises, commanding him forthwith to remove from the said land or marsh, or roads or allowances for roads, or land, every such person or Indian and his family, so settled, residing or hunting upon or occupying, or being illegally in possession of the same, or to notify such person or Indian to cease using as aforesaid the said lands, marshes, roads or allowances for roads; and such sheriff or other person shall accordingly remove or notify such person or Indian, and for that purpose shall have the same powers as in the execution of criminal process; and the expenses incurred in any such removal or notification shall be borne by the party removed or notified, and may be recovered from him as the costs in any ordinary suit:

Powers for removal; costs.

Proviso: in case of consent of band, &c.

Provided that nothing contained in this Act shall prevent an Indian or non-treaty Indian, if five years a resident in Canada, not a member of the band, with the consent of the band and the approval of the Superintendent-General, from residing on the reserve or receiving a location thereon.

Removal and punishment of persons retaining

s. 24, c. 28, S.C. 1880, amended by s. 6, c. 27, S.C. 1884.

24. If any person or Indian, after having been removed or notified as aforesaid, returns to, settles, resides or hunts upon or occupies, or uses as aforesaid, any of the said land, marsh or lots or parts of lots; or settles or resides upon or

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occupies any of the said roads, allowances for roads, or lots or parts of lots, the Superintendent-General, or any officer or person deputed and authorized as aforesaid, upon view, or upon proof on oath made before him, or to his satisfaction, that the said person or Indian has returned to, settled, resided or hunted upon or occupied or used as aforesaid any of the said lands, marshes, lots or parts of lots, or has returned to, settled or resided upon or occupied any of the said roads or allowances for roads, or lots or parts of lots, shall direct and send his warrant signed and sealed to the sheriff of the proper county or district, or to any literate person therein, and if the said reserve be not situated within any county or district, then to any literate person, commanding him forthwith to arrest such person or Indian, and bring him before any Stipendiary Magistrate, Police Magistrate or Justice of the Peace, who may, on conviction, commit him to the common gaol of the said county or district, or if there be no gaol in the said county or district, then to the gaol nearest to the said reserve in the Province or Territory, there to remain for the time ordered by such warrant, but which shall not exceed thirty days for the first offence, and thirty days additional for each subsequent offence.

after having been removed.

Warrant to Sheriff, in arrest and commit to gaol.

Limitation of imprisonment.

25. Such sheriff or other person shall accordingly arrest the said party, and deliver him to the gaoler or sheriff of the proper county, district, Province or Territory, who shall receive such person or Indian and imprison him in the said gaol for the term aforesaid.

Arrest and imprisonment.

26. The Superintendent-General, or such officer or person aforesaid, shall cause the judgment or order against the offender to be drawn up and filed in his office; and such judgment shall not be removed by *certiorari* or otherwise, or be appealed from, but shall be final.

Judgment to be drawn up and filed, and to be final.

27. If any person or Indian, other than an Indian of the band to which the reserve belongs, without the license in writing of the Superintendent-General, or of some officer or person deputed by him for that purpose, trespasses upon any of the said land, roads, or allowances for roads in the said reserve, by cutting, carrying away, or removing therefrom any of the trees, saplings, shrubs, underwood, timber, or hay thereon, or by removing any of the stone, soil, minerals, metals, or other valuables, off the said land, roads, or allowances for roads, the person or Indian so trespassing shall, on conviction thereof before any Stipendiary Magistrate, Police Magistrate or Justice of the Peace, for every tree he cuts, carries away, or removes, forfeit and pay the sum of twenty dollars; and for cutting, carrying away, or removing any of the saplings, shrubs, underwood, timber or hay, if under the value of one dollar, the sum of four dollars; but if over the value of one dollar, then the sum of

Punishment of Indians or other persons trespassing on Indian reserves.

Penalties for removing certain things.

s. 27, c. 28, S.C. 1880, amended by s. 2, c. 30, S.C. 1882.

subsection 27(1), c. 28, S.C. 1880, repealed and replaced by s. 7, c. 27, S.C. 1884.

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twenty dollars; and for removing any of the stone, soil, minerals, metals, or other valuables aforesaid, the sum of twenty dollars, with costs of prosecution in all cases. And in default of immediate payment of the said penalties and costs, the Superintendent-General, or such other person as he may have authorized in that behalf, may issue a warrant, directed to any person or persons by him named therein, to levy the amount of the said penalties and costs by distress and sale of the goods and chattels of the person liable to pay the same; and similar proceedings may be had upon such warrant as if it had been issued by the Magistrate or Justice of the Peace before whom the person was convicted; or the Superintendent-General, or such other person as aforesaid, without proceeding by distress or sale, may, upon non-payment of the said penalties and costs, order the person liable therefor to be imprisoned in the common gaol of the county or district in which the said reserve or any part thereof lies, for a period not exceeding thirty days when the penalty does not exceed twenty dollars, or for a period not exceeding three months when the penalty does exceed twenty dollars; and upon the return of any warrant for distress or sale, if the amount thereof has not been made, or if any part of it remains unpaid, the said Superintendent-General, or such other person as aforesaid, may commit the person in default to the common gaol, as aforesaid, for a period not exceeding thirty days, if the sum claimed upon the said warrant does not exceed twenty dollars, or for a time not exceeding three months if the sum does exceed twenty dollars. All such penalties shall be paid to the Receiver-General to be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council may direct.

2. But nothing herein contained shall be construed to prevent the Superintendent-General from issuing a license to any person or Indian to cut and remove trees, wood, timber and hay, or to quarry and remove stone and gravel on and from the reserve. Provided he, or his agent acting by his instructions, first obtain the consent of the band thereto in the ordinary manner as hereinafter provided.

28. If any Indian, without the license in writing of the Superintendent-General, or of some officer or person deputed by him for that purpose, trespasses upon the land of an Indian who holds a location title, or who is otherwise recognized by the Department as the occupant of such land, by cutting, carrying away, or removing therefrom, any of the trees, saplings, shrubs, underwood, timber or hay thereon, or by removing any of the stone, soil, minerals, metals or other valuables of the said land: or if any Indian, without license as aforesaid, cuts, carries away or removes from any portion of the reserve of his band, for sale (and not for the immediate

Recovery of penalty if not forthwith paid.

Power to commit to gaol as an alternative in such cases.

Or in default of levy of amount under warrant.

Application of penalties.

Proviso: license by Superintendent-General.

Further proviso.

Punishment of Indians so trespassing.

Or removing certain things.

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use of himself and his family), any trees, timber or hay thereon, or removes any of the stone, soil, minerals, metals, or other valuables therefrom for sale as aforesaid, he shall be liable to all the fines and penalties provided in the next preceding section in respect to Indians of other bands and other persons, and similar proceedings may be had for the recovery thereof as are provided for in the next preceding section.

29. In all orders, writs, warrants, summonses and proceedings whatsoever made, issued or taken by the Superintendent-General, or any officer or person by him deputed as aforesaid, it shall not be necessary for him or such officer or person to insert or express the name of the person or Indian summoned, arrested, distrained upon, imprisoned, or otherwise proceeded against therein, except when the name of such person or Indian is truly given to or known by the Superintendent-General, or such officer or person; and if the name be not truly given to or known by him, he may name or describe the person or Indian by any part of the name of such person or Indian given to or known by him; and if no part of the name be given to or known by him he may describe the person or Indian proceeded against in any manner by which he may be identified; and all such proceedings containing or purporting to give the name or description of any such person or Indian as aforesaid shall *prima facie* be sufficient.

30. All sheriffs, gaolers or peace officers to whom any such process is directed by the Superintendent-General, or by any officer or person by him deputed as aforesaid, shall obey the same; and all other officers upon reasonable requisition shall assist in the execution thereof.

31. If any railway, road or public work passes through or causes injury to any reserve belonging to or in possession of any band of Indians, or if any act occasioning damage to any reserve be done under the authority of any Act of Parliament, or of the Legislature of any Province, compensation shall be made to them therefor in the same manner as is provided with respect to the lands or rights of other persons; the Superintendent-General shall, in any case in which an arbitration may be had, name the arbitrator on behalf of the Indians, and shall act for them on any matter relating to the settlement of such compensation; and the amount awarded in any case shall be paid to the Receiver-General for the use of the band of Indians for whose benefit the reserve is held, and for the benefit of any Indian having improvements thereon.

32. In all cases of encroachment upon, or of violation of trust respecting any special reserve, it shall be lawful to

Name of offender need not be inserted in the warrant in certain cases.

What description shall suffice.

Sheriffs, &c., to assist Superintendent-General.

Superintendent-General to name arbitrator on behalf of Indians when property is taken from them for any public improvement.

Her Majesty's name may be

s. 30, c. 28, S.C. 1880, repealed and replaced by s. 9, c. 17, S.C. 1881.

<p>used in proceeding in certain cases.</p> <p>Case of lapse of title in reserves held in trust.</p> <p>Surrender of Special Reserve to Her Majesty in trust.</p> <p>Indians liable to labour on public roads in reserves and to what extent.</p> <p>Powers of the Superintendent-General.</p> <p>Proviso as to the amount of such labour.</p> <p>Band to cause roads to be put and kept in order.</p> <p>Power of the Superintendent-General.</p>	<p>Chap. 28.</p> <p><i>Indians.</i></p> <p>43 VICT.</p>	<p>proceed by information in the name of Her Majesty, in the superior courts of law or equity, notwithstanding the legal title may not be vested in the Crown.</p> <p>33. If by the violation of the conditions of any such trust as aforesaid, or by the breaking up of any society, corporation, or community, or if by the death of any person or persons without a legal succession of trusteeship, in whom the title to a special reserve is held in trust, the said title lapses or becomes void in law, then the legal title shall become vested in the Crown in trust, and the property shall be managed for the band or irregular band previously interested therein, as an ordinary reserve. The trustees of any special reserve may at any time surrender the same to Her Majesty in trust, whereupon the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve.</p> <p>34. Indians residing upon any reserve, and engaged in the pursuit of agriculture as their then principal means of support, shall be liable, if so directed by the Superintendent-General, or any officer or person by him thereunto authorized, to perform labour on the public roads laid out or used in or through, or abutting upon such reserve,—such labour to be performed under the sole control of the said Superintendent-General, officer or person, who may direct when, where and how and in what manner the said labour shall be applied, and to what extent the same shall be imposed upon Indians who may be resident upon any of the said lands; and the said Superintendent-General, officer or person shall have the like power to enforce the performance of all such labour by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the Province or territory in which such reserve lies, for the non-performance of statute labour; but the labour to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same Province, territory, county, or other local division, under the laws requiring and regulating such labour and the performance thereof.</p> <p>35. Every band of Indians shall be bound to cause the roads, bridges, ditches and fences within their reserve to be put and maintained in proper order, in accordance with the instructions received from time to time from the Superintendent-General, or from the agent of the Superintendent-General; and whenever in the opinion of the Superintendent-General the same are not so put or maintained in order, he may cause the work to be performed at the cost of such band, or of the particular Indian in default, as the case may be, either out of their or his annual allowances, or otherwise.</p>
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<p>1880.</p> <p><i>Indians.</i></p> <p>Chap. 28.</p>	<p>36. No reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Act, excepting that in cases of aged, sick and infirm Indians and widows or children left without a guardian, the Superintendent-General shall have the power to lease the lands to which they may be entitled for their support or benefit.</p> <p>37. No release or surrender of a reserve, or portion of a reserve, held for the use of the Indians of any band or of any individual Indian, shall be valid or binding, except on the following conditions:—</p> <p>1. The release or surrender shall be assented to by a majority of the male members of the band of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose according to their rules, and held in the presence of the Superintendent-General, or of an officer duly authorized to attend such council by the Governor in Council or by the Superintendent-General: Provided, that no Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near and is interested in the reserve in question:</p> <p>2. The fact that such release or surrender has been assented to by the band at such council or meeting, shall be certified on oath before some judge of a superior, county or district court, or Stipendiary Magistrate, by the Superintendent-General, or by the officer authorized by him to attend such council or meeting, and by some one of the chiefs or principal men present thereat and entitled to vote, and when so certified as aforesaid shall be submitted to the Governor in Council for acceptance or refusal.</p> <p>38. It shall not be lawful to introduce, at any council or meeting of Indians held for the purpose of discussing or assenting to a release or surrender of a reserve or portion thereof, or of assenting to the issuing of a timber or other license, any intoxicant; and any person introducing at such meeting, and any agent or officer employed by the Superintendent-General, or by the Governor in Council, introducing, allowing or countenancing by his presence the use of such intoxicant among such Indians a week before, at, or a week after, any such council or meeting, shall forfeit two hundred dollars, recoverable by action in any of the superior courts of law, one-half of which penalty shall go to the informer.</p> <p>39. Nothing in this Act shall confirm any release or surrender which would have been invalid if this Act had not been passed; and no release or surrender of any reserve or portion of a reserve to any party other than the Crown, shall be valid.</p>	<p>Provisions respecting sale or lease of reserves.</p> <p>s. 36, c. 28, S.C. 1880, amended by s. 8, c. 27, S.C. 1884.</p> <p>Conditions precedent for validity of release or surrender of a reserve.</p> <p>Assent of band.</p> <p>Proviso.</p> <p>Proof of assent.</p> <p>No intoxicant to be introduced at any council or meeting of Indians held under the next preceding section.</p> <p>Act not to confirm invalid releases or surrenders.</p>
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Certain Indian lands to be held by the Crown for the same purposes as hereinafter.

40. All Indian lands, being reserves or portions of reserves surrendered or to be surrendered to the Crown, shall be deemed to be held for the same purposes as before the passing of this Act; and shall be managed, leased and sold as the Governor in Council may direct, subject to the conditions of surrender and the provisions of this Act.

Agents not to become interested in or owners of Indian lands.

41. No agent for the sale of Indian lands shall, within his division, directly or indirectly, unless under an order of the Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency; and any such purchase or interest shall be void; and if any such agent offends in the premises, he shall forfeit his office and the sum of four hundred dollars for every such offence, which may be recovered in action of debt by any person who may sue for the same.

Effect of former unrescinded certificates of sale or receipts.

42. Every certificate of sale or receipt for money received on the sale of Indian lands, heretofore granted or made or to be granted or made by the Superintendent-General or any agent of his, so long as the sale to which such receipt or certificate relates is in force and not rescinded, shall entitle the party to whom the same was or shall be made or granted, or his assignee, by instrument registered under this or any former Act providing for registration in such cases, to take possession of and occupy the land therein comprised, subject to the conditions of such sale, and thereunder, unless the same shall have been revoked or cancelled, to maintain suits in law or equity against any wrongdoer or trespasser, as effectually as he could do under a patent from the Crown;—and such receipt or certificate shall be *prima facie* evidence for the purpose of possession by such person, or the assignee under an instrument registered as aforesaid, in any such suit; but the same shall have no force against a license to enter timber existing at the time of the making or granting thereof.

Evidence of possession.

Proviso.

Registers of assignments to be kept.

43. The Superintendent-General shall keep a book for registering (at the option of the parties interested) the particulars of any assignment made, as well by the original purchaser or lessee of Indian lands or his heir or legal representative, as by any subsequent assignee of any such lands, or the heir or legal representative of such assignee;—and upon any such assignment being produced to the Superintendent-General, and, (except in cases where such assignment is made under a corporate seal), with an affidavit of due execution thereof, and of the time and place of such execution, and the names, residences and occupations of the witnesses, or, as regards lands in the Province of Quebec, upon the production of such assignment executed in notarial form, or of a notarial copy thereof, the Superintendent-

Entries therein in what proof to be made.

General shall cause the material parts of every such assignment to be registered in such book of registry, and shall cause to be endorsed on every such assignment a certificate of such registration, to be signed by himself or his deputy, or any other officer of the department by him authorized to sign such certificates: And every such assignment so registered shall be valid against any one previously executed, but subsequently registered, or unregistered; but all the conditions of the sale, grant or location must have been complied with, or dispensed with by the Superintendent-General, before such registration is made. But any assignment to be registered as aforesaid must be unconditional in its terms.

Their effect.

Proviso.

44. If any subscribing witness to any such assignment is deceased, or has left the province, the Superintendent-General may register such assignment upon the production of an affidavit proving the death or absence of such witness and his handwriting, or the handwriting of the party making such assignment.

If subscribing witness be dead, etc.

45. On any application for a patent by the heir, assignee or devisee of the original purchaser from the Crown, the Superintendent-General may receive proof in such manner as he may direct and require in support of any claim for a patent when the original purchaser is dead, and upon being satisfied that the claim has been equitably and justly established, may allow the same, and cause a patent to issue accordingly; but nothing in this section shall limit the right of a party claiming a patent to land in the Province of Ontario to make application at any time to the Commissioner, under the "Act respecting the Heir, Devisee and Assignee of a Patent," being chapter twenty-five of the Revised Statutes of Ontario.

Patent to issue to their assignee or devisee after proof of right therein.

Proviso.

R.S.O., c. 25.

46. If the Superintendent-General is satisfied that any purchaser or lessee of any Indian lands, or any assignee claiming under or through him, has been guilty of any fraud or imposition, or has violated any of the conditions of sale or lease, or if any such sale or lease has been or is made or issued in error or mistake, he may cancel such sale or lease, and resume the land therein mentioned, or dispose of it as if no sale or lease thereof had ever been made; and all such cancellations heretofore made by the Governor in Council or the Superintendent-General shall continue valid until altered.

Duty of the Superintendent-General in cases of fraud.

Cancellations confirmed.

47. When any purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale or lease as aforesaid, or when any person is wrongfully in possession of any Indian lands and refuses to vacate or abandon possession of the same, the

Obtaining possession after such cancellation in case of resistance.

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Superintendent-General may apply to the county judge of the county, or to a judge of the Superior Court in the circuit, in which the land lies in Ontario or Quebec, or to any judge of a superior court of law or any county judge of the county in which the land lies in any other province, or to any Stipendiary Magistrate in any territory in which the land lies, for an order in the nature of a writ of *habere facias possessionem* or writ of possession, and the said judge or magistrate, upon proof to his satisfaction that the right or title of the party to hold such land has been revoked or cancelled as aforesaid, or that such person is wrongfully in possession of Indian lands, shall grant an order upon the purchaser, lessee or person in possession, to deliver up the same to the Superintendent-General, or person by him authorized to receive the same; and such order shall have the same force as a writ of *habere facias possessionem*, or writ of possession; and the sheriff, or any bailiff or person to whom it may have been trusted for execution by the Superintendent-General, shall execute the same in like manner as he would execute such writ in an action of ejectment or possessory action.

Order in the nature of a writ of possession.

Execution of such order.

Enforcing payment of rent due to the Crown.

Action of debt.

Who to act or give notice for the Crown.

Cancellation of erroneous letters patent and issue of corrected ones in their stead.

48. Whenever any rent payable to the Crown on any lease of Indian lands is in arrear, the Superintendent-General, or any agent or officer appointed under this Act and authorized by the Superintendent-General to act in such cases, may issue a warrant, directed to any person or persons by him named therein, in the shape of a distress warrant as in ordinary cases of landlord and tenant, or as in the case of distress and warrant of a justice of the peace for non-payment of a pecuniary penalty; and the same proceedings may be had thereon for the collection of such arrears as in either of the said last-mentioned cases; or an action of debt as in ordinary cases of rent in arrear may be brought therefor in the name of the Superintendent-General; but demand of rent shall not be necessary in any case.

49. When by law or by any deed, lease or agreement relating to any of the lands herein referred to, any notice is required to be given, or any act to be done, by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Superintendent-General.

50. Whenever letters patent have been issued to or in the name of the wrong party, through mistake, or contain any clerical error or misnomer, or wrong description of any material fact therein, or of the land thereby intended to be granted, the Superintendent-General (there being no adverse claim) may direct the defective letters patent to be cancelled and a minute of such cancellation to be entered in the margin of the registry of the original letters patent, and correct letters patent to be issued in their stead, — which

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corrected letters patent shall relate back to the date of those so cancelled, and have the same effect as if issued at the date of such cancelled letters patent.

51. In all cases in which grants or letters patent have been issued for the same land inconsistent with each other through error, and in all cases of sales or appropriations of the same land inconsistent with each other, the Superintendent-General may, in cases of sale, cause a repayment of the purchase money, with interest, or when the land has passed from the original purchaser or has been improved before a discovery of the error, he may in substitution assign land or grant a certificate entitling the party to purchase Indian lands, of such value and to such extent as to him, the Superintendent-General, may seem just and equitable under the circumstances; but no such claim shall be entertained unless it be preferred within five years from the discovery of the error.

Lands patented twice over.

Compensation in certain cases.

Limitation of time for claim.

52. Whenever by reason of false survey or error in the books or plans in the Department of Indian Affairs, or in the late Indian Branch of the Department of the Interior, any grant, sale or appropriation of land is found to be deficient, or any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Superintendent-General may order the purchase money of so much land as is deficient, with the interest thereon from the time of the application therefor, or, if the land has passed from the original purchaser, then the purchase money which the claimant (provided he was ignorant of a deficiency at the time of his purchase) has paid for so much of the land as is deficient, with interest thereon from the time of the application therefor, to be paid to him in land or in money, as he, the Superintendent-General, may direct; — But no such claim shall be entertained unless application has been made within five years from the date of the patent, nor unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the particular lot or parcel of land granted.

Cases of deficiency of land provided for.

Compensation.

Limitation of time for claim.

53. In all cases wherein patents for Indian lands have been issued through fraud or in error or improvidence, the Exchequer Court of Canada, or a superior court of law or equity in any Province may, upon action, bill or plaint, respecting such lands situate within their jurisdiction, and upon hearing of the parties interested, or upon default of the said parties after such notice of proceeding as the said courts shall respectively order, decree such patents to be void; and upon a registry of such decree in the office of the Registrar-General of Canada, such patents shall be void to all intents. The practice in court, in such cases, shall be regulated by orders to be, from time to time, made by the said courts respectively;

Certain courts may avoid patents issued in error, etc.

Practice in such cases.

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and any action or proceeding commenced under any former Act may be continued under this section,—which, for the purpose of any such action or proceeding shall be construed as merely continuing the provisions of such former Act.

Punishment of agents giving false information as to lands. 54. If any agent appointed or continued in office under this Act knowingly and falsely informs, or causes to be informed, any person applying to him to purchase any land within his division and agency, that the same has already been purchased, or refuses to permit the person so applying to purchase the same according to existing regulations, such agent shall be liable therefor to the person so applying in the sum of five dollars for each acre of land which the person so applying offered to purchase, to be recovered by action of debt in any court having jurisdiction in civil cases to the amount.

Penalty.

Recovery.

Punishment for preventing sale. 55. If any person, before or at the time of the public sale of any Indian lands, by intimidation, combination or unfair management, hinders or prevents, or attempts to hinder or prevent any person from bidding upon or purchasing any lands so offered for sale, every such offender, his, her or their aiders and abettors, shall, for every such offence, be guilty of a misdemeanor, and on conviction thereof shall be liable to a fine not exceeding four hundred dollars, or imprisonment for a term not exceeding two years, or both, in the discretion of the court.

Misdemeanor, fine and imprisonment.

Licenses to cut trees; by whom and how to be granted. 56. The Superintendent-General, or any officer or agent authorized by him to that effect, may grant licenses to cut trees on reserves and ungranted Indian lands at such rates, and subject to such conditions, regulations and restrictions, as may, from time to time, be established by the Governor in Council,—such conditions, regulations and restrictions to be adapted to the locality in which such reserves or lands are situated.

For what time. 57. No license shall be so granted for a longer period than twelve months from the date thereof: and if, in consequence of any incorrectness of survey or other error, or cause whatsoever, a license is found to comprise land included in a license of a prior date, or land not being reserves or ungranted Indian lands, the license granted shall be void in so far as it comprises such land, and the holder or proprietor of the license so rendered void shall have no claim upon the Government for indemnity or compensation by reason of such avoidance.

As to error in description, etc.

License must describe the land and kind of trees to be cut; its effect. 58. Every license shall describe the lands upon which the trees may be cut and the kind of trees to be cut, and shall confer for the time being on the nominee, the right to take and keep exclusive possession of the land so described,

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subject to such regulations and restrictions as may be established; and every license shall vest in the holder thereof all rights of property whatsoever in all trees of the kind specified and within the limits of the license during the term thereof, whether such trees are cut by authority of the holder of such license or by any other person, with or without his consent; and every license shall entitle the holder thereof to seize in revendication or otherwise, such trees and the logs, timber or other product thereof where the same are found in the possession of any unauthorized person, and also to institute any action or suit at law or in equity against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any; and all proceedings pending at the expiration of any license may be continued to final termination as if the license had not expired.

Further rights of holders of licenses as to trespassers.

Continuing proceedings.

59. Every person obtaining a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Superintendent-General, a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square or other timber, manufactured and carried away under such license; and such statement shall be sworn to by the holder of the license, or his agent, or by his foreman; and any person refusing or neglecting to furnish such statement, or evading or attempting to evade any regulation made by Order in Council, shall be held to have cut without authority, and the timber or other product made shall be dealt with accordingly.

Return to be made by licensee.

Punishment for not making return or for evasion of regulations.

60. All trees cut, and the logs, timber or other products thereof, shall be liable for the payment of the dues thereon, so long as and wheresoever the same or any part thereof may be found, whether in the original logs or manufactured into deals, boards or other stuff; and all officers or agents entrusted with the collection of such dues may follow and seize and detain the same wherever it is found, until the dues are paid or secured.

Trees cut and their products to be liable for the payment of dues.

61. Any instrument or security taken for the dues, either before or after the cutting of the trees, as collateral security or to facilitate collection, shall not in any way affect the lien, but the lien shall subsist until the said dues are actually discharged.

Security taken for dues not to affect lien.

62. If any timber so seized and detained for non-payment of dues remains more than twelve months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid,—then the Superintendent-General, may order a sale of the said timber to be made after sufficient notice; and the balance of the proceeds of such

Sale of seized timber after a certain delay.

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sale, after retaining the amount of dues and costs incurred, shall be handed over to the owner or claimant of such timber, upon his applying therefor and proving his right thereto.

Punishment for unlawfully cutting trees; and forfeiture thereof.

63. If any person without authority cuts, or employs or induces any other person to cut, or assists in cutting any trees of any kind on Indian lands, or removes or carries away, or employs or induces or assists any other person to remove or carry away, any trees of any kind so cut from Indian lands aforesaid, he shall not acquire any right to the trees so cut, or any claim to any remuneration for cutting, preparing the same for market, or conveying the same to or towards market,—and when the trees or logs or timber, or other products thereof, have been removed, so that the same cannot, in the opinion of the Superintendent-General, conveniently be seized, he shall in addition to the loss of his labour and disbursements, forfeit a sum of three dollars for each tree (rafting stuff excepted), which he is proved to have cut or caused to be cut or carried away; and such sum shall be recoverable with costs, at the suit and in the name of the Superintendent-General or resident agent, in any court having jurisdiction in civil matters to the amount of the penalty; and in all such cases it shall be incumbent on the party charged to prove his authority to cut; and the averment of the party seizing or prosecuting, that he is duly employed under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary.

Additional penalty in case of removal of trees.

Proof of right to cut, on whom to lie.

Seizure of trees cut without authority.

64. Whenever satisfactory information, supported by affidavit made before a Justice of the Peace or before any other competent authority, is received by the Superintendent-General, or any other officer or agent acting under him, that any trees have been cut without authority on Indian lands, and describing where the same or the logs, timber or other products thereof can be found, the said Superintendent-General, officer or agent, or any one of them, may seize or cause to be seized the same in Her Majesty's name, wherever found, and place the same under proper custody, until a decision can be had in the matter from competent authority:

Presumption of law in case of mixture of these and other trees.

2. And where the wood, timber, logs or other products thereof so reported to have been cut without authority on Indian lands, have been made up or intermingled with other wood, timber, logs or other products thereof into a crib, dram or raft, or in any other manner, so that it is difficult to distinguish the timber cut on reserves or Indian land without license, from the other timber with which it is made up or intermingled, the whole of the timber so made up or intermingled shall be held to have been cut without authority on Indian lands, and shall be seized and forfeited and sold by the Superintendent-General, or any other officer or agent acting under him, unless evidence satisfactory to him

All to be deemed cut on Indian lands.

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is adduced shewing the probable quantity not cut on Indian lands.

65. Any officer or person seizing trees, logs, timber or other products thereof, in the discharge of his duty under this Act, may, in the name of the Crown, call in any assistance necessary for securing and protecting the same; and whosoever, under any pretence, either by assault, force or violence, or by threat of such assault, force or violence, in any way resists or obstructs any officer or person acting in his aid, in the discharge of his duty under this Act, shall, on conviction thereof in a summary manner before a Justice of the Peace or other proper functionary, be liable to a fine not exceeding one hundred dollars, or to imprisonment not exceeding twelve months, or to both, in the discretion of the convicting justice or other functionary.

Seizing officer may command assistance in the name of the Crown.

Punishment for resisting or obstructing him.

66. Whosoever, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away, or causes to be taken or carried away, without permission of the officer or person who seized the same, or of some competent authority, any trees, logs, timber or other product thereof, seized and detained as subject to forfeiture under this Act, before the same has been declared by competent authority to have been seized without due cause, shall be deemed to have stolen the same, as being the property of the Crown, and guilty of felony, and is liable to punishment accordingly:

Taking things seized from seizing officer without his leave to be felony.

2. And whenever any trees, logs, timber or other products thereof are seized for non-payment of Crown dues or for any other cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this Act, and any question arises whether the said dues have been paid or whether the same were cut on other than any of the lands aforesaid, the burden of proving payment, or on what land the same were cut, shall lie on the owner or claimant and not on the officer who seizes the same, or the party bringing such prosecution.

Burden of proof in certain cases to lie on claimant, not on prosecutor or seizing officer.

67. All trees, logs, timber or other products thereof seized under this Act shall be deemed to be condemned, unless the person from whom the same are seized, or the owner thereof, within one month from the day of the seizure, gives notice to the seizing officer, or nearest officer or agent of the Superintendent-General, that he claims or intends to claim the same; failing such notice, the officer or agent seizing shall report the circumstances to the Superintendent-General, who may order the sale of the same by the said officer or agent:

Sale of trees, etc., seized, may be ordered in default of notice of claim.

2. And any judge of a superior, county or district court, or any Stipendiary Magistrate, may, in a summary way,

Proceedings for trial of

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validity of seizure, etc. Delivery on security given. Bond to be given, etc. Punishment of attempt to evade payment of dues. Indian moneys to be dealt with as heretofore. Governor in Council may direct how Indian funds shall be invested and managed and payments made therefrom. Proceeds of sales to be paid to the Receiver-General.

and following the procedure on summary trials before Justices of the Peace out of sessions, try and determine such seizures, and may, pending the trial, order the delivery of the trees, logs, timber or other products thereof to the alleged owner, on receiving security by bond with two good and sufficient sureties, to be first approved by the said agent, to pay double the value in case of condemnation,—and such bond shall be taken in the name of the Superintendent-General, to Her Majesty's use, and shall be delivered up to and kept by the Superintendent-General; and if such seized trees, logs, timber or other products thereof are condemned, the value thereof shall be paid forthwith to the Superintendent-General, or agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered.

68. Every person availing himself of any false statement or oath to evade the payment of dues under this Act, shall forfeit the timber on which dues are attempted to be evaded.

69. All moneys or securities of any kind applicable to the support or benefit of Indians, or any band of Indians, and all moneys accrued or hereafter to accrue from the sale of any Indian lands or of any timber on any reserves or Indian lands, shall, subject to the provisions of this Act, be applicable to the same purposes, and be dealt with in the same manner as they might have been applied to or dealt with before the passing of this Act.

70. The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom the moneys arising from sales of Indian lands, and from the property held or to be held in trust for the Indians, or from any timber on Indian lands or reserves, or from any other source for the benefit of Indians (with the exception of any small sum not exceeding ten per cent. of the proceeds of any lands, timber or property, which may be agreed at the time of the surrender to be paid to the members of the band interested therein), shall be invested from time to time, and how the payments or assistance to which the Indians may be entitled shall be made or given, and may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart from time to time, to cover the cost of and attendant upon the management of reserves, lands, property and moneys under the provisions of this Act, and for the construction or repair of roads passing through such reserves or lands, and by way of contribution to schools frequented by such Indians.

71. The proceeds arising from the sale or lease of any Indian lands, or from the timber, hay, stone, minerals or other valuables thereon, or on a reserve, shall be paid to the Receiver-General to the credit of the Indian fund.

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72. Whenever the Governor in Council deems it advisable for the good government of a band to introduce the election system of chiefs, he may by Order in Council provide that the chiefs of any band of Indians shall be elected, as hereinafter provided, at such time and place as the Superintendent-General may direct; and they shall, in such case, be elected for a period of three years, unless deposed by the Governor for dishonesty, intemperance, immorality or incompetency; and they may be in the proportion of one head chief and two second chiefs or councillors for every two hundred Indians: Provided, that no band shall have more than six head chiefs and twelve second chiefs, but any band composed of thirty Indians may have one chief: Provided always, that all life chiefs now living shall continue to hold the rank of chief until death or resignation, or until their removal by the Governor for dishonesty, intemperance, immorality or incompetency: Provided also, that in the event of His Excellency ordering that the chiefs of a band shall be elected, then and in such case the life chiefs shall not exercise the powers of chiefs unless elected under such order to the exercise of such powers.

73. At the election of a chief or chiefs, or the granting of any ordinary consent required of a band of Indians under this Act, those entitled to vote at the council or meeting thereof shall be the male members of the band of the full age of twenty-one years; and the vote of a majority of such members at a council or meeting of the band summoned according to their rules, and held in the presence of the Superintendent-General, or an agent acting under his instructions, shall be sufficient to determine such election, or grant such consent:

Provided that in the case of any band having a council of chiefs or councillors, any ordinary consent required of the band may be granted by a vote of a majority of such chiefs or councillors at a council summoned according to their rules, and held in the presence of the Superintendent-General or his agent.

74. The chief or chiefs of any band in council may frame, subject to confirmation by the Governor in Council, rules and regulations for the following subjects, viz:—

1. As to what religious denomination the teacher of the school established on the reserve shall belong to; provided always, that he shall be of the same denomination as the majority of the band; and provided that the Catholic or Protestant minority may likewise have a separate school with the approval of and under regulations to be made by the Governor in Council;

Governor in Council may provide for election of Chiefs.

s. 72, c. 28, S.C. 1880, amended by s. 9, c. 27, S.C. 1884.

Proviso: as to number.

Proviso: as to present life chiefs.

Further proviso, as to them.

How and by whom Chiefs may then be elected.

Proviso: if the band has a Council.

Chiefs to make regulations for certain purposes.

Religious denomination of school teacher.

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- 2. The care of the public health ;
- 3. The observance of order and decorum at assemblies of the Indians in general council, or on other occasions ;
- 4. The repression of intemperance and profligacy ;
- 5. The prevention of trespass by cattle,—also for the protection of sheep, horses, mules and cattle ;
- 6. The construction and maintenance of water-courses, roads, bridges, ditches and fences ;
- 7. The construction and repair of school houses, council houses and other Indian public buildings ;
- 8. The establishment of pounds and the appointment of pound-keepers ;
- 9. The locating of the land in their reserves, and the establishment of a register of such locations ;
- 10. The repression of noxious weeds ;

subsection 74(7),
c. 28, S.C. 1880,
amended by s. 10,
c. 27, S.C. 1884.

Punishment
for infraction
of rules.

11. The imposition of punishment, by fine or penalty, or by imprisonment, or both, for infraction of any of such rules or regulations; the fine or penalty in no case to exceed thirty dollars, and the imprisonment in no case to exceed thirty days; the proceedings for the imposition of such punishment to be taken in the usual summary way before a Justice of the Peace, following the procedure on summary trials before a justice out of sessions.

s. 75, c. 28
S.C. 1880,
amended by
s. 11, c. 27,
S.C. 1884.

Liability of
Indians or
non-treaty
Indians to
taxation.

75. No Indian or non-treaty Indian shall be liable to be taxed for any real or personal property, unless he holds in his individual right real estate under a lease or in fee simple, or personal property, outside of the reserve or special reserve,—in which case he shall be liable to be taxed for such real or personal property at the same rate as other persons in the locality in which it is situate.

Exemptions
from taxation.

76. All land vested in the Crown, or in any person or body corporate, in trust for or for the use of any Indian or non-treaty Indian, or any band or irregular band of Indians or non-treaty Indians, shall be exempt from taxation.

No lien
or charge
to be taken
on exempted
property.

77. No person shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgment or otherwise, upon real or personal property of any Indian or non-treaty Indian within Canada, except on real or personal property subject to taxation under section seventy-five of this Act: Provided always, that any person selling any

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article to an Indian or non-treaty Indian may, notwithstanding this section, take security on such article for any part of the price thereof which may be unpaid.

78. Indians and non-treaty Indians shall have the right to sue for debts due to them or in respect of any tort or wrong inflicted upon them, or to compel the performance of obligations contracted with them.

As to rights
of action by
Indians.
s. 78, c. 28,
S.C. 1880,
amended by
s. 4, c. 30,
S.C. 1882.

79. No pawn taken of any Indian or non-treaty Indian for any intoxicant shall be retained by the person to whom such pawn is delivered, but the thing so pawned may be sued for and recovered, with costs of suit, by the Indian or non-treaty Indian who has deposited the same, before any court of competent jurisdiction.

Things
taken by
Indians for
intoxicants
not to be
retained.

80. No presents given to Indians or non-treaty Indians, nor any property purchased or acquired with or by means of any annuities granted to Indians or any part thereof, and in the possession of any band of such Indians or of any Indian of any band or irregular band, shall be liable to be taken, seized or distrained for any debt, matter or cause whatsoever. Nor in the Province of British Columbia, the Province of Manitoba, the North-West Territories, or in the District of Keewatin, shall the same be sold, bartered, exchanged or given by any band or irregular band of Indians, or any Indian of any such band, to any person or Indian other than an Indian of such band; and any such sale, barter, exchange or gift shall be absolutely null and void, unless such sale, barter, exchange or gift be made with the written assent of the Superintendent-General or his agent; and whosoever buys or otherwise acquires any presents or property purchased as aforesaid, without the written consent of the Superintendent-General, or his agent, as aforesaid, is guilty of a misdemeanor, and is punishable by fine not exceeding two hundred dollars, or by imprisonment not exceeding six months, in any place of confinement other than a penitentiary. If any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians, be unlawfully in the possession of any person, within the true intent and meaning of this section, any person acting under the authority (either general or special) of the Superintendent-General, may, with such assistance in that behalf as he may think necessary, seize and take possession of the same, and he shall deal therewith as the Superintendent-General may direct.

Restrictions
on traffic with
Indians for
presents
given to
them or
things got by
means of
their
annuities.

Punishment
for contra-
vention.

Presents,
etc., unlaw-
fully in
possession of
any person
may be
seized.

DISABILITIES AND PENALTIES.

81. No Indian or non-treaty Indian, resident in the Province of Manitoba, the North-West Territories or the District

Indians may
not have
homesteads in

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Manitoba, the North-West Territories or Keewatin, except as specified. of Keewatin, shall be held capable of having acquired or acquiring a homestead or pre-emption right to a quarter section, or any portion of land in any surveyed or unsurveyed lands in the said Province of Manitoba, the North-West Territories or the District of Keewatin, or the right to share in the distribution of any lands allotted to half-breeds, subject to the following exceptions:—

(a) He shall not be disturbed in the occupation of any plot on which he has or may have permanent improvements prior to his becoming a party to any treaty with the Crown;

(b) Nothing in this section shall prevent the Government of Canada, if found desirable, from compensating any Indian for his improvements on such a plot of land without obtaining a formal surrender therefor from the band;

(c) Nothing in this section shall apply to any person who withdraw from any Indian treaty prior to the first day of October, in the year one thousand eight hundred and seventy-four.

Indian undergoing imprisonment for crime not to receive share of annuity while so imprisoned. **82.** Any Indian convicted of any crime punishable by imprisonment in any penitentiary or other place of confinement, shall, during such imprisonment, be excluded from participating in the annuities, interest money, or rents payable to the band of which he or she is a member; and whenever any Indian shall be convicted of any crime punishable by imprisonment in a penitentiary or other place of confinement, the legal costs incurred in procuring such conviction, and in carrying out the various sentences recorded, may be defrayed by the Superintendent-General, and paid out of any annuity or interest coming to such Indian, or to the band, as the case may be.

s. 82, c. 28, S.C. 1880, amended by s. 12, c. 27, S.C. 1884.

Payment of annuity may also be stopped in cases of an Indian husband deserting his wife, or an Indian wife deserting her husband. **83.** The Superintendent-General shall have power to stop the payment of the annuity and interest money of any Indian who may be proved, to the satisfaction of the Superintendent-General, to have been guilty of deserting his or her family, and the said Superintendent-General may apply the same towards the support of any family, woman or child so deserted; also to stop the payment of the annuity and interest money of any woman having no children, who deserts her husband and lives immorally with another man.

Indians may be relieved out of the funds of the band, when sick, etc. **84.** The Superintendent-General, in cases where sick or disabled, or aged and destitute persons are not provided for by the band of Indians of which they are members, may furnish sufficient aid from the funds of the band for the relief of such sick, disabled, aged or destitute persons.

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85. Upon any inquest, or upon any enquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever or by whomsoever committed, it shall be lawful for any court, judge, Stipendiary Magistrate, coroner or justice of the peace to receive the evidence of any Indian or non-treaty Indian, who is destitute of the knowledge of God and of any fixed and clear belief in religion or in a future state of rewards and punishments without administering the usual form of oath to any such Indian, or non-treaty Indian, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as may be approved by such court, judge, Stipendiary Magistrate, coroner or justice of the peace as most binding on the conscience of such Indian or non-treaty Indian.

Evidence of unbeliering Indian may be received on his solemn affirmation.

86. Provided that in the case of any inquest, or upon any enquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian, or non-treaty Indian, as aforesaid, shall be reduced to writing and signed by the person (by mark if necessary) giving the same, and verified by the signature or mark of the person acting as interpreter (if any) and by the signature of the judge, Stipendiary Magistrate or coroner, or justice of the peace or person before whom such evidence or information has been given.

Substance of evidence of Indian to be reduced to writing and signed by him and by judge, and interpreter.

87. The court, judge, Stipendiary Magistrate or justice of the peace shall, before taking any such evidence, information or examination, caution every such Indian, or non-treaty Indian, as aforesaid, that he will be liable to incur punishment if he do not so as aforesaid tell the truth.

Indian to be cautioned to tell the truth.

88. The written declaration or examination, made, taken and verified in manner aforesaid, of any such Indian or non-treaty Indian as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal suit or proceedings, when under the like circumstances the written affidavit, examination, deposition or confession of any other person, might be lawfully read and received as evidence.

Written declarations, etc. of Indians may be used as evidence as those of other persons.

89. Every solemn affirmation or declaration in whatever form made or taken by any Indian or non-treaty Indian as aforesaid shall be of the same force and effect as if such Indian or non-treaty Indian had taken an oath in the usual form, and he or she shall, in like manner, incur the penalty of perjury in case of falsehood.

Effect of solemn affirmation, etc. of Indian. P. jury.

90. Whoever sells, exchanges with, barter, supplies or gives to any Indian or non-treaty Indian in Canada, any kind of intoxicant, or causes or procures the same to be

Punishment for furnishing intoxicants to Indians.

S.C. 1880, c. 28, cont'd.

S.C. 1880, c. 28, cont'd.

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1880. *Indians.* Chap 28.

s. 90, c. 28,
S.C. 1880,
amended by
s. 10, c. 17,
S.C. 1881 and
subsequently,
amended by
s. 13, c. 27,
S.C. 1884.

Penalties and their application.

Of commanders of vessels on board of which the same are furnished.

Penalties and their application.

Imprisonment in default of payment.

Punishment of Indians making or having intoxicants, or selling the same to other Indians.

done, or connives or attempts thereto, or opens or keeps, or causes to be opened or kept on any reserve or special reserve, a tavern, house or building where any intoxicant is sold, bartered, exchanged or given, or is found in possession of any intoxicant in the house, tent, wigwam or place of abode of any Indian or non-treaty Indian, shall, on conviction thereof before any judge, Stipendiary Magistrate or two justices of the peace, upon the evidence of one credible witness other than the informer or prosecutor, or in the Province of Manitoba, in the District of Keewatin, in the North-West Territories or in the Province of British Columbia, upon the evidence of the informer alone if he be a credible person, be liable to imprisonment for a period not less than one month nor exceeding six months, with or without hard labour, or be fined not less than fifty nor more than three hundred dollars, with costs of prosecution,—one moiety of the fine to go to the informer or prosecutor, and the other moiety to Her Majesty, to form part of the fund for the benefit of that body of Indians or non-treaty Indians, with respect to one or more members of which the offence was committed, or he shall be liable to both fine and imprisonment in the discretion of the convicting judge, Stipendiary Magistrate or justices of the peace; and the commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicant has been sold, bartered, exchanged, supplied or given to any Indian or non-treaty Indian, shall be liable, on conviction thereof before any judge, Stipendiary Magistrate or two justices of the peace, upon the evidence of one credible witness other than the informer or prosecutor, or in the Province of Manitoba, in the District of Keewatin, in the North-West Territories or in the Province of British Columbia, upon the evidence of the informer alone if he be a credible person, to be fined not less than fifty nor exceeding three hundred dollars for each such offence, with costs of prosecution,—the moieties of the fine to be applicable as hereinbefore mentioned; and in default of immediate payment of such fine and costs any person so fined shall be committed to any common gaol, house of correction, lock-up or other place of confinement by the judge, Stipendiary Magistrate or two justices of the peace before whom the conviction has taken place, for a period of not less than one nor more than six months, with or without hard labour, or until such fine and costs are paid; and any Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or who sells, exchanges with, barter, supplies or gives to any other Indian or non-treaty Indian in Canada any kind of intoxicant, shall, on conviction thereof, before any judge, Stipendiary Magistrate or two justices of the peace, upon the evidence of one credible witness other than the informer or prosecutor, or in the Province of Manitoba, in the District of Keewatin, in the North-West

Territories or in the Province of British Columbia, upon the evidence of the informer alone if he be a credible person, be liable to imprisonment for a period of not less than one month nor more than six months, with or without hard labour, or a fine of not less than twenty-five or more than one hundred dollars, or to both fine and imprisonment in the discretion of the convicting judge, Stipendiary Magistrate or justices of the peace; and in all cases arising under this section, Indians or non-treaty Indians shall be competent witnesses; but no penalty shall be incurred in case of sickness where the intoxicant is made use of under the sanction of a medical man or under the directions of a minister of religion.

Fine or imprisonment, or both.

Evidence of Indians.

Proviso.

91. The keg, barrel, case, box, package or receptacle whence any intoxicant has been sold, exchanged, bartered, supplied or given, and as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid respectively, can be identified,—and any intoxicant imported or manufactured or brought into and upon any reserve or special reserve, or into the house, tent, wigwam or place of abode, or on the person of any Indian or non-treaty Indian, may be searched for, and if found seized by any Indian superintendent, agent or bailiff, or other officer connected with the Indian Department, or by any constable wheresoever found on such land or in such place or on the person of such Indian or non-treaty Indian; and on complaint before any judge, Stipendiary Magistrate or justice of the peace, he may, on the evidence of any credible witness that this Act has been contravened in respect thereof, declare the same forfeited, and cause the same to be forthwith destroyed; and may condemn the Indian or other person in whose possession they were found to pay a penalty not exceeding one hundred dollars nor less than fifty dollars, and the costs of prosecution; and one-half of such penalty shall belong to the prosecutor and the other half to Her Majesty, for the purposes hereinbefore mentioned; and in default of immediate payment, the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement, with or without hard labour, for any time not exceeding six nor less than two months, unless such fine and costs are sooner paid.

Keg, etc., in which intoxicants are carried to be forfeited.

Intoxicants and vessels containing them may be searched for, seized and destroyed by order of J.P.

Persons in whose possession they are found subject to penalty from \$50 to \$100.

Imprisonment in default of payment.

92. When it is proved before any judge, Stipendiary Magistrate or two justices of the peace that any vessel, boat, canoe or conveyance of any description upon the sea or sea coast, or upon any river, lake or stream in Canada, is employed in carrying any intoxicant, to be supplied to Indians or non-treaty Indians, such vessel, boat, canoe or conveyance so employed may be seized and declared forfeited,

Vessels used conveying intoxicants in contravention of this Act subject to seizure and forfeiture.

s. 91, c. 28
S.C. 1880,
amended by
s. 11, c. 17
S.C. 1881.

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as in the next preceding section, and sold, and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned.

Articles exchanged for intoxicants may be seized and forfeited.

93. Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which, in contravention of this Act, the consideration, either wholly or in part, may be any intoxicant, shall be forfeited to Her Majesty and shall be seized as in the ninety-first section in respect to any receptacle of any intoxicant, and may be sold, and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned.

s. 94, c. 28 S.C. 1880, amended by s. 5, c. 30 S.C. 1882.

Indians may be arrested, imprisoned, until sober; and further punished on their refusal to say from whom they got the intoxicants

94. It shall be lawful for any constable, without process of law, to arrest any Indian or non-treaty Indian whom he may find in a state of intoxication, and to convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he shall have become sober; and such Indian or non-treaty Indian shall, when sober, be brought before any judge, Stipendiary Magistrate or justice of the peace, and if convicted of being so found in a state of intoxication shall be liable to imprisonment in any common gaol, house of correction, lock-up or other place of confinement, for any period not exceeding one month; and if any Indian or non-treaty Indian, having been so convicted as aforesaid, refuses upon examination to state or give information of the person, place and time from whom, where and when, he procured such intoxicant, and if from any other Indian or non-treaty Indian, then, if within his knowledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days.

s. 95, c. 28 S.C. 1880, amended by s. 14, c. 27 S.C. 1884.

Penalties on keepers of boarding houses committing certain offences.

95. If any person, being the keeper of any house, allows or suffers any Indian woman to be or remain in such house, knowing, or having probable cause for believing, that such Indian woman is in or remains in such house with the intention of prostituting herself therein, such person shall be deemed guilty of an offence against this Act, and shall, on conviction thereof, in a summary way, before any Stipendiary Magistrate, police magistrate or justice of the peace, be liable to a fine of not less than ten dollars, or more than one hundred dollars, or to imprisonment in any gaol or place of confinement other than a penitentiary, for a term not exceeding six months.

Who shall be deemed the master or mistress of such house.

96. Any person who appears, acts or behaves as master or mistress, or as the person having the care, government or management of any house in which any Indian woman is, or remains for the purpose of prostituting herself therein, shall be deemed and taken to be the keeper thereof, notwithstanding he or she may not in fact be the real keeper thereof.

1880. *Indians.* Chap. 28.

97. No appeal shall lie from any conviction under the seven next preceding sections of this Act, except to a judge of any superior court of law, county, or circuit, or district court, or to the chairman or judge of the court of the sessions of the peace, having jurisdiction where the conviction was had; and such appeal shall be heard, tried, and adjudicated upon by such judge without the intervention of a jury; and no such appeal shall be brought after the expiration of thirty days from the conviction.

In what judges only appeal shall lie from conviction under any of the next preceding sections.

s. 97, c. 28, S.C. 1880, amended by s. 15, c. 27, S.C. 1884.

98. No prosecution, conviction or commitment under this Act shall be invalid on account of want of form, so long as the same is according to the true meaning of this Act.

Want of form not to invalidate conviction.

ENFRANCHISEMENT.

99. Whenever any Indian man, or unmarried woman, of the full age of twenty-one years, obtains the consent of the band of which he or she is a member to become enfranchised, and whenever such Indian has been assigned by the band a suitable allotment of land for that purpose, the local agent shall report such action of the band, and the name of the applicant to the Superintendent-General; whereupon the Superintendent-General, if satisfied that the proposed allotment of land is equitable, shall authorize some competent person to report whether the applicant is an Indian who, from the degree of civilization to which he or she has attained, and the character for integrity, morality and sobriety which he or she bears, appears to be qualified to become a proprietor of land in fee simple; and upon the favorable report of such person, the Superintendent-General may grant such Indian a location ticket as a probationary Indian, for the land allotted to him or her by the band.

Report of agent when Indian obtains consent of band to be enfranchised.

s. 99, c. 28, S.C. 1880, repealed and replaced by s. 16, c. 27, S.C. 1884.

Inquiry thereupon.

Location ticket on favorable report.

(1.) Any Indian who may be admitted to the degree of Doctor of Medicine, or to any other degree by any University of Learning, or who may be admitted in any Province of the Dominion to practice law either as an Advocate or as a Barrister or Counsellor, or Solicitor or Attorney or to be a Notary Public, or who may enter Holy Orders, or who may be licensed by any denomination of Christians as a Minister of the Gospel, may, upon petition to the Superintendent-General, *ipso facto* become and be enfranchised under this Act, and he shall then be entitled to all the rights and privileges to which any other member of the band to which he belongs would be entitled were he enfranchised under the provisions of this Act; and the Superintendent-General may give him a suitable allotment of land from the lands belonging to the band of which he is a member.

Indians admitted to degrees in Universities, etc., may become enfranchised and receive allotments of land of their band.

100. After the expiration of three years (or such longer period as the Superintendent-General may deem necessary in

Patent after certain period of probation.

s. 100, c. 28, S.C. 1880, repealed and replaced by s. 17, c. 27, S.C. 1884.

S.C. 1880, c. 28, cont'd.

S.C. 1880, c. 28, cont'd.

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the event of such Indian's conduct not being satisfactory), the Governor may, on the report of the Superintendent-General, order the issue of letters patent, granting to such Indian in fee simple the land which had, with this object in view, been allotted to him or her by location ticket. And in such cases compliance with the provisions of sections thirty-six and thirty-seven and the sub-sections thereof shall not be necessary.

any Indian who may marry during his or her parents' probationary period, to the land deducted under the operation of the next preceding section from his or her parents' probationary allotment, shall in all respects be the same as that conferred by an ordinary location ticket, as provided in the seventeenth, eighteenth, nineteenth and twentieth sections of this Act.

As to children of probationary or enfranchised widows.

Provision as to ss. 36, 37.

103. The children of any widow who becomes either a probationary or enfranchised Indian shall be entitled to the same privileges as those of a male head of a family in like circumstances.

As to children of a widow enfranchised, etc.

s. 101, c. 28, S.C. 1880, amended by s. 18, c. 27, S.C. 1884.

Enfranchised Indian to declare name chosen; and to be known by it.

Wife and minor children also enfranchised. Effect of such enfranchisement.

Provision as to children attaining their majority before their father's probation expires.

Provision as to children found unqualified, or being married.

Case of Indian failing to qualify, or dying before expiration of probation.

101. Every such Indian shall, before the issue of the letters patent mentioned in the next preceding section, declare to the Superintendent-General the name and surname by which he or she wishes to be enfranchised and thereafter known, and on his or her receiving such letters patent, in such name and surname, he or she shall be held to be also enfranchised, and he or she shall thereafter be known by such name or surname, and if such Indian be a married man his wife and minor unmarried children also shall be held to be enfranchised; and from the date of such letters patent the provisions of this Act and of any Act or law making any distinction between the legal rights, privileges, disabilities and liabilities of Indians and those of Her Majesty's other subjects shall cease to apply to such Indian, or to the wife or minor unmarried children of such Indian as aforesaid, so declared to be enfranchised, who shall no longer be deemed Indians within the meaning of the laws relating to Indians, except in so far as their right to participate in the annuities and interest moneys, and rents and councils of the band of Indians to which they belonged, is concerned: Provided always, that any children of a probationary Indian, who being minors and unmarried when the probationary ticket was granted to such Indian, arrive at the full age of twenty-one years before the letters patent are issued to such Indian, may, at the discretion of the Governor in Council, receive letters patent in their own names for their respective shares of the land allotted under the said ticket, at the same time that letters patent are granted to their parent; and provided, that if any Indian child having arrived at the full age of twenty-one years, during his or her parents' probationary period, be unqualified for enfranchisement, or if any child of such parent, having been a minor at the commencement of such period, be married during such period, then a quantity of land equal to the share of such child shall be deducted in such manner as may be directed by the Superintendent-General, from the allotment made to such Indian parent on receiving his probationary ticket.

102. If any probationary Indian should fail in qualifying to become enfranchised, or should die before the expiration of the required probation, his or her claim, or the claim of his or her heirs, to the land for which a probationary ticket was granted, or the claim of any unqualified Indian, or of

104. In allotting land to probationary Indians, the quantity to be located to the head of a family shall be in proportion to the number of such family, compared with the total quantity of land in the reserve, and the whole number of the band; but any band may determine what quantity shall be allotted to each member for enfranchisement purposes, provided each female of any age, and each male member under fourteen years of age, receive not less than one-half the quantity allotted to each male member of fourteen years of age and over.

Rules for allotting lands to probationary Indians.

Provision as to power of band in this behalf.

105. Any Indian, not a member of the band, or any non-treaty Indian, who, with the consent of the band and the approval of the Superintendent-General, has been permitted to reside upon the reserve, or obtain a location thereon, may, on being assigned a suitable allotment of land by the band for enfranchisement, become enfranchised on the same terms and conditions as a member of the band; and such enfranchisement shall confer upon such Indian the same legal rights and privileges, and make such Indian subject to such disabilities and liabilities as affect Her Majesty's other subjects; but such enfranchisement shall not confer upon such Indian any right to participate in the annuities, interest moneys, rents or councils of the band.

As to Indians not members of the band but permitted to reside on their reserve.

Provision.

106. Whenever any band of Indians, at a council summoned for the purpose according to their rules, and held in the presence of the Superintendent-General, or an agent duly authorized by him to attend such council, decides to allow every member of the band who chooses, and who may be found qualified, to become enfranchised, and to receive his or her share of the principal moneys of the band, and sets apart for such member a suitable allotment of land for the purpose, any applicant of such band, after such a decision, may be dealt with as provided in the seven next preceding sections until his or her enfranchisement is attained; and whenever any member of the band, who for the three years immediately succeeding the date on which he or she was granted letters patent, (or for any longer period that the

Provision when band decides that all its members may become enfranchised.

Or when Indian becomes qualified by

s. 104, c. 28, S.C. 1880, amended by s. 19, c. 27, S.C. 1884.

s. 105, c. 28, S.C. 1880, amended by s. 20, c. 27, S.C. 1884.

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exemplary conduct. Superintendent-General may deem necessary.) by his or her exemplary good conduct and management of property, proves that he or she is qualified to receive his or her share of such moneys, the Governor may, on the report of the Superintendent-General to that effect, order that the said Indian be paid his or her share of the capital funds at the credit of the band, or his or her share of the principal of the annuities of the band, estimated as yielding five per cent., out of such moneys as may be provided for the purpose by Parliament; and if such Indian be a married man then he shall also be paid his wife's and minor unmarried children's share of such funds and other principal moneys, and if such Indian be a widow, she shall also be paid her minor unmarried children's share; and the unmarried children of such married Indians, who become of age during the probationary period either for enfranchisement or for payment of such moneys, if qualified by the character for integrity, morality and sobriety which they bear, shall receive their own share of such moneys when their parents are paid; and if not so qualified before they can become enfranchised or receive payment of such moneys they must themselves pass through the probationary periods; and all such Indians and their unmarried minor children who are paid their share of the principal moneys of their band as aforesaid, shall thenceforward cease in every respect to be Indians of any class within the meaning of this Act, or Indians within the meaning of any other Act or law.

If such Indian be a married man or widow.

And as to unmarried children of any such enfranchised and married Indians.

Provision as to Indians in British Columbia, Manitoba, the N. W. Territories or Keewatin.

107. Sections ninety-nine to one hundred and six, both inclusive, of this Act, shall not apply to any band of Indians in the Province of British Columbia, the Province of Manitoba, the North-West Territories, or the District of Keewatin, save in so far as the said sections may, by proclamation of the Governor-General, be from time to time extended, as they may be, to any band of Indians in any of the said provinces or territories.

MISCELLANEOUS PROVISIONS.

Before whom affidavits to be used under this Act may be made.

108. All affidavits required under this Act, or intended to be used in reference to any claim, business or transaction in connection with Indian Affairs, may be taken before the Judge or Clerk of any County or Circuit Court, or any Justice of the Peace, or any Commissioner for taking affidavits in any of the Courts, or the Superintendent-General, or his Deputy, or any Inspector of Indian Agencies, or any Indian Agent, or any Surveyor duly licensed and sworn, appointed by the Superintendent-General to enquire into or take evidence or report in any matter submitted or pending before such Superintendent-General, or if made out of Canada, before the Mayor or Chief Magistrate of, or the British Consul in, any city, town or municipality, or before

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any Notary Public; and any wilfully false swearing in any such affidavit shall be perjury.

109. Copies of any records, documents, books or papers belonging to or deposited in the Department of Indian Affairs attested under the signature of the Superintendent-General or of his Deputy shall be competent evidence in all cases in which the original records, documents, books or papers, could be evidence.

Certified copies of official papers to be evidence.

110. The Governor in Council may, by proclamation from time to time, exempt from the operation of this Act, or from the operation of any one or more of the sections of this Act, Indians or non-treaty Indians, or any of them, or any band or irregular band of them, or the reserves or special reserves, or Indian lands or any portions of them, in any Province, in the North-West Territories, or in the District of Keewatin, or in either of them, and may again, by proclamation from time to time, remove such exemption.

Governor in Council may exempt from operation of this Act, and remove such exemption.

111. The Governor may, from time to time, appoint officers and agents to carry out this Act, and any Orders in Council made under it,—which officers and agents shall be paid in such manner and at such rates as the Governor in Council may direct out of any fund that may be appropriated by law for that purpose.

Governor to appoint officers, etc., to be paid out of moneys appropriated by Parliament.

112. The Act passed in the thirty-ninth year of Her Majesty's reign and chaptered eighteen, and the Act passed in the forty-second year of Her Majesty's reign and chaptered thirty-four, are hereby repealed, with so much of any other Act or law as may be inconsistent with this Act, or as makes any provision in any matter provided for by this Act, except only as to things done, rights acquired, obligations contracted, or penalties incurred before the coming into force of this Act; and this Act shall be construed not as a new law but as a consolidation of those hereby repealed in so far as they make the same provision that is made by this Act in any matter hereby provided for.

Acts and parts of Acts repealed.

Saving clause as to things done, etc.

How this Act shall be construed.

113. No Act or enactment repealed by any Act hereby repealed shall revive by reason of such repeal.

Repealed Acts not to revive.

1881. *The Indian Act, 1880, amendment.* Chap. 17.

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CHAP. 17.

An Act to amend "The Indian Act, 1880."

[Assented to 21st March, 1881.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Governor in Council may make regulations for prohibiting or regulating sale of produce by Indians.

1. The Governor in Council may make such provisions and regulations as may, from time to time, seem advisable for prohibiting or regulating the sale, barter, exchange or gift, by any band or irregular band of Indians, or by any Indian of any band or irregular band, in the North-West Territories, the Province of Manitoba, or the District of Keewatin, of any grain or root crops, or other produce grown upon any Indian Reserve in the North-West Territories, the Province of Manitoba, or the District of Keewatin; and may further provide that such sale, barter, exchange or gift shall be absolutely null and void unless the same be made in accordance with the provisions and regulations made in that behalf. All provisions and regulations made under this Act shall be published in the *Canada Gazette*.

Publication.

Penalty for buying from Indians contrary to such regulations.

2. Any person who buys or otherwise acquires from any such Indian, or band, or irregular band of Indians, contrary to any provisions or regulations made by the Governor in Council under this Act, is guilty of an offence, and is punishable, upon summary conviction, by fine, not exceeding one hundred dollars, or by imprisonment for a period not exceeding three months, in any place of confinement other than a penitentiary, or by both fine and imprisonment.

s. 2, c. 17,
S.C. 1881,
amended by
s. 6, c. 30,
S.C. 1882.

Superintendent General may direct seizure of produce unlawfully possessed by any person.

3. If any such grain or root crops or other produce as aforesaid, be unlawfully in the possession of any person, within the intent and meaning of this Act, and of any provisions or regulations made by the Governor in Council, under this Act, any person acting under the authority, either general or special, of the Superintendent General may, with such assistance in that behalf as he may think necessary, seize and take possession of the same, and he shall deal therewith as the Superintendent General or any officer or person thereunto by him authorized, may direct.

Governor in Council may prohibit cutting of trees on reserves.

4. The Governor in Council may make such provisions and regulations as may, from time to time, seem advisable, for prohibiting the cutting, carrying away or removing from any reserve or special reserve, of any hard or sugar-maple tree or sapling.

5. Any person who cuts, carries away or removes from any reserve or special reserve any hard or sugar-maple tree or sapling, or buys or otherwise acquires from any Indian or non-treaty Indian or other person, any hard or sugar-maple tree or sapling so cut, carried away or removed from any reserve or special reserve, contrary to any provisions or regulations made by the Governor in Council under this Act, is guilty of an offence, and is punishable upon summary conviction by fine not exceeding one hundred dollars, or by imprisonment for a period not exceeding three months, or by both fine and imprisonment.

6. Any one Judge, Judge of Sessions of the Peace, Recorder, Police Magistrate, District Magistrate or Stipendiary Magistrate, sitting at a police court or other place appointed in that behalf, for the exercise of the duties of his office, shall have full power to do alone whatever is authorized by "The Indian Act, 1880," to be done by a Justice of the Peace or by two Justices of the Peace.

7. Any Recorder, Police Magistrate or Stipendiary Magistrate, appointed for or having jurisdiction to act in any city or town shall, with respect to offences and matters under "The Indian Act, 1880," have and exercise jurisdiction over the whole county or union of counties or judicial district in which the city or town for which he has been appointed or in which he has jurisdiction, is situate.

8. Section twenty-three of "The Indian Act, 1880," is hereby repealed, and the following substituted therefor:—

s. 8, c. 17,
S.C. 1881,
repealed and
replaced by
s. 21, c. 27,
S.C. 1884.

"23. If any person or Indian other than an Indian of the band, without the license of the Superintendent General (which license, however, he may at any time revoke) settles, resides, or hunts upon, or occupies, or uses, any such land or marsh; or settles, resides upon, or occupies any such roads or allowances for roads, on such reserve; or if any Indian is illegally in possession of any land in a reserve,—the Superintendent General, or such officer or person as he may thereunto depute and authorize, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith to remove from the said land, or marsh, or roads or allowances for roads or land, every such person or Indian and his family, so settled, residing, or hunting upon, or occupying, or being illegally in possession of the same, or to notify such person or Indian to cease using as aforesaid the said lands, marshes, roads or allowances for roads; and such person shall accordingly remove or notify every such person or Indian, and for that purpose shall have the same powers as in the execution of criminal process; and the expenses incurred in any such

S.C. 1881, c. 17, cont'd.

1881. *The Indian Act, 1880, amendment.* Chap. 17.

removal or notification shall be borne by the party removed or notified, and may be recovered from him as the costs in any ordinary suit."

Section 30 repealed. 9. Section thirty of "*The Indian Act, 1880*," is hereby repealed, and the following substituted therefor:—

New section. Sheriff, &c. to assist in such removal. "30. All sheriffs, gaolers or peace officers, to whom any such process is directed by the Superintendent General, or by any officer or person by him deputed as aforesaid, and all other persons to whom such process is directed with their consent, shall obey the same; and all other officers shall, upon reasonable requisition, assist in the execution thereof."

Section 90 of 44 V., c. 28, amended. 10. Section ninety of the said Act is hereby amended by adding after the words, "or non-treaty Indian," in the ninth line thereof, the words, "or of any person, or upon any other part of the reserve or special reserve, or sells, exchanges with, barter, supplies or gives to any person on any reserve or special reserve, any kind of intoxicant—"

Section 91 of 44 V., c. 28, amended. 11. Section ninety-one of "*The Indian Act, 1880*," is hereby amended by striking out of the eleventh line thereof the word "may," and inserting in lieu thereof the words, "or suspected to be upon any reserve or special reserve, may, upon a search warrant in that behalf being granted by any Judge, Stipendiary Magistrate or Justice of the Peace—"

s. 12, c. 17, S.C. 1881, amended by s. 22, c. 27, S.C. 1884. Indian Commissioner, &c., to be *ex officio* Justices of the Peace. 12. Every Indian Commissioner, Assistant Indian Commissioner, Indian Superintendent, Indian Inspector or Indian Agent shall be *ex officio* a Justice of the Peace for the purposes of this Act.

Informers may give evidence under 43 V., c. 28. 13. In all cases in "*The Indian Act, 1880*," where it is provided that the conviction must take place on the evidence of one credible witness other than the informer or prosecutor, the informer or prosecutor shall nevertheless be allowed to give evidence.

Appointment of Assistant Indian Commissioners. 14. The Governor in Council may appoint an Assistant Indian Commissioner for Manitoba, Keewatin and the North-West Territories or an Assistant Indian Commissioner for Manitoba and Keewatin, and an Assistant Indian Commissioner for the North-West Territories, with such of the powers and duties of the Commissioner, and such other powers and duties as may be provided by Order in Council.

An Act to further amend "The Indian Act, 1880". S.C. 1882,
c. 30. (45 Vict.)

1882. *The Indian Act, 1880, amended.* Chap. 80.

CHAP. 30

An Act to further amend "The Indian Act, 1880."

[Assented to 17th May, 1882.]

- Preamble. HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—
- Subs. 6 of s. 2, 43 V., c. 28 amended.
1. The sixth sub-section of the second section of "The Indian Act, 1880" is hereby amended by striking out of the fourth line thereof the words "but which is unsundered," and inserting in lieu thereof the words "and which remains a portion of the said Reserve."
- Sect. 27 amended.
2. The twenty-seventh section of "The Indian Act, 1880" is hereby amended by striking out of the twelfth line thereof the word "Justice" and inserting in lieu thereof the words "any two Justices," and by striking out of the twenty-ninth line thereof the word "Justice" and inserting in lieu thereof the word "Justices."
- s. 3, c. 30, S.C. 1882, amended by s. 23, c. 27, S.C. 1884. Indian Agent to have in certain cases powers of a magistrate.
3. Wherever, in "The Indian Act, 1880," or in the Act passed in the forty-fourth year of Her Majesty's reign, chaptered seventeen, amending the said Act,—or in this Act, power is given to any Stipendiary Magistrate or Police Magistrate to dispose of cases of infraction of the provisions of the said Acts brought before him, any Indian Agent shall have the same power as a Stipendiary Magistrate or a Police Magistrate has in respect to such cases.
- s. 4, c. 30, S.C. 1882, amended by s. 24, c. 27, S.C. 1884. Sect. 78 of 43 V., c. 28 amended.
4. The seventy-eighth section of "The Indian Act, 1880" is hereby amended by adding thereto the following words: "But in any suit between Indians no appeal shall lie from an order made by any District Magistrate, Police Magistrate, Stipendiary Magistrate or two Justices of the Peace, when the sum adjudged does not exceed ten dollars."
- Sect. 94 amended.
5. The ninety-fourth section of "The Indian Act, 1880" is hereby amended by adding after the word "month" in the eleventh line thereof the words: "or to a fine of not less than five nor more than thirty dollars, or to both fine and imprisonment in the discretion of the convicting Judge, Stipendiary Magistrate or Justice of the Peace," and by adding after the word "days" in the nineteenth line the following words: "or to an additional fine of not less than three nor more than fifteen dollars, or to both fine and imprisonment at the discretion of the convicting Judge, Stipendiary Magistrate or Justice of the Peace."
- Penalties increased.
6. The second section of the Act passed in the forty-fourth year of Her Majesty's reign, chaptered seventeen, intituled "An Act to amend the Indian Act, 1880" is hereby amended by adding after the word "conviction" in the fifth line thereof, the words: "before a Stipendiary Magistrate, Police Magistrate, or two Justices of the Peace."
- Sect. 2 of 44 V., c. 17 amended.

An Act to amend the Act thirty-sixth Victoria, chapter four, intituled "An Act to provide for the establishment of the Department of the Interior" and to amend "The Indian Act, 1880" S.C. 1883, c. 6. (46 Vict.)

CHAP. 6.

An Act to amend the Act thirty-sixth Victoria, chapter four, intituled "An Act to provide for the establishment of The Department of the Interior," and to amend "The Indian Act, 1880."

[Assented to 25th May, 1883.]

Preamble. HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The third section of the Act passed in the thirty-sixth year of Her Majesty's reign, chapter four, intituled "An Act to provide for the establishment of "The Department of the Interior" and the third section of "The Indian Act, 1880," are hereby repealed and the following section is substituted for each such section respectively:—
- 36 V., c. 4, s. 3, and 43 V., c. 28, s. 3, repealed.
2. So much of any Act or law as may be inconsistent with this Act, or make any provision in the matter provided for by this Act contrary hereto, is hereby repealed.
3. The Minister of the Interior or the Head of any other Department appointed for that purpose by order of the Governor in Council shall be the Superintendent General of Indian Affairs and shall, as such, have the control and management of the lands and property of the Indians in Canada.
- New section substituted. Any Minister may be appointed Supt. General of Indian Affairs.
- Inconsistent enactments repealed.

An Act further to amend "The Indian Act, 1880".

S.C. 1884, c. 27. (47 Vict.)

S.C. 1884, c. 27, cont'd.

1884.

Indian Act amendment.

Chap. 27.

CHAP. 27.

An Act further to amend "The Indian Act, 1880."

[Assented to 19th April, 1884.]

Preamble.
43 V., c. 28.

IN further amendment of "The Indian Act, 1880," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Inciting
Indians,

1. Whoever induces, incites or stirs up any three or more Indians, non-treaty Indians, or half-breeds apparently acting in concert,—

To threaten,
or—

(a.) To make any request or demand of any agent or servant of the Government in a riotous, routous, disorderly or threatening manner, or in a manner calculated to cause a breach of the peace; or—

To cause
breach of
peace:
To be a mis-
demeanor.
Punishment.

(b.) To do an act calculated to cause a breach of the peace,—
Is guilty of a misdemeanor, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labor.

Superinten-
dent General
may prohibit
sale or gift of
ammunition
to Indians.

2. The Superintendent General may, when he considers it in the public interest to do so, prohibit, by public notice to that effect, the sale, gift or other disposal, to any Indian in the Province of Manitoba or in any part thereof, or in the North West Territories or in any part thereof, of any fixed ammunition or ball cartridge; and every person who, after such notice, without the permission in writing of the Superintendent General, sells or gives or, in any other manner, conveys to any Indian in the section of country thus prohibited any fixed ammunition or ball cartridge, shall incur a penalty of not more than two hundred dollars, or shall be liable to imprisonment for a term of not more than six months, or to both fine and imprisonment within the limits aforesaid, at the discretion of the court before which the conviction is had; and every offender against the provisions of this section may be tried in a summary manner by two Justices of the Peace or by any stipendiary or other magistrate having the power of two Justices of the Peace.

Punishment
of persons
selling or
giving the
same contrary
to such pro-
hibition.Celebrating
or inciting to
celebrate
"Potlach,"
or "Tamanawas"
to be a mis-
demeanor
punishable by
imprison-
ment.

3. Every Indian or other person who engages in or assists in celebrating the Indian festival known as the "Potlach" or in the Indian dance known as the "Tamanawas" is guilty of a misdemeanor, and shall be liable to imprisonment for a term of not more than six nor less than two months in any gaol or other place of confinement; and any Indian or other person who encourages, either directly or indirectly, an Indian or Indians to get up such a festival or dance, or to celebrate the same, or who shall assist in the celebration of the same is guilty of a like offence, and shall be liable to the same punishment.

4. Sub-section one of the fourteenth section of the said Act is hereby amended by striking out all the words after the word "on," in the tenth line thereof, and substituting therefor the words: "signifying in writing his or her desire so to do,—which signification in writing shall be signed by him or her in the presence of two witnesses, who shall certify the same on oath before some person authorized by law to administer the same."

S. 14 of 43 V.,
c. 28, amended

5. The twentieth section of the said Act is hereby repealed and the following is substituted therefor:—

S. 20 repealed;
new section.

"20. Any Indian who holds, under location ticket or other duly recognized title, any parcel or parcels of land upon the reserve of his band, or upon a reserve of any other band, upon which he or he and his family or any of them resided at the date of his death, may devise the same by will, as well as his personal effects or other property of which he is the recognized owner, to such member or members of his family or relative or relatives, as to him seems proper, provided the said will, after his death, is consented to by the band owning the said reserve, and approved of by the Superintendent General of Indian Affairs, and provided that he does not devise the same or any part thereof to any relative not entitled to reside upon the reserve of the band on which the property devised is situated, or to any relative farther removed than a second cousin; and the devise may be made subject to such trust or trusts as to the deviser seems proper, provided the same are within the provisions of this or any other Act in force or that may hereafter be enacted respecting Indian Affairs: in case such will is not assented to or approved of as aforesaid the Indian shall be held to have died intestate:

Indian may
devise certain
property by
will. proviso: for
consent of
band and of
Superinten-
dent General,
&c.Further provi-
so: Intestacy
in case of de-
fault.

"2. Upon the death of any Indian holding, under location ticket or other duly recognized title, any parcel of land, if such Indian has died intestate, the right and interest therein of such deceased Indian shall, together with his goods and chattels, devolve one-third upon his widow (if any) provided she be a woman of good moral character and that she was living with her husband at the date of his death, and the remainder upon his children (provided that they are Indians within the meaning of "The Indian Act, 1880.") in equal shares; and such children shall have a like estate in such land as their father had: Provided, that the Superintendent General may, in his discretion, direct that the widow, if of the character above described, shall have the right to occupy such parcel of land and to have the use of such goods and chattels during the term of her widowhood:

Distribution
of estate in
case of in-
testacy. proviso:
Discretionary
power of
Superinten-
dent General.

Administration of property of minors.

" 3. During the minority of such children the administration and charge of such land and goods and chattels as they may be entitled to under this section, shall devolve upon the widow (if any) of such deceased Indian, provided she be a woman of good moral character and that she was living with her husband at the date of his death; as each male child attains the age of twenty-one, and as each female child attains that age, or marries before that age with the consent of the said widow, his or her share shall be handed to him or her: Provided always, that the Superintendent General may, at any time, remove the widow from such administration and charge, and confer the same upon some other person, and in like manner remove such other person and appoint another, and so on as occasion requires:

Proviso: power of Superintendent General.

Distribution in case of death without issue.

" 4. If any such Indian dies without issue but leaving a widow of the character above described, such lot or parcel of land and his goods and chattels shall be vested in her, and if he leaves no widow, then in the Indian nearest akin to the deceased; but if he have no heir nearer than a cousin, then the same shall be vested in the Crown for the benefit of the band:

In any case location ticket must be obtained.

" 5. Whatever may be the final disposition of the land, the claimant or claimants shall not be held to be legally in possession until he, she or they obtains or obtain a location ticket from the Superintendent General in the manner prescribed in the case of new locations:

Guardians of minors to be appointed.

" 6. The Superintendent General may, whenever there are minor children, appoint a fit and proper person to take charge of such children and their property, and remove such person and appoint another, and so on as occasion requires:

Superintendent General to decide disputes among claimants.

" 7. The Superintendent General shall have power to decide all questions which may arise respecting the distribution, among those entitled, of the land and goods and chattels of a deceased Indian, and also to do whatever he may, under the circumstances, think will best give to each claimant his or her share, according to the true meaning and spirit of this Act, whether such share be a part of the lands or goods and chattels themselves, or be part of the proceeds thereof, in case it be thought best to dispose thereof,—regard always being had in any such disposition to restrictions upon the disposition of property in a reserve."

Section 24 amended: as to Indians or persons returning to a reserve after being removed.

" 6. The twenty-fourth section of the said Act is hereby amended by inserting after the word "aforesaid" in the second line thereof, the words "or after any cattle or other animals, owned by him, or in his charge, have been removed as aforesaid," and by inserting after the words "parts of lots" in the fourth line thereof, the words "or causes or permits any cattle or other animals owned by him, or in his charge, to return to any of the said land, marsh or lots or parts of lots, or returns to any marsh, river, stream or creek, on or running through a reserve, for the purpose of fishing therein;" and also by inserting after the words "parts of lots" in the thirteenth line thereof the words "or has caused or permitted any cattle or other animals owned by him, or in his charge, to return to any of the said land, marsh or lots or parts of lots, or has returned to any marsh, river, stream or creek, on or running through a reserve, for the purpose of fishing therein."

7. Sub-section one of the twenty-seventh section of the said Act is hereby repealed, and the following is substituted therefor:—

Sub-s. 1 of s. 27 repealed; new sub-sec.

" 27. If any person or Indian, other than an Indian of the band to which the reserve belongs, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, trespasses upon any of the said land, roads or allowances for roads in the said reserve, by cutting, carrying away or removing therefrom any of the trees, saplings, shrubs, underwood, timber or hay thereon, or by removing any of the stone, soil, minerals, metals or other valuables off the said land, roads or allowances for roads, the person or Indian so trespassing shall, on conviction thereof before any Stipendiary Magistrate, Police Magistrate or any two Justices of the Peace, for every tree he cuts, carries away or removes, forfeit and pay the sum of twenty dollars,—and for cutting, carrying away or removing any of the saplings, shrubs, underwood, timber or hay, if under the value of one dollar, the sum of four dollars, but if over the value of one dollar, then the sum of twenty dollars,—and for removing any of the stone, soil, minerals, metals or other valuables aforesaid, the sum of twenty dollars,—with costs of prosecution in all cases. And in default of immediate payment of the said penalties and costs, such magistrate, or Justices of the Peace, or the Superintendent General, or such other person as he has authorized in that behalf, may issue a warrant, directed to any person or persons by him or them named therein, to levy the amount of the said penalties and costs by distress and sale of the goods and chattels of the person liable to pay the same; and similar proceedings may be had upon such warrant issued by the Superintendent General, or such other person as aforesaid, as if it had been issued by the magistrate or Justices of the Peace before whom the person was convicted; or such magistrate or Justices of the Peace, or the Superintendent General, or such other person as aforesaid, without proceeding by distress and sale, may, upon non-payment of the said penalties and costs, order the person liable therefor to be imprisoned in the common gaol of the county or district in which the said reserve or any part thereof lies, for a term not exceeding thirty days when the penalty does not exceed twenty dollars, or for a term not exceeding three months when the penalty exceeds twenty dollars; and upon the return of any warrant for distress and sale, if the amount thereof has not been made, or if any part of it remains unpaid, such magistrate or Justices of the Peace, or the said Superintendent General, or such other person as aforesaid, may commit the person in default to the common gaol, as aforesaid, for a term not exceeding thirty days, if the sum claimed upon the said warrant does not exceed twenty dollars, or for a term not exceeding three months if the sum exceeds twenty dollars. All such penalties shall be paid to the Minister of Finance and Receiver General to be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council directs."

Punishment of trespassers on reserves.

Penalties for removing certain things.

Recovery of penalties and costs.

Offender may be committed summarily.

Provision, in default of distress.

Application of penalties.

Section 36 amended.

As to Indians teaching school, &c.

Section 72 amended.

Election of chiefs may be set aside for certain reasons.

Punishment of Indians committing certain offences.

Section 74 amended.

Section 75 amended, as to taxes on enfranchised Indians.

Section 82 amended.

Section 90 amended: Punishment of persons supplying intoxicants to Indians; or found drunk or gambling in Indian houses.

Section 95 amended: as to disorderly houses.

8. The thirty-sixth section of the said Act is hereby amended by inserting after the word "guardian" in the fifth line thereof, the following words: "or in the cases of Indians engaged in the practice of any one of the learned professions, or in teaching schools, or in pursuing a trade which interferences with their cultivating land on the reserve."

9. The seventy-second section of the said Act is hereby amended by adding thereto the following sub-section:—

"2. An election may be set aside by the Governor in Council, on the report of the Superintendent General, should it be proved by two witnesses before the Indian Agent for the locality or such other person as may be deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election; and any Indian proved to have been guilty of such fraud or irregularity or connivance thereat may be deemed ineligible for re-election for six years, if so directed by the Governor in Council, on the report of the Superintendent General."

10. Sub-section seven of the seventy-fourth section of the said Act is hereby amended by adding thereto the words "And the attendance at school of children between the ages of six and fifteen years."

11. The seventy fifth section of the said Act is hereby amended by adding the following words thereto: "And no taxes shall be levied on the real property of any Indian, acquired under the enfranchisement clauses of this Act, until the same has been declared liable to taxation by proclamation of the Governor General, published in the Canada Gazette."

12. The eighty-second section of the said Act is hereby amended by striking out all the words preceding the word "whenever" in the fifth and sixth lines thereof.

13. The ninetieth section of the said Act is hereby amended by adding thereto the words "Any person giving or supplying an intoxicant to an Indian or non-treaty Indian on an order, verbal or written, shall be liable to all the penalties to which he would have been liable if he had sold the same without such order; and any person found drunk in the house, tent, wigwam or other domicile of an Indian, or gambling therein, and any person found within an Indian village, settlement or reserve after sunset, and who refuses to leave, after having been requested to do so by an Indian agent or chief, shall be liable to all the fines and penalties to which he would have been liable had he supplied intoxicants to Indians, and under similar process."

14. The ninety-fifth section of the said Act is hereby amended by inserting in the first, third and fourth lines, after the word "house," the words "tent or wigwam," and by adding thereto after the word "months," in the twelfth line, the words "and any Indian man or woman who keeps, frequents or is found in a disorderly house, tent or wigwam used for such a purpose, shall be liable to the same penalty on similar process."

15. The ninety-seventh section of the said Act is hereby amended by adding the following thereto, as sub-section two:—

"2. No such conviction shall be quashed for want of form, or be removed by *certiorari* into any of Her Majesty's superior courts of record; and no warrant of commitment shall be held void by reason of any defect therein, provided it is therein alleged that the person has been convicted, and there is a good and valid conviction to sustain the same."

16. The ninety-ninth section of the said Act is hereby repealed and the following substituted therefor:—

"99. Whenever any male Indian or unmarried Indian woman, of the full age of twenty-one years, makes application to the Superintendent General to be enfranchised, the Superintendent General shall instruct the agent of the band, of which the applicant is a member, to call upon the latter to furnish a certificate, to be made under oath before a judge of any court of justice by the priest, clergyman or minister of the religious denomination to which the applicant belongs, or by two Justices of the Peace, to the effect that, to the best of the knowledge and belief of the deponent or deponents, the applicant for enfranchisement is and had been for at least five years previous, a person of good moral character, temperate in his or her habits, and of sufficient intelligence to be qualified to hold land in fee simple and otherwise to exercise all the rights and privileges of an enfranchised person:

"2. Upon receipt of such a certificate the agent shall, with the least possible delay, submit the same to a council of the band of which the applicant is a member, and he shall then inform the Indians assembled at such council, that thirty days will be given within which affidavits will be received, to be made before a judge or a Stipendiary Magistrate, containing reasons, if any there be, of a personal character affecting the applicant, why such enfranchisement should not be granted to the applicant:

"3. At the expiration of thirty days aforesaid, the agent shall forward to the Superintendent General all affidavits received by him in the case, if any have been filed with him, as well as one made by himself, also before a judge or a Stipendiary Magistrate, containing his reasons for or against the enfranchisement of the applicant; and if the Superintendent General, after examining the evidence decides in favor of the applicant, he may grant him or her a location ticket as a probationary Indian, for the land occupied by him or her or for such proportion thereof as appears to the Superintendent General fair and proper:

"4. Every Indian who is admitted to the degree of doctor of medicine, or to any other degree by any university of learning, or who is admitted in any Province of Canada to practise law either as an advocate, or as a barrister or counsellor or solicitor or attorney or a notary public, or who enters holy orders, or who is licensed by any denomination of Christians as a minister of the gospel, may, upon petition to the Superintendent General, *ipso facto* become and be enfranchised under this Act, and he shall then be entitled to all the rights and privileges to which any other member of the band to which he belongs would be entitled if he was

Section 97 amended.

Conviction not to be removed by *certiorari*.

Section 99 repealed; new section.

Proceedings for enfranchisement.

Certificate to be furnished.

And submitted to Council of the band.

Affidavits to be sent to Superintendent General.

Location ticket may be granted.

Certain educational requirements to confer enfranchisement.

- Allotment in each case. enfranchised under the provisions of this Act; and the Superintendent General may give him a suitable allotment of land from the lands belonging to the band of which he is a member: Provided, that if he is not the recognized holder of a location on the reserve by ticket or otherwise, he shall first obtain the consent of the band and the approval of the Superintendent General of Indian Affairs to such allotment."
- Proviso. 17. The one hundredth section of the said Act is hereby repealed, and the following substituted therefor:—
- Section 100 repealed; new section. "100. After the expiration of three years (or such longer period as the Superintendent General deems necessary in the event of such Indian's conduct not being satisfactory), the Governor may, on the report of the Superintendent General, order the issue of letters patent, granting to such Indian the land in fee simple, which had, with this object in view, been allotted to him or her by location ticket, but without power to sell, lease or otherwise alienate the land, unless with the sanction of the Governor in Council; and provisos to such effect shall be inserted in the letters patent conveying the land to the said Indian; and in such cases compliance with the provisions of sections thirty-six and thirty-seven of this Act shall not be necessary."
- Patent may issue after probation.
- Conditions. 18. The one hundred and first section of the said Act is hereby amended by adding thereto, after the word "names," in the twenty-sixth line thereof the words "subject to the same restrictions and reservations as are contained in the letters patent issued to their parent."
- Proviso; as to sections 36 and 37.
- Section 101 amended. 19. The one hundred and fourth section of the said Act is hereby amended by striking out the words "any band," in the fifth line thereof, and substituting therefor the words "the Superintendent General."
- Section 104 amended.
- Section 106 amended. 20. The one hundred and fifth section of the said Act is hereby amended by striking out the word "band" in the fifth line thereof, and substituting therefor the words "Superintendent General."
- Section 8 of 44 V., c. 17, repealed. 21. The eighth section of the Act forty-fourth Victoria, chapter seventeen, is hereby repealed, and the following is hereby substituted for section twenty-three of "The Indian Act, 1880:—"
- New section 23 of Indian Act. "23. If any person or Indian, other than an Indian of the band, without the license of the Superintendent General (which license, however, he may at any time revoke), settles, resides, or hunts upon, or occupies, or uses, or causes or permits any cattle or other animals, owned by him or in his charge, to trespass on any such land or marsh, or fishes in any marsh, river, stream or creek on or running through a reserve; or settles, resides upon,
- Removal of trespassers and their cattle.

- or occupies any such roads or allowances for roads, on such reserve; or if any Indian is illegally in possession of any land in a reserve,—the Superintendent General, or such officer or person as he thereunto deputes and authorizes, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith to remove from the said land or marsh, or roads or allowances for roads, every such person or Indian and his family, so settled, residing or hunting upon or occupying or being illegally in possession of the same,—or to remove such cattle or other animals from such land or marsh,—or to cause such person or Indian to cease fishing in any marsh, river, stream or creek, as aforesaid,—or to notify such person or Indian to cease using as aforesaid the said lands, river, streams, creeks or marshes, roads or allowances for roads; and such person shall accordingly remove or notify every such person or Indian, or remove such cattle or other animals, or cause such person or Indian to cease fishing as aforesaid, and for that purpose shall have the same powers as in the execution of criminal process; and the expenses incurred in any such removal or notification shall be borne by the person removed or notified, or owning the cattle or other animals removed, or having them in charge, and may be recovered from him as the costs in any ordinary suit,—or if the trespasser is an Indian, such expenses may be deducted from his or her share or shares of annuity and interest money, if any such be due to him or her."
- Warrant for removal, or notice to remove.
- Powers for that purpose.
- As to costs.
22. The twelfth section of the Act forty-fourth Victoria, chapter seventeen, is hereby amended by adding at the end thereof the words, "with jurisdiction wheresoever any contravention of the provisions of 'The Indian Act, 1880' occurs, or wheresoever it is considered by him most conducive to the ends of justice that any contravention aforesaid shall be tried."
- Section 12 of 44 V., c. 17, amended.
23. The third section of the Act forty-fifth Victoria, chapter thirty, is hereby amended by adding at the end thereof the words "or in any other matter affecting Indians, with jurisdiction wheresoever any contravention of the provisions of the said Acts occurs, or wheresoever it is considered by him most conducive to the ends of justice that the trial be held."
- Section 3 of 45 V., c. 30, amended.
- And such officer shall have the same powers in respect to infractions of this Act.
- Powers under this Act.
24. The fourth section of the Act forty-fifth Victoria, chapter thirty, is hereby amended by striking out all the words after "following words" in the second line of the said section and by inserting the following in lieu thereof:—
- Section 4 of 45 V., c. 30, amended.
- "But in any suit between Indians or in a case of assault in which the offender was an Indian or the offenders were Indians, no appeal shall lie from an order made by any District Magistrate, Police Magistrate, Stipendiary Magistrate or two Justices of the Peace, when the sum adjudged, or the fine inflicted, does not exceed ten dollars."
25. This Act shall not come into force until the first day of January, in the year of Our Lord one thousand eight hundred and eighty-five.

CHAP. 28.

An Act for conferring certain privileges on the more advanced Bands of the Indians of Canada, with the view of training them for the exercise of municipal powers.

[Assented to 19th April, 1884.]

Preamble.

WHEREAS it is expedient to provide means by which Indians on reserves in divers parts of the Dominion, may be trained for the future exercise of municipal privileges and powers: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title and application of Act.

1. This Act shall be known and may be cited as "*The Indian Advancement Act, 1884*," and may be made applicable as hereinafter provided, to any band or bands of Indians in any of the Provinces or the North-West Territories, including the District of Keewatin, except in so far only as it is herein otherwise provided.

Interpretation. 43 V., c. 26.

2. The terms used in this Act shall have the same meaning respectively as the like terms have in "*The Indian Act, 1880*"; but the term "reserve" includes two or more reserves, and the term "band" includes two or more bands, united for the purposes of this Act by the Order in Council applying it.

When this Act shall apply to any band.

3. Whenever any band or bands of Indians shall be declared by Order of the Governor in Council to be considered fit to have this Act applied to them, it shall so apply from the time to be appointed in such Order, which shall not be earlier than the first of January, one thousand eight hundred and eighty-five.

Division of reserve into sections.

4. Any reserve to which this Act is to apply shall, by the Order applying it, be divided into sections,—the number of

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Indian Advancement Act.

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which shall be not less than two nor more than six, having in each a number of male Indians of full age, equal as nearly as may be found convenient to such proportion of the male Indians of full age resident on the reserve, as one section of the reserve will bear to all the sections; each section shall be distinguished by a number from one upwards; the reserve shall be designated in the Order as "*The Indian Reserve*," inserting such name as may be thought proper, and the sections by the numbers assigned to them respectively.

Designation of each.

5. On a day and at a place and between hours to be designated in such Order, the male Indians of the full age of twenty-one years, resident on the reserve (hereinafter termed electors) shall meet for the purpose of electing the members of the council of the reserve; one or more members (as may be provided in such Order in Council) to represent each section thereof shall be elected by the electors resident in such section; and the Indian or Indians (as the case may be) having the votes of the greatest number of electors for each section shall be the councillor or councillors (as the case may be) therefor, provided he or they be possessed of, and living in, a house in the reserve, and subject to the provision hereinafter made in case of ties by an equal number of votes for two or more. The agent of the Superintendent General for the reserve shall preside at the election (or in his absence some person appointed by him as his deputy, with the consent of the Superintendent General or his deputy, or some person appointed by the Superintendent General or his deputy may preside at the said election) and shall take and record the votes of the electors, and shall have full power, subject to appeal to the Superintendent General by or on behalf of any Indian or Indians deeming himself or themselves to be aggrieved by the action of such agent or deputy or of such agent or person appointed as aforesaid, to admit or reject the claim of any Indian to be an elector, and to determine who are the councillors for the several sections, and shall report the same to the Superintendent General.

First election of members of the Council of a Reserve.

Who shall preside thereat, and his powers, subject to appeal.

6. On a day, and at a place, and between hours to be designated by the Superintendent General or his deputy, (provided the day fixed for the same be within eight days from the date at which the councillors were elected), the said councillors shall meet and elect one of their number to act as chief councillor; and the councillor so elected shall be the chief councillor.

First meeting of councillors.

7. The councillors shall remain in office until others are elected in their stead; and an election for that purpose shall be held in like manner at the same place and between the like hours on the like day in each succeeding year, if it be not a Sunday or holiday,—in which case it shall be held on

Yearly elections.

S.C. 1884, c. 28, cont'd.

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Provision in case of election failing.	the next day after which shall not be a holiday. In case of the failure of any election on the day appointed for it, the Superintendent General or his deputy shall appoint another day on which it shall be held.	
Provision as to filling vacancies, occurring between yearly elections.	8. In the case of vacancy in the Council by death or inability to act of any councillor, more than three months before the time for the next election, an election shall be held by the agent or his deputy, after such notice to the electors concerned as the Superintendent General or his deputy may direct, to fill such vacancy, and at which only the electors of the section, represented by the councillor to be replaced shall vote,—and to such election the provisions respecting other elections shall apply, so far as they are applicable; but if the councillor to be replaced is the chief, then an election of a chief councillor shall be held in the manner already provided, but the day fixed for such election shall be at least one week from the date when the new councillor is elected: Provided always, that during such vacancy the remaining councillors shall constitute the council and may in case of vacancy of the office appoint a chief from among themselves <i>pro tempore</i> .	
Proviso.		
Meetings of the Council: agent or deputy to preside, his powers and duties.	9. The council shall meet for the despatch of business, at such place on the reserve, and at such times as the agent for the reserve shall appoint, not being less than four nor more than twelve times in the year for which it is elected, and due notice of the time and place of each meeting shall be given to each councillor by the agent; at such meeting the agent for the reserve or his deputy, to be appointed for the purpose with the consent of the Superintendent General or his deputy, shall preside and record the proceedings, and shall have full power to control and regulate all matters of procedure and form, and to adjourn the meeting to a time named or <i>sine die</i> , and to report and certify all by-laws and other acts and proceedings of the council to the Superintendent General; and full faith and credence shall be given to his certificate thereof in all courts and places whatsoever: he shall address the council and explain and advise them upon their powers and duties, and any matter requiring their consideration, but shall have no vote on any question to be decided by the council; but each councillor present shall have a vote thereon. and it shall be decided by the majority of votes,—the chief voting as a councillor and having also a casting vote in case the votes would otherwise be equal; four councillors shall be a quorum for the despatch of any business.	
Quorum.		
Power to make by-laws on certain subjects.	10. The council shall have power to make by-laws, rules and regulations, which, if approved and confirmed by the Superintendent General, shall have force as law within and	

1884.	<i>Indian Advancement Act.</i>	Chap. 28.
	with respect to the reserve, and the Indians residing thereon, upon all or any of the following subjects, that is to say:—	
	1. The religious denomination to which the teacher or teachers of the school or schools established on the reserve shall belong, as being that of the majority of the Indians resident on the reserve; provided that the Roman Catholic or Protestant minority on the reserve may also have a separate school or schools with the approval of and under regulations to be made by the Governor in Council;	Schools. Proviso: for Catholic or Protestant minorities.
	2. The care of the public health;	Health.
	3. The observance of order and decorum at elections of councillors, meetings of the council, and assemblies of Indians on other occasions or generally on the reserve, by appointing constables and erecting lock-ups or by the adoption of other legitimate means;	Decorum at meetings and elsewhere.
	4. The repression of intemperance and profligacy;	Moral offences.
	5. The sub-division of the land in the reserve, and the distribution of the same among the members of the band; also the setting apart for common use, wood land and land for other purposes;	Sub-division of lands.
	6. The protection of and the prevention of trespass by cattle, sheep, horses, mules and other domesticated animals; and the establishment of pounds, the appointment of pound-keepers, and the regulation of their duties, fees and charges;	Trespass by animals.
	7. The construction and repair of school houses, council houses, and other buildings for the use of the Indians on the reserve;	Buildings.
	8. The construction, maintenance and improvement of roads and bridges, and the contributions in money or labor, and other duties of residents on the reserve in respect thereof; and the appointment of road masters and fence viewers, and their powers and duties;	Roads and bridges.
	9. The construction and maintenance of water courses, ditches and fences, and the obligations of vicinage, and the destruction and repression of noxious weeds; the preservation of the wood on the various holdings or elsewhere in the reserve;	Water courses, &c.
	10. The removal and punishment of persons trespassing upon the reserve, or frequenting it for improper purposes;	Trespassers on reserves.
	11. The raising of money for any or all of the purposes for which the council is empowered to make by-laws as	Raising funds: assess-

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ments and collection of taxes. aforesaid, by assessment and taxation on the lands of Indians enfranchised, or in possession of lands by location ticket in the reserve,—the valuation for assessment being made yearly in such manner and at such times as shall be appointed by the by-law in that behalf, and being subject to revision and correction by the agent, for the reserve, of the Superintendent General, and in force only after it has been submitted to him and corrected if and as he may think justice requires, and approved by him,—the tax to be imposed for the year in which the by-law is made, and not to exceed one-half of one per cent. on the assessed value of the land on which it is to be paid : and if such tax be not paid at the time prescribed by the by-law, the amount thereof with the addition of one-half of one per cent. thereon, may be paid by the Superintendent General to the treasurer out of the share of the Indian in default in any moneys of the band ; or if such share be insufficient to pay the same, the defaulter shall be subject to a fine equal to the deficiency for infraction of the by-law imposing the tax, by such default : Provided always, that any Indian deeming himself aggrieved by the decision of the agent, made as hereinbefore provided, may appeal to the Superintendent General, whose decision in the case shall be final ;

Limitation of taxes, and provision if not paid.

Proviso: appeal.

Application of funds raised.

12 The appropriation and payment to the local Agent as Treasurer by the Superintendent General of so much of the moneys of the band as may be required for defraying expenses necessary for carrying out the by-laws made by the council, including those incurred for assistance absolutely necessary for enabling the council or the agent to perform the duties assigned to them by this Act ;

Imposition of penalties and enforcement thereof.

13. The imposition of punishment by fine or penalty or by imprisonment or both, for any infraction of or disobedience to any by-law, rule or regulation made under this Act committed by any Indian of the reserve ; the fine or penalty in no case (except only for non-payment of taxes) to exceed thirty dollars, and the imprisonment in no case to exceed thirty days,—the proceedings for the imposition of such punishment to be taken in the usual summary way before a Justice of the Peace, following the procedure under the " *Act respecting the duties of Justices of the Peace, out of Sessions, in relation to summary convictions and orders* " ; and the amount of any such fine shall be paid over to the treasurer of the band to which the Indian incurring it belongs, for the use of such band ;

21, 23 V., c. 31.

Amending by-laws.

14. The amendment, repeal or re-enactment of any such by-law, by a subsequent by-law made and approved as hereinbefore provided.

1884. *Indian Advancement Act, &c.* Chaps. 23, 29.

11. Any member of a council elected under the provisions of this Act who shall be proved to be a habitual drunkard or to be living in immorality, or to have accepted a bribe, or to have been guilty of dishonesty or of malfeasance of office of any kind,—shall, on proof of the fact to the satisfaction of the Superintendent General, be disqualified from acting as a member of the council, and shall, on being notified, cease forthwith so to act ; and the vacancy occasioned thereby shall be filled in the manner provided by the eighth section of this Act.

Disqualification of councillors for certain offences.

12. A copy of any by-law, rule or regulation under this Act approved by the Superintendent General or his deputy, and purporting to be certified by his agent for the hand to which it relates, to be a true copy thereof, shall be evidence of such by-law, rule or regulation, and of such approval, without proof of the signature of such agent, unless such signature be formally disputed ; and no such by-law, rule or regulation shall be invalidated by any defect of form, provided it be substantially consistent with the provisions and spirit of this Act.

Proof of by-laws, &c.

Not void for want of form.

13. The provisions of " *The Indian Act, 1880*," and of any Act amending it, shall continue to apply to any hand to which this Act has been declared to apply, in so far, but in so far only, as they are not inconsistent with this Act : Provided always, that if it shall hereafter appear to the Governor in Council that this Act cannot be worked satisfactorily by any hand to which it has been declared to apply, he may by Order in Council, declare that, after a day named therein, it shall no longer apply to such hand, and such hand shall thereafter be subject to the provisions of the said " *Indian Act, 1880*," as amended by any subsequent Act, except that by-laws, rules and regulations theretofore made under this Act and not inconsistent with the seventy-fourth section of the said Indian Act, shall continue in force under that Act, unless and until they are repealed by Order of the Governor in Council.

Act of 1880, 43 V., c. 28, how to apply.

Proviso: Governor in Council may revoke application of this Act, for cause, &c.

Proviso: as to by-laws.

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ments and collection of taxes. Limitation of taxes, and provision if not paid. Provision: appeal.

aloesaid, by assessment and taxation on the lands of Indians enfranchised, or in possession of lands by location ticket in the reserve,—the valuation for assessment being made yearly in such manner and at such times as shall be appointed by the by-law in that behalf, and being subject to revision and correction by the agent, for the reserve, of the Superintendent General, and in force only after it has been submitted to him and corrected if and as he may think justice requires, and approved by him,—the tax to be imposed for the year in which the by-law is made, and not to exceed one-half of one per cent. on the assessed value of the land on which it is to be paid : and if such tax be not paid at the time prescribed by the by-law, the amount thereof with the addition of one-half of one per cent. thereon, may be paid by the Superintendent General to the treasurer out of the share of the Indian in default in any moneys of the band ; or if such share be insufficient to pay the same, the defaulter shall be subject to a fine equal to the deficiency for infraction of the by-law imposing the tax, by such default : Provided always, that any Indian deeming himself aggrieved by the decision of the agent, made as hereinbefore provided, may appeal to the Superintendent General, whose decision in the case shall be final ;

Application of funds raised.

12 The appropriation and payment to the local Agent as Treasurer by the Superintendent General of so much of the moneys of the band as may be required for defraying expenses necessary for carrying out the by-laws made by the council, including those incurred for assistance absolutely necessary for enabling the council or the agent to perform the duties assigned to them by this Act ;

Imposition of penalties and enforcement thereof.

13. The imposition of punishment by fine or penalty or by imprisonment or both, for any infraction of or disobedience to any by-law, rule or regulation made under this Act committed by any Indian of the reserve ; the fine or penalty in no case (except only for non-payment of taxes) to exceed thirty dollars, and the imprisonment in no case to exceed thirty days,—the proceedings for the imposition of such punishment to be taken in the usual summary way before a Justice of the Peace, following the procedure under the " Act respecting the duties of Justices of the Peace, out of Sessions, in relation to summary convictions and orders " ; and the amount of any such fine shall be paid over to the treasurer of the band to which the Indian incurring it belongs, for the use of such band ;

22, 23 V., c. 31.

Amending by-laws.

14. The amendment, repeal or re-enactment of any such by-law, by a subsequent by-law made and approved as hereinbefore provided.

1884. *Indian Advancement Act, &c.* Chaps. 23, 29.

11. Any member of a council elected under the provisions of this Act who shall be proved to be a habitual drunkard or to be living in immorality, or to have accepted a bribe, or to have been guilty of dishonesty or of malfeasance of office of any kind,—shall, on proof of the fact to the satisfaction of the Superintendent General, be disqualified from acting as a member of the council, and shall, on being notified, cease forthwith so to act ; and the vacancy occasioned thereby shall be filled in the manner provided by the eighth section of this Act.

Disqualification of councillors for certain offences.

12. A copy of any by-law, rule or regulation under this Act approved by the Superintendent General or his deputy, and purporting to be certified by his agent for the hand to which it relates, to be a true copy thereof, shall be evidence of such by-law, rule or regulation, and of such approval, without proof of the signature of such agent, unless such signature be formally disputed ; and no such by-law, rule or regulation shall be invalidated by any defect of form, provided it be substantially consistent with the provisions and spirit of this Act.

Proof of by-laws, &c.
Not void for want of form.

13. The provisions of " *The Indian Act, 1880*," and of any Act amending it, shall continue to apply to any hand to which this Act has been declared to apply, in so far, but in so far only, as they are not inconsistent with this Act : Provided always, that if it shall hereafter appear to the Governor in Council that this Act cannot be worked satisfactorily by any hand to which it has been declared to apply, he may by Order in Council, declare that, after a day named therein, it shall no longer apply to such hand, and such hand shall thereafter be subject to the provisions of the said " *Indian Act, 1880*," as amended by any subsequent Act, except that by-laws, rules and regulations theretofore made under this Act and not inconsistent with the seventy-fourth section of the said Indian Act, shall continue in force under that Act, unless and until they are repealed by Order of the Governor in Council.

Act of 1880, 43 V., c. 28, how to apply.
Proviso: Governor in Council may revoke application of this Act, for cause, &c.
Proviso: as to by-laws.



CHAPTER 43.

An Act respecting Indians.

A. D. 1886.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

1. This Act may be cited as "*The Indian Act.*" 43 V., Short title c. 28, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "Superintendent General" means the Superintendent General of Indian Affairs, and the expression "Deputy Superintendent General" means the Deputy Superintendent General of Indian Affairs; Interpretation.
Superintendent General."
- (b.) The expression "Agent," or "Indian Agent," means "Agent" or "Indian Agent," and includes a commissioner, assistant commissioner, superintendent, agent or other officer acting under the instructions of the Superintendent General; "Agent" or "Indian Agent."
- (c.) The expression "person" means any individual other than an Indian; "Person."
- (d.) The expression "band" means any tribe, band or body of Indians who own or are interested in a reserve or in Indian lands in common, of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities or interest moneys for which the Government of Canada is responsible; "Band."
- (e.) The expression "the band" means the band to which the context relates; "The band."
- (f.) The expression "band," when action is being taken by the band as such, means the band in council; "Band."
- (g.) The expression "irregular band" means any tribe, band or body of persons of Indian blood who own no interest in any reserve or lands of which the legal title is vested in the Crown, who possess no common fund managed by the Government of Canada, and who have not had any treaty relations with the Crown; "Irregular band."
- (h.) The expression "Indian" means— "Indian."
First. Any male person of Indian blood reputed to belong to a particular band;
Secondly. Any child of such person;

Thirdly. Any woman who is or was lawfully married to such person :

- "Non-treaty Indian." (i.) The expression "non-treaty Indian" means any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even if such person is only a temporary resident in Canada ;
- "Enfranchised Indian." (j.) The expression "enfranchised Indian" means any Indian, his wife or minor unmarried child, who has received letters patent granting to him in fee simple any portion of the reserve which has been allotted to him or to his wife and minor children, by the band to which he belongs, or any unmarried Indian who has received letters patent for an allotment of the reserve ;
- "Reserve." (k.) The expression "reserve" means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, and which remains a portion of the said reserve, and includes all the trees, wood, timber, soil, stone, minerals, metals and other valuables thereon or therein ;
- "Special reserve." (l.) The expression "special reserve" means any tract or tracts of land, and everything belonging thereto, set apart for the use or benefit of any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued, or in a person or persons of European descent, —but which land is held in trust for such band or irregular band of Indians ;
- "Indian lands." (m.) The expression "Indian lands" means any reserve or portion of a reserve which has been surrendered to the Crown ;
- "Intoxicants." (n.) The expression "intoxicants" means and includes all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, and opium and any preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them are liquid or solid. 43 V., c. 28, s. 2, —45 V., c. 30, s. 1.

APPLICATION OF ACT.

3. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this Act, or from the operation of any one or more of the sections of this Act, Indians or non-treaty Indians, or any of them, or any band or irregular band of them, or the reserves or special reserves, or Indian lands, or any portions of them, in any Province, or in the North-West Territories, or in the District of Keewatin, or in any of them ; and may again, by proclamation, from time to time, remove such exemption. 43 V., c. 28, s. 110.

Governor in Council may exempt from operation of this Act, and remove such exemption.

DEPARTMENT OF INDIAN AFFAIRS.

4. The Minister of the Interior, or the head of any other department appointed for that purpose by the Governor in Council, shall be the Superintendent General of Indian Affairs, and shall, as such, have the control and management of the lands and property of the Indians in Canada. 46 V., c. 6, s. 1.
5. There shall be a department of the Civil Service of Canada which shall be called the Department of Indian Affairs, over which the Superintendent General shall preside. 43 V., c. 28, s. 4.
6. The Department of Indian Affairs shall have the management, charge and direction of Indian Affairs. 43 V., c. 28, s. 7, *part.*
7. The Governor in Council may appoint an officer who shall be called the Deputy of the Superintendent General of Indian Affairs, and may also appoint such other officers, clerks and servants as are requisite for the proper conduct of the business of the department. 43 V., c. 28, ss. 5 and 8, *parts.*
8. The Governor in Council may appoint an Indian Commissioner for Manitoba, Keewatin and the North-West Territories, or an Indian Commissioner for Manitoba and Keewatin, and an Indian Commissioner for the North-West Territories, and may also appoint an Indian Superintendent for British Columbia, who shall have, respectively, such powers and duties as are assigned to them, respectively, by the Governor in Council :
2. The Governor in Council may also appoint an Assistant Indian Commissioner for Manitoba, Keewatin and the North-West Territories, or an Assistant Indian Commissioner for Manitoba and Keewatin, and an Assistant Indian Commissioner for the North-West Territories, who shall have such of the powers and duties of the Commissioner, and such other powers and duties as are assigned to him by the Governor in Council :
3. The Governor in Council may, also, from time to time, appoint officers and agents to carry out this Act, and Orders in Council made under it—which officers and agents shall be paid in such manner and at such rates as the Governor in Council directs, out of any fund that is appropriated by law for that purpose :
4. The Governor General may appoint a Deputy Governor, who shall have the power, in the absence of or under instructions of the Governor General, to sign letters patent for Indian lands ; and the signature of such Deputy Governor to such patents shall have the same force and virtue as if such patents were signed by the Governor General. 43 V., c. 28, ss. 9 and 111 ;—44 V., c. 17, s. 14 ;—49 V., c. 7, s. 1.

Any Minister may be appointed Superintendent General of Indian Affairs.

Department of Indian Affairs.

Duties of the Department of Indian Affairs.

Deputy Superintendent General of Indian Affairs, his powers and duties.

Appointment of an Indian Commissioner and of an Indian Superintendent.

Appointment of Assistant Indian Commissioners.

Governor may appoint officers, &c., to be paid out of moneys appropriated by Parliament.

Governor may appoint Deputy Governor to sign letters patent.

Thirdly. Any woman who is or was lawfully married to such person :

"Non-treaty Indian." (i.) The expression "non-treaty Indian" means any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even if such person is only a temporary resident in Canada ;

"Enfranchised Indian." (j.) The expression "enfranchised Indian" means any Indian, his wife or minor unmarried child, who has received letters patent granting to him in fee simple any portion of the reserve which has been allotted to him or to his wife and minor children, by the band to which he belongs, or any unmarried Indian who has received letters patent for an allotment of the reserve ;

"Reserve." (k.) The expression "reserve" means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, and which remains a portion of the said reserve, and includes all the trees, wood, timber, soil, stone, minerals, metals and other valuables thereon or therein ;

"Special reserve." (l.) The expression "special reserve" means any tract or tracts of land, and everything belonging thereto, set apart for the use or benefit of any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued, or in a person or persons of European descent, —but which land is held in trust for such band or irregular band of Indians ;

"Indian lands." (m.) The expression "Indian lands" means any reserve or portion of a reserve which has been surrendered to the Crown ;

"Intoxicants." (n.) The expression "intoxicants" means and includes all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, and opium and any preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them are liquid or solid. 43 V., c. 28, s. 2, —45 V., c. 30, s. 1.

APPLICATION OF ACT.

3. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this Act, or from the operation of any one or more of the sections of this Act, Indians or non-treaty Indians, or any of them, or any band or irregular band of them, or the reserves or special reserves, or Indian lands, or any portions of them, in any Province, or in the North-West Territories, or in the District of Keewatin, or in any of them ; and may again, by proclamation, from time to time, remove such exemption. 43 V., c. 28, s. 110.

Governor in Council may exempt from operation of this Act, and remove such exemption.

DEPARTMENT OF INDIAN AFFAIRS.

4. The Minister of the Interior, or the head of any other department appointed for that purpose by the Governor in Council, shall be the Superintendent General of Indian Affairs, and shall, as such, have the control and management of the lands and property of the Indians in Canada. 46 V., c. 6, s. 1.

Any Minister may be appointed Superintendent General of Indian Affairs.

5. There shall be a department of the Civil Service of Canada which shall be called the Department of Indian Affairs, over which the Superintendent General shall preside. 43 V., c. 28, s. 4.

Department of Indian Affairs.

6. The Department of Indian Affairs shall have the management, charge and direction of Indian Affairs. 43 V., c. 28, s. 7, *part.*

Duties of the Department of Indian Affairs.

7. The Governor in Council may appoint an officer who shall be called the Deputy of the Superintendent General of Indian Affairs, and may also appoint such other officers, clerks and servants as are requisite for the proper conduct of the business of the department. 43 V., c. 28, ss. 5 and 8, *parts.*

Deputy Superintendent General of Indian Affairs, his powers and duties.

8. The Governor in Council may appoint an Indian Commissioner for Manitoba, Keewatin and the North-West Territories, or an Indian Commissioner for Manitoba and Keewatin, and an Indian Commissioner for the North-West Territories, and may also appoint an Indian Superintendent for British Columbia, who shall have, respectively, such powers and duties as are assigned to them, respectively, by the Governor in Council ;

Appointment of an Indian Commissioner and of an Indian Superintendent.

2. The Governor in Council may also appoint an Assistant Indian Commissioner for Manitoba, Keewatin and the North-West Territories, or an Assistant Indian Commissioner for Manitoba and Keewatin, and an Assistant Indian Commissioner for the North-West Territories, who shall have such of the powers and duties of the Commissioner, and such other powers and duties as are assigned to him by the Governor in Council ;

Appointment of Assistant Indian Commissioners.

3. The Governor in Council may, also, from time to time, appoint officers and agents to carry out this Act, and Orders in Council made under it—which officers and agents shall be paid in such manner and at such rates as the Governor in Council directs, out of any fund that is appropriated by law for that purpose ;

Governor may appoint officers, &c., to be paid out of moneys appropriated by Parliament.

4. The Governor General may appoint a Deputy Governor, who shall have the power, in the absence of or under instructions of the Governor General, to sign letters patent for Indian lands ; and the signature of such Deputy Governor to such patents shall have the same force and virtue as if such patents were signed by the Governor General. 43 V., c. 28, ss. 9 and 111 ;—44 V., c. 17, s. 14 ;—49 V., c. 7, s. 1.

Governor may appoint Deputy Governor to sign letters patent.

MEMBERSHIP OF BAND.

Exclusion of natural children from bands.

9. Any illegitimate child may, unless he has, with the consent of the band whereof the father or mother of such child is a member, shared in the distribution moneys or such band for a period exceeding two years,—be, at any time, excluded from the membership thereof by the Superintendent General. 43 V., c. 28, s. 10.

Loss of membership through residence in a foreign country without leave.

10. Any Indian who has for five years continuously resided in a foreign country without the consent, in writing, of the Superintendent General or his agent, shall cease to be a member of the band of which he or she was formerly a member; and he shall not again become a member of that band, or of any other band, unless the consent of such band, with the approval of the Superintendent General or his agent, is first obtained. 43 V., c. 28, s. 11.

s. 11, c. 43, R.S.C. 1886, amended by s. 1, c. 29, S.C. 1890.

Effect of marriage of an Indian woman with any other than an Indian or a non-treaty Indian.

11. Any Indian woman who marries any person other than an Indian, or a non-treaty Indian, shall cease to be an Indian in every respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and rents; but such income may be commuted to her at any time at ten years' purchase, with the consent of the band. 43 V., c. 28, s. 12.

Effect of marriage of an Indian woman with an Indian of any band but her own, or with a non-treaty Indian.

12. Any Indian woman who marries an Indian of any other band, or a non-treaty Indian, shall cease to be a member of the band to which she formerly belonged, and shall become a member of the band or irregular band of which her husband is a member; but if she marries a non-treaty Indian, while becoming a member of the irregular band of which her husband is a member, she shall be entitled to share equally with the members of the band of which she was formerly a member, in the distribution of their moneys; but such income may be commuted to her at any time at ten years' purchase, with the consent of the band. 43 V., c. 28, s. 13.

subsection 13(1), c. 43, R.S.C. 1886, repealed and replaced by s. 1, c. 22, S.C. 1888.

As to half-breeds in Manitoba.

13. No half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian; and no half-breed head of a family, except the widow of an Indian, or a half-breed who has already been admitted into a treaty, shall, unless under very special circumstances, which shall be determined by the Superintendent General or his agent, be accounted an Indian, or entitled to be admitted into any Indian treaty; and any half-breed who has been admitted into a treaty shall be allowed to withdraw therefrom on signifying in writing his desire so to do,—which signification in writing shall be

signed by him in the presence of two witnesses, who shall certify the same on oath before some person authorized by law to administer the same:

2. The half-breeds who are by the father's side either wholly or partly of Indian blood now settled in the seigniory of Caughnawaga, and who have inhabited the said seigniory for the last twenty years, are hereby confirmed in their possession and right of residence and property, but not beyond the tribal rights and usages which others of the band enjoy. 43 V., c. 28, s. 14;—47 V., c. 27, s. 4.

Half-breeds of Caughnawaga confirmed in certain rights.

RESERVES.

14. All reserves for Indians, or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as they were held before the passing of this Act, but shall be subject to the provisions of this Act. 43 V., c. 28, s. 15.

Reserves to be subject to this Act.

15. The Superintendent General may authorize surveys, plans and reports to be made of any reserve for Indians, showing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as is required; and may authorize the whole or any portion of a reserve to be sub-divided into lots. 43 V., c. 28, s. 16.

Surveys, plans, reports and sub-division into lots of reserves may be authorized.

16. No Indian shall be deemed to be lawfully in possession of any land in a reserve, unless he has been or is located for the same by the band, or council of the band, with the approval of the Superintendent General; but no Indian shall be dispossessed of any land on which he has improvements, without receiving compensation therefor, at a valuation approved by the Superintendent General, from the Indian who obtains the land, or from the funds of the band, as is determined by the Superintendent General. 43 V., c. 28, s. 17.

What Indians only to be deemed lawful possessors of land in reserve.

s. 16, c. 43 R.S.C. 1886, amended by s. 2, c. 29, S.C. 1890

17. When the Superintendent General approves of any location as aforesaid, he shall issue, in triplicate, a ticket granting a location title to such Indian, one triplicate of which he shall retain in a book to be kept for the purpose; and the other two of which he shall forward to the local agent—one to be delivered to the Indian in whose favor it was issued, and the other to be filed by the agent, who shall also cause the same to be copied into a register of the band, provided for the purpose. 43 V., c. 28, s. 18.

Location ticket in triplicate; and how dealt with.

18. The conferring of any such location title shall not have the effect of rendering the land covered thereby subject to seizure under legal process, and such title shall be transferable only to an Indian of the same band, and then only with the consent and approval of the Superintendent

Effect of such ticket limited.

General, whose consent and approval shall be given only by the issue of a ticket, in the manuer prescribed in the next preceding section. 43 V., c. 28, s. 19.

Privileges of Indians and non-treaty Indians having improved lands included in reserves in certain Provinces.

19. Every Indian and every non-treaty Indian, in the Province of British Columbia, in the Province of Manitoba, in the North-West Territories or in the District of Keewatin, who has, previously to the selection of a reserve, possession of and who has made permanent improvements on a plot of land which is or shall be included in, or surrounded by, a reserve, shall have the same privileges, in respect of such plot, as an Indian enjoys who holds under a location title. 43 V., c. 28, s. 21.

DESCENT OF PROPERTY.

Indian may devise certain property by will.

20. Any Indian who holds, under location ticket or other duly recognized title, any parcel of land upon the reserve of his band, or upon a reserve of any other band, upon which he, or he and his family, or any of them, resided at the date of his death, may devise the same by will, as well as his personal effects or other property of which he is the recognized owner, to such member or members of his family, or relative or relatives, as to him seems proper; provided the said will, after his death, is consented to by the band owning the said reserve, and approved of by the Superintendent General, and that such devise is not to any relative who is not entitled to reside upon the reserve of the band on which the property devised is situated, or to any relative farther removed than a second cousin:

Proviso: as to approval.

2. The devise may be made subject to such trusts as to the devisor seems proper, if the same are within the provisions of this Act, or any other Act respecting Indian affairs:

May be subject to trusts.

3. If such will is not assented to or approved of, as aforesaid, the Indian shall be deemed to have died intestate:

Effect of non-approval.

Distribution of estate in case of intestacy.

4. Upon the death of any Indian who holds, under location ticket or other duly recognized title, any parcel of land, and who has died intestate, the right and interest therein of such deceased Indian shall, together with his goods and chattels, devolve one-third upon his widow, if any, if she is a woman of good moral character and was living with her husband at the time of his death, and the remainder upon his children, in equal shares, if they are Indians within the meaning of this Act, and such children shall have a like estate in such land as their father had; but the Superintendent General may, in his discretion, direct that the widow, if she is of good moral character, shall have the right to occupy such parcel of land, and have the use of such goods and chattels during the term of her widowhood:

Proviso.

5. During the minority of such children, the administration and charge of such land and goods and chattels as they are entitled to, as aforesaid, shall devolve upon the widow,

Administration of property of minors.

s. 20, c. 43, R.S.C. 1886, repealed and replaced by a. 1, c. 32, S.C. 1894.

if any, of such deceased Indian, if she is a woman of good moral character and was living with her husband at the time of his death; and as each male child attains the age of twenty-one years, and each female child attains that age or marries before that age, with the consent of the said widow the share of such male or female child shall be conveyed or delivered, as the case may be, to him or her; but the Superintendent General may, at any time, remove the widow from such administration and charge, and confer the same upon some other person, and, in like manner, may remove such other person and appoint another, and so, from time to time, as occasion requires:

Proviso.

6. If any such Indian dies without issue, leaving a widow of good moral character, such lot or parcel of land, and his goods and chattels, shall be vested in her, and if he leaves no widow, then they shall be vested in the Indian nearest of kin to the deceased; but if he has no heir nearer than a cousin, the same shall be vested in Her Majesty for the benefit of the band:

Distribution in case of death without issue.

7. Whatever is the final disposition of the land, the claimant shall not be held to be lawfully in possession until he obtains a location ticket from the Superintendent General, in the manner prescribed in regard to new locations:

In any case location ticket must be obtained.

8. The Superintendent General may, whenever there are minor children, appoint a fit and proper person to take charge of such children and their property, and may remove such person and appoint another, and so, from time to time, as occasion requires:

Appointment of guardians of minors.

9. The Superintendent General may decide all questions which arise respecting the distribution, among those entitled, of the lands and goods and chattels of a deceased Indian, and may also do whatsoever he, under the circumstances, thinks will best give to each claimant his share, according to the true intent and meaning of this Act, whether such share is part of the lands or goods and chattels themselves, or is part of the proceeds thereof, if it is thought best to dispose thereof—regard always being had in any such disposition to restrictions upon the disposition of property in a reserve. 47 V., c. 27, s. 5.

Superintendent General to decide disputes.

TRESPASSING ON RESERVES.

21. No person, or Indian other than an Indian of the band, shall settle, reside or hunt upon, occupy or use any land or marsh, or shall settle, reside upon or occupy any road, or allowance for road, running through any reserve belonging to or occupied by such band; and all mortgages given or consented to by any Indian, and all leases, contracts and agreements made or purporting to be made by any Indian, whereby persons or Indians other than Indians of the band are permitted to reside or hunt upon such reserve, shall be void. 43 V., c. 28, s. 22.

Only Indians of the band may settle, reside and hunt upon the reserve of the band. All permissions to the contrary to be void.

s. 21, c. 43, R.S.C. 1886, repealed and replaced by s. 2, c. 32, S.C. 1894.

s. 22, c. 43,
R.S.C. 1886,
amended by
s. 1, c. 30,
S.C. 1891.

Removal of
trespassers
and their
cattle.

22. If any person, or Indian other than an Indian of the band, without the license of the Superintendent General (which license he may at any time revoke), settles, resides or hunts upon, occupies, uses, or causes or permits any cattle or other animals owned by him, or in his charge, to trespass on any such land or marsh, or fishes in any marsh, river, stream or creek on or running through a reserve, or settles, resides upon or occupies any such road, or allowance for road, on such reserve,—or if any Indian is illegally in possession of any land in a reserve—the Superintendent General, or such officer or person as he thereunto deposes and authorizes, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith—

Removal of
persons.

(a.) To remove from the said land, marsh or road, or allowance for road, every such person or Indian and his family, so settled, or who is residing or hunting upon, or occupying, or is illegally in possession of the same; or—

And of cattle.

(b.) To remove such cattle or other animals from such land or marsh; or—

Prevention of
fishing.

(c.) To cause such person or Indian to cease fishing in any marsh, river, stream or creek, as aforesaid; or—

Notice to trespasser.

(d.) To notify such person or Indian to cease using, as aforesaid, the said lands, river, streams, creeks or marshes, roads or allowance for roads;

Effect of warrant.

And such person shall accordingly remove or notify every such person or Indian, or remove such cattle or other animals, or cause such person or Indian to cease fishing, as aforesaid, and for that purpose shall have the same powers as in the execution of criminal process; and the expenses incurred in any such removal or notification shall be borne by the person removed or notified, or who owns the cattle or other animals removed, or who has them in charge, and may be recovered from him as the costs in any ordinary action or suit, or if the trespasser is an Indian, such expenses may be deducted from his share of annuity and interest money, if any such are due to him. 47 V., c. 27, s. 21.

Costs.

Removal and
punishment
of persons
returning
after having
been removed.

23. If any person or Indian, after he has been removed or notified as aforesaid, or after any cattle or other animals owned by him or in his charge have been removed, as aforesaid, returns to, settles, resides or hunts upon, or occupies or uses, as aforesaid, any of the said land, marsh or lots, or parts of lots, or causes or permits any cattle or other animals owned by him or in his charge, to return to any of the said land, marsh, or lots or parts of lots, or returns to any marsh, river, stream or creek on or running through a reserve, for the purpose of fishing therein, or settles or resides upon or occupies any of the said roads, allowance for roads, or lots or parts of lots, the Superintendent General,

or any officer or person deputed and authorized, as aforesaid, upon view, or upon proof on oath made before him, or to his satisfaction, that the said person or Indian has returned to, settled, resided or hunted upon, or occupied or used, as aforesaid, any of the said lands, marshes, lots or parts of lots, or has returned to, settled or resided upon or occupied any of the said roads, or allowances for roads, or lots or parts of lots, or has caused or permitted any cattle or other animals owned by him, or in his charge, to return to any of the said land, marsh or lots or parts of lots, or has returned to any marsh, river, stream or creek, on or running through a reserve, for the purpose of fishing therein, shall direct and send his warrant, signed and sealed, to the sheriff of the proper county or district, or to any literate person therein; and if the said reserve is not situated within any county or district, then to any literate person, commanding him forthwith to arrest such person or Indian, and bring him before any stipendiary magistrate, police magistrate, justice of the peace, or Indian agent, who may, on conviction, commit him to the common gaol of the said county or district; or if there is no gaol in the said county or district, then to the gaol nearest to the said reserve in the Province or Territory, there to remain for the time ordered in such warrant, but which shall not exceed thirty days for the first offence, and thirty days additional for each subsequent offence. 43 V., c. 28, s. 24;—45 V., c. 30, a. 3;—47 V., c. 27, s. 6.

Warrant to
sheriff, to
arrest and
commit to
gaol.

Limitation of
imprison-
ment.

24. Such sheriff or other person shall accordingly arrest the said person or Indian, and deliver him to the gaoler or sheriff of the proper county, district, Province or Territory, who shall receive such person or Indian, and imprison him in the said gaol for the term aforesaid. 43 V., c. 28, s. 25.

Arrest and
imprison-
ment.

25. The Superintendent General, or such officer or person aforesaid, shall cause the judgment or order against the offender to be drawn up and filed in his office; and such judgment shall not be appealed from, or removed by *certiorari* or otherwise, but shall be final. 43 V., c. 28, s. 26.

Judgment to
be drawn up
and filed, and
to be final.

26. Every person, or Indian other than an Indian of the band to which the reserve belongs, who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away, or removes from any of the said land, roads or allowances for roads, in the said reserve, any of the trees, saplings, shrubs, underwood, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables from the said land, roads or allowances for roads, shall, on conviction thereof before any stipendiary magistrate, police magistrate, or any two justices of the peace or Indian agent, incur—

Punishment
of trespassers
on reserves.

Penalties for
removing cer-
tain things.

subsection
26(1), c. 43,
R.S.C. 1886,
repealed and
replaced by
s. 3, c. 29,
S.C. 1890.

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Trees. (a.) For every tree he cuts, carries away or removes, a penalty of twenty dollars;

Saplings, &c. (b.) For cutting, carrying away or removing any of the saplings, shrubs, underwood, timber or hay, if under the value of one dollar, a penalty of four dollars; but if over the value of one dollar, a penalty of twenty dollars;

Stone, minerals, &c. (c.) For removing any of the stone, soil, minerals, metals or other valuables aforesaid, a penalty of twenty dollars,—
And the costs of prosecution in each case:

Recovery of penalties and costs. 2. In default of immediate payment of the said penalties and costs, such magistrate, justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as he has authorized in that behalf, may issue a warrant, directed to any person or persons by him or them named therein, to levy the amount of the said penalties and costs by distress and sale of the goods and chattels of the person or Indian liable to pay the same; and similar proceedings may be had upon such warrant issued by the Superintendent General, or such other officer or person as aforesaid, as if it had been issued by the magistrate, justices of the peace or Indian agent, before whom the person was convicted; or such magistrate, or justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as aforesaid, without proceeding by distress and sale, may, upon non-payment of the said penalties and costs, order the person or Indian liable therefor to be imprisoned in the common gaol of the county or district in which the said reserve or any part thereof lies, for a term not exceeding thirty days, if the penalty does not exceed twenty dollars, or for a term not exceeding three months if the penalty exceeds twenty dollars:

Committal without distress. 3. If upon the return of any warrant for distress and sale, the amount thereof has not been made, or if any part of it remains unpaid, such magistrate, or justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as aforesaid, may commit the person in default to the common gaol, as aforesaid, for a term not exceeding thirty days, if the sum claimed upon the said warrant does not exceed twenty dollars, or for a term not exceeding three months if the sum exceeds twenty dollars:

Committal in default of distress. 4. All such penalties shall be paid to the Minister of Finance and Receiver General, and shall be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council directs:

Application of penalties. 5. Nothing herein contained shall be construed to prevent the Superintendent General from issuing a license to any person or Indian to cut and remove trees, wood, timber and hay, or to quarry and remove stone and gravel on and from the reserve, if he, or his agent, acting by his instructions, first obtains the consent of the band thereto in the

subsection License by Superintendent General.
26(5), c. 43, R.S.C. 1886, repealed by S. 3, c. 33, S.C. 1887.

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ordinary manner, as hereinafter provided. 43 V., c. 28, s. 27, part;—45 V., c. 30, s. 3;—47 V., c. 27, s. 7.

27. Every Indian who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away or removes from the land of an Indian who holds a location title, or who is otherwise recognized by the department as the occupant of such land, any of the trees, saplings, shrubs, underwood, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables off the said land; and every Indian who, without license as aforesaid, cuts, carries away or removes from any portion of the reserve of his band, for sale and not for the immediate use of himself and his family, any trees, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables therefrom, for sale, as aforesaid, shall incur the penalties provided in the next preceding section in respect to Indians of other bands and other persons, and similar proceedings may be had for the recovery thereof as are provided for in the said section. 43 V., c. 28, s. 28.

Punishment of Indians trespassing on land of another Indian; s. 27, c. 43, R.S.C. 1886, repealed and replaced by s. 4, c. 33, S.C. 1887.

Or removing certain things.

Penalty.

28. In all orders, writs, warrants, summonses and proceedings whatsoever made, issued or taken by the Superintendent General, or any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, it shall not be necessary to insert or express the name of the person or Indian summoned, arrested, distrained upon, imprisoned or otherwise proceeded against therein, except when the name of such person or Indian is truly given to or known by the Superintendent General, or such officer or person, or such stipendiary magistrate, police magistrate, justice of the peace or Indian agent; and if the name is not truly given to or known by him, he may name or describe the person or Indian by any part of the name of such person or Indian given to or known by him; and if no part of the name is given to or known by him, he may describe the person or Indian proceeded against in any manner by which he may be identified; and all such proceedings, containing or purporting to give the name or description of any such person or Indian, as aforesaid, shall *prima facie* be sufficient. 43 V., c. 28, s. 29.

Name of offender need not be inserted in the warrant in certain cases.

What description shall suffice.

29. All sheriffs, gaolers or peace officers, to whom any such process is directed by the Superintendent General, or by any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, and all other persons to whom such process is directed with their consent, shall obey the same; and all other officers shall, upon reasonable requisition so to do, assist in the execution thereof. 44 V., c. 17, s. 9.

Sheriff, &c., to assist in such removal.

Chap. 43. *The Indian Act.* 49 VICT.

SALE OR BARTER OF PRODUCE AND MAPLE TREES GROWN ON RESERVES.

Governor in Council may make regulations for prohibiting or regulating the sale of produce by Indians.

30. The Governor in Council may make such regulations as, from time to time, seem advisable for prohibiting or regulating the sale, barter, exchange or gift, by any band or irregular band of Indians, or by any Indian of any band or irregular band, in the Province of Manitoba, the North-West Territories or the District of Keewatin, of any grain or root crops, or other produce grown upon any Indian reserve in the Province of Manitoba, the North-West Territories or the District of Keewatin; and may further provide that such sale, barter, exchange or gift shall be null and void, unless the same are made in accordance with regulations made in that behalf:

Penalty for buying from Indians contrary to such regulations.

2. Every person who buys or otherwise acquires from any such Indian or band, or irregular band of Indians, any such grain, root crops or other produce, contrary to any such regulations, shall, on summary conviction before a stipendiary magistrate, police magistrate, or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. 44 V., c. 17, s. 1, *part*, and s. 2;—45 V., c. 30, ss. 3 and 6.

Superintendent General may direct seizure of produce unlawfully possessed by any person.

31. If any such grain or root crops, or other produce as aforesaid, are unlawfully in the possession of any person, within the intent and meaning of this Act, and of any regulations made by the Governor in Council under this Act, any person acting under the authority, either general or special, of the Superintendent General, may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same; and he shall deal therewith as the Superintendent General, or any officer or person thereunto by him authorized, directs. 44 V., c. 17, s. 3.

Governor in Council may prohibit cutting of trees on reserves.

Penalty for contravention of such regulations.

32. The Governor in Council may, from time to time, make regulations for prohibiting the cutting, carrying away or removing from any reserve or special reserve, of any hard or sugar-maple tree or sapling; and every person who cuts, carries away or removes from any reserve or special reserve, any hard or sugar-maple tree or sapling, or buys or otherwise acquires from any Indian or non-treaty Indian, or other person, any hard or sugar-maple tree or sapling so cut, carried away or removed from any reserve or special reserve, contrary to any such regulation, shall, on summary conviction before a stipendiary magistrate, police magistrate, or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. 44 V., c. 17, ss. 4 and 5;—45 V., c. 30, s. 3.

1886. *The Indian Act.* Chap. 43.

ROADS AND BRIDGES.

33. Indians residing upon any reserve, and engaged in the pursuit of agriculture as their then principal means of support, shall be liable, if so directed by the Superintendent General, or any officer or person by him thereunto authorized, to perform labor on the public roads laid out or used in or through, or abutting upon such reserve,—which labor shall be performed under the sole control of the Superintendent General, or officer or person aforesaid, who may direct when, where and how and in what manner such labor shall be applied, and to what extent the same shall be imposed upon Indians who are resident upon any of the said lands; and the Superintendent General, or officer or person aforesaid, shall have the like power to enforce the performance of such labor by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the Province or Territory in which such reserve is situate, for the non-performance of statute labor; but the labor to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same Province, Territory, county or other local division, under the laws requiring and regulating such labor and the performance thereof. 43 V., c. 28, s. 34.

Indians liable to labor on public roads in reserves, and to what extent.

Powers of the Superintendent General.

Proviso: as to the amount of such labor.

34. Every band of Indians shall cause the roads, bridges, ditches and fences within its reserve to be put and maintained in proper order, in accordance with the instructions received, from time to time, from the Superintendent General, or from the agent of the Superintendent General; and whenever, in the opinion of the Superintendent General, the same are not so put or maintained in order, he may cause the work to be performed at the cost of such band, or of the particular Indian in default, as the case may be, either out of its or his annual allowances, or otherwise. 43 V., c. 28, s. 35.

Band to cause roads to be put and kept in order.

Power of the Superintendent General.

COMPENSATION FOR PORTION OF RESERVE USED FOR ANY PURPOSE OR TRESPASSED UPON.

35. If any railway, road or public work passes through or causes injury to any reserve belonging to or in possession of any band of Indians, or if any act occasioning damage to any reserve is done under the authority of an Act of Parliament, or of the Legislature of any Province, compensation shall be made to them therefor in the same manner as is provided with respect to the lands or rights of other persons; and the Superintendent General shall, in any case in which an arbitration is had, name the arbitrator on behalf of the Indians, and shall act for them in any matter relating to the settlement of such compensation; and the amount

Superintendent General to name arbitrator on behalf of Indians when property is taken from them for any public improvement.

s. 33, c. 43, R.S.C. 1886, repealed and replaced by s. 1, c. 34, S.C. 1898.

s. 35, c. 43, R.S.C. 1886, amended by s. 5, c. 33, S.C. 1887.

awarded in any case shall be paid to the Minister of Finance and Receiver General for the use of the band of Indians for whose benefit the reserve is held, and for the benefit of any Indian who has improvements thereon. 42 V., c. 9, s. 9, sub-s. 37;—43 V., c. 28, s. 31.

36. In all cases of encroachment upon, or of violation of trust respecting any special reserve, proceedings may be taken in the name of Her Majesty, in any superior court, notwithstanding the legal title is not vested in Her Majesty. 43 V., c. 28, s. 32.

Her Majesty's name may be used in proceedings in certain cases.

SURRENDER AND FORFEITURE OF LANDS IN RESERVE.

37. If, by the violation of the conditions of any such trust as aforesaid, or by the breaking up of any society, corporation or community, or if by the death of any person or persons without a legal succession of trusteeship, in whom the title to a special reserve is held in trust, the said title lapses or becomes void in law, the legal title shall become vested in Her Majesty in trust, and the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve :

Title to vest in H. M. if title to reserves held in trust lapses.

2. The trustees of any special reserve may, at any time, surrender the same to Her Majesty in trust, whereupon the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve. 43 V., c. 28, s. 33.

Surrender of special reserve to Her Majesty in trust.

38. No reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Act, excepting that in cases of aged, sick and infirm Indians and widows or children left without a guardian, or in the cases of Indians engaged in the practice of any one of the learned professions, or in teaching schools, or in pursuing a trade which interferes with their cultivating land on the reserve, the Superintendent General shall have the power to lease, for their support or benefit, the lands to which they are entitled. 43 V., c. 28, s. 36;—47 V., c. 27, s. 8.

Provisions respecting sale or lease of reserves.

39. No release or surrender of a reserve, or portion of a reserve, held for the use of the Indians of any band, or of any individual Indian, shall be valid or binding, except on the following conditions:—

Release or surrender of a reserve: when valid.

(a.) The release or surrender shall be assented to by a majority of the male members of the band, of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose, according to the rules of the band, and held in the presence of the Superintendent General, or of an officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General; but no

Assent of band.

s. 38, c. 43, R.S.C. 1886, repealed and replaced by s. 3, c. 32, S.C. 1894 and subsequently amended by s. 1, c. 35, S.C. 1895 and by s. 2, c. 34, S.C. 1898.

Indian shall be entitled to vote or he present at such council unless he habitually resides on or near and is interested in the reserve in question :

(b) The fact that such release or surrender has been assented to by the band at such council or meeting, shall be certified on oath before some judge of a superior, county or district court, or stipendiary magistrate, by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some one of the chiefs or principal men present thereat and entitled to vote; and when such assent has been so certified, as aforesaid, such release or surrender shall be submitted to the Governor in Council for acceptance or refusal. 43 V., c. 28, s. 37.

Proof of assent.

Approval of Governor in Council.

40. Nothing in this Act shall confirm any release or surrender which, but for this Act, would have been invalid; and no release or surrender of any reserve, or portion of a reserve, to any person other than Her Majesty, shall be valid. 43 V., c. 28, s. 39.

Act not to confirm invalid releases or surrenders.

41. All Indian lands, which are reserves or portions of reserves, surrendered or to be surrendered to Her Majesty, shall be deemed to be held for the same purposes as before the passing of this Act; and shall be managed, leased and sold as the Governor in Council directs, subject to the conditions of surrender and the provisions of this Act. 43 V., c. 28, s. 40.

Certain Indian lands to be held by the Crown for the same purposes as heretofore.

SALE AND TRANSFER OF LANDS IN RESERVES.

42. Every certificate of sale or receipt for money received on the sale of Indian lands granted or made by the Superintendent General or any agent of his, so long as the sale to which such receipt or certificate relates is in force and not rescinded, shall entitle the person to whom the same is granted, or his assignee, by instrument registered under this or any former Act providing for registration in such cases, to take possession of and occupy the land therein comprised, subject to the conditions of such sale, and thereunder, unless the same has been revoked or cancelled, to maintain actions and suits against any wrongdoer or trespasser, as effectually as he could do under a patent from the Crown; and such receipt or certificate shall be *prima facie* evidence for the purpose of possession by such person, or the assignee, under an instrument registered as aforesaid, in any such action or suit; but the same shall have no force against a license to cut timber existing at the time of the making or granting thereof. 43 V., c. 28, s. 42.

Effect of former unrecorded certificates of sale, or receipts.

Evidence of possession.

Proviso.

43. The Superintendent General shall keep a book for registering, at the option of the persons interested, the particulars of any assignment made, as well by the original

Registers of assignments to be kept.

subsection 39(b), c. 43, R.S.C. 1886, amended by s. 2, c. 30, S.C. 1891 and subsequently repealed and replaced by s. 3, c. 34, S.C. 1898.

R.S.C. 1886, c. 43, cont'd.

R.S.C. 1886, c. 43, cont'd.

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purchaser or lessee of Indian lands, or his heirs or legal representatives, as by any subsequent assignee of any such lands, or the heirs or legal representatives of such assignee:

subsection
43(2), c. 43,
R.S.C. 1886,
repealed and
replaced by
s. 4, c. 29,
S.C. 1890.

Entries there-
in, on what
proof to be
made.

2. Upon any such assignment being produced to the Superintendent General, and, except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the time and place of such execution, and the names, residences and occupations of the witnesses; or, as regards lands in the Province of Quebec, upon the production of such assignment, executed in notarial form, or of a notarial copy thereof, the Superintendent General shall cause the material parts of every such assignment to be registered in such book of registry, and shall cause to be indorsed on every such assignment a certificate of such registration, signed by himself, or by the Deputy Superintendent General or any other officer of the department by him authorized to sign such certificates:

s. 43, c. 43,
R.S.C. 1886,
amended by
s. 2, c. 22,
S.C. 1888.

Effect of as-
signment and
registration.

3. Every such assignment so registered shall be valid against any assignment previously executed, which is subsequently registered or is unregistered; and no such registration shall be made until all the conditions of the sale, grant or location are complied with or dispensed with by the Superintendent General, and every assignment registered, as aforesaid, shall be unconditional in its terms. 43 V., c. 28, s. 43.

If subscribing
witness is
dead, &c.

44. If any subscribing witness to any such assignment is dead, or is absent from Canada, the Superintendent General may register such assignment upon the production of an affidavit proving the death or absence of such witness, and his handwriting, or the handwriting of the person making such assignment. 43 V., c. 28, s. 44.

Patents,
how to be pre-
pared, regis-
tered and
signed.

45. Every patent for Indian lands shall be prepared in the Department of Indian Affairs, and shall be signed by the Superintendent General of Indian Affairs or his deputy, or by some other person thereunto specially authorized by order of the Governor General in Council, and when so signed, shall be registered by an officer specially appointed for that purpose by the Registrar General, and then transmitted to the Secretary of State of Canada, by whom, or by the Under Secretary of State, the same shall be countersigned, and the Great Seal of Canada thereto caused to be affixed: Provided, that every such patent for land shall be signed by the Governor or by the Deputy Governor appointed under this Act for that purpose:

Patent to be
due to their
assignee or
devisee after
proof of right
therein.

2. On any application for a patent by the heir, assignee or devisee of the original purchaser from the Crown, the Superintendent General may receive proof, in such manner as he directs and requires, in support of any claim for a patent, when the original purchaser is dead, and upon being

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satisfied that the claim has been equitably and justly established, may allow the same, and cause a patent to issue accordingly: but nothing in this section shall limit the right of a person claiming a patent to land in the Province of Ontario to make application at any time to the Commissioner, under the "Act respecting the Heir, Devisee and Assignee Commission," being chapter twenty-five of the Revised Statutes of Ontario (1877) or the corresponding provision in any subsequent revision of the said Statutes. 43 V., c. 28, s. 45;—49 V., c. 7, s. 2.

Proviso.

46. If the Superintendent General is satisfied that any purchaser or lessee of any Indian lands, or any assignee claiming under or through him, has been guilty of any fraud or imposition, or has violated any of the conditions of sale or lease, or if any such sale or lease has been made or issued in error or mistake, he may cancel such sale or lease, and resume the land therein mentioned, or dispose of it as if no sale or lease thereof had ever been made; and all such cancellations heretofore made by the Governor in Council, or by the Superintendent General, shall continue valid until altered. 43 V., c. 28, s. 46.

Power of the
Superinten-
dent General
in cases of
fraud.

Cancellations
confirmed.

47. Whenever any purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale or lease, as aforesaid, or whenever any person is wrongfully in possession of any Indian lands and refuses to vacate or abandon possession of the same, the Superintendent General may apply to the judge of the county court of the county, or to a judge of the superior court in the district in which the land lies, in Ontario or Quebec respectively, or to any judge of a superior court, or to any judge of a county court of the county in which the land lies, in any other Province, or to a judge of the Supreme Court of the North-West Territories in the said Territories, or to any stipendiary magistrate in any other Territory or district in which the land lies, for an order in the nature of a writ of *habere facias possessionem* or writ of possession; and the said judge or magistrate, upon proof to his satisfaction that the right or title of the person to hold such land has been revoked or cancelled, as aforesaid, or that such person is wrongfully in possession of Indian lands, shall grant an order upon the purchaser, lessee or person in possession, to deliver up the same to the Superintendent General, or person by him authorized to receive the same; and such order shall have the same force as a writ of *habere facias possessionem*, or writ of possession; and the sheriff, or any bailiff or person to whom it has been intrusted for execution by the Superintendent General, shall execute the same in like manner as he would execute such writ in an action of ejectment or a possessory action. 43 V., c. 28, s. 47;—49 V., c. 25, s. 30.

Obtaining
possession
after such
cancellation
in case of
resistance.

s. 47, c. 43,
R.S.C. 1886,
amended by
s. 3, c. 30,
S.C. 1891.

Order in the
nature of a
writ of
possession.

Execution of
such order.

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Enforcing payment of rent due to the Crown.	18. Whenever any rent payable to the Crown on any lease of Indian lands is in arrear, the Superintendent General or any agent or officer appointed under this Act and authorized by the Superintendent General to act in such cases, may issue a warrant, directed to any person or persons by him named therein, in the form of a distress warrant, as in ordinary cases of landlord and tenant, or as in the case of distress and warrant of a justice of the peace for non-payment of a pecuniary penalty; and the same proceedings may be had thereon, for the collection of such arrears, as in either of the said last-mentioned cases; or an action of debt, as in ordinary cases of rent in arrear, may be brought therefor in the name of the Superintendent General; but demand of rent shall not be necessary in any case. 43 V., c. 28, s. 48.	Action of debt.
Who to act or give notice for the Crown.	49. When by law or by any deed, lease or agreement relating to any of the lands herein referred to, any notice is required to be given, or any act to be done, by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Superintendent General. 43 V., c. 28, s. 49.	
Cancellation of erroneous letters patent and issue of corrected ones in their stead.	50. Whenever letters patent have been issued to or in the name of the wrong person, through mistake, or contain any clerical error or misnomer, or wrong description of any material fact therein, or of the land thereby intended to be granted, the Superintendent General, if there is no adverse claim, may direct the defective letters patent to be cancelled and a minute of such cancellation to be entered in the margin of the registry of the original letters patent, and correct letters patent to be issued in their stead,—which corrected letters patent shall relate back to the date of those so cancelled, and have the same effect as if issued at the date of such cancelled letters patent. 43 V., c. 28, s. 50.	
Lands patented twice over.	51. In all cases in which grants or letters patent have issued for the same land, inconsistent with each other, through error, and in all cases of sales or appropriations of the same land, inconsistent with each other, the Superintendent General may, in cases of sale, cause a repayment of the purchase money, with interest; or when the land has passed from the original purchaser or has been improved before a discovery of the error, he may, in substitution, assign land or grant a certificate entitling the person to purchase Indian lands, of such value and to such extent as the Superintendent General deems just and equitable under the circumstances; but no such claim shall be entertained unless it is preferred within five years from the discovery of the error. 43 V., c. 28, s. 51.	Limitation of time for claim.
Compensation in certain cases.		
Cases of deficiency of land provided for.	52. Whenever, by reason of false survey or error in the books or plans in the department, or in the late Indian	

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	branch of the Department of the Interior, any grant, sale or appropriation of land is found deficient, or any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Superintendent General may order the purchase money of so much land as is deficient, with the interest thereon from the time of the application therefor,—or, if the land has passed from the original purchaser, the purchase money which the claimant, if he was ignorant of a deficiency at the time of his purchase, has paid for so much of the land as is deficient, with interest thereon from the time of the application therefor,—to be paid to him in land or money, as the Superintendent General directs; but no such claim shall be entertained unless application is made within five years from the date of the patent, and unless the deficiency is equal to one-tenth of the whole quantity described, as contained in the particular lot or parcel of land granted. 43 V., c. 28, s. 52.	Compensation. Limitation of time for claim.
	53. Whenever patents for Indian lands have issued through fraud or in error or improvidence, the Exchequer Court of Canada, or a superior court in any Province may, upon action, bill or plaint, respecting such lands situate within its jurisdiction, and upon hearing the parties interested, or upon default of the said parties after such notice of proceeding as the said courts shall respectively order, decree such patents to be void; and upon a registry of such decree in the office of the Registrar General of Canada, such patents shall be void to all intents:	Certain courts may void patents issued in error, &c.
	2. The practice in court, in such cases, shall be regulated by orders, from time to time, made by the said courts respectively. 43 V., c. 28, s. 53.	Effect of registry of decree. Practice in such cases.
	TIMBER LANDS.	
	54. The Superintendent General, or any officer or agent authorized by him to that effect, may grant licenses to cut trees on reserves and ungranted Indian lands, at such rates, and subject to such conditions, regulations and restrictions, as are, from time to time, established by the Governor in Council, and such conditions, regulations and restrictions shall be adapted to the locality in which such reserves or lands are situated. 43 V., c. 28, s. 56.	Licenses to cut trees; by whom and how to be granted.
	55. No license shall be so granted for a longer period than twelve months from the date thereof: and if, in consequence of any incorrectness of survey or other error, or cause whatsoever, a license is found to comprise land included in a license of a prior date, or land not being reserve, or ungranted Indian lands, the license granted shall be void in so far as it comprises such land, and the holder or proprietor of the license so rendered void shall have no claim upon the Crown for indemnity or compensation by reason of such avoidance. 43 V., c. 28, s. 57.	For what time. As to error in description, &c.

subsection
53(1), c. 43,
R.S.C. 1886,
amended by
s. 5, c. 29,
S.C. 1890.

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s. 56, c. 43, R.S.C. 1886, repealed and replaced by s. 4, c. 34, S.C. 1898.

License must describe the land and kind of trees to be cut; its effect

Rights of holders of licenses as to trespassers.

Continuing proceedings.

Returns to be made by licensee.

Punishment for not making return or for evasion of regulations.

Trees cut and their products to be liable for the payment of dues.

Security taken for dues not to affect lien.

Sale of seized timber after a certain delay.

56. Every license shall describe the lands upon which the trees may be cut, and the kind of trees which may be cut, and shall confer, for the time being, on the licensee the right to take and keep exclusive possession of the land so described, subject to such regulations as are made; and every license shall vest in the holder thereof all rights of property whatsoever in all trees of the kind specified, cut within the limits of the license, during the term thereof, whether such trees are cut by the authority of the holder of such license or by any other person, with or without his consent; and every license shall entitle the holder thereof to seize, in revindication or otherwise, such trees and the logs, timber or other product thereof, if the same are found in the possession of any unauthorized person, and also to institute any action or suit against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any; and all proceedings pending at the expiration of any license may be continued to final termination, as if the license had not expired. 43 V., c. 28, s. 58.

57. Every person who obtains a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Superintendent General, a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square or other timber, manufactured and carried away under such license; and such statement shall be sworn to by the holder of the license, or his agent, or by his foreman; and every person who refuses or neglects to furnish such statement, or who evades or attempts to evade any regulation made by the Governor in Council, shall be held to have cut without authority, and the timber or other product made shall be dealt with accordingly. 43 V., c. 28, s. 59.

58. All trees cut, and the logs, timber or other product thereof, shall be liable for the payment of the dues thereon, so long as and wheresoever the same, or any part thereof, are found, whether in the original logs or manufactured into deals, boards or other stuff; and all officers or agents intrusted with the collection of such dues, may follow and seize and detain the same wherever they are found, until the dues are paid or secured. 43 V., c. 28, s. 60.

59. No instrument or security taken for the dues, either before or after the cutting of the trees, as collateral security, or to facilitate collection, shall in any way affect the lien for such dues, but the lien shall subsist until the said dues are actually discharged. 43 V., c. 28, s. 61.

60. If any timber so seized and detained for non-payment of dues remains more than twelve months in the custody of

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the agent or person appointed to guard the same, without the dues and expenses being paid, the Superintendent General may order a sale of the said timber to be made after sufficient notice; and the balance of the proceeds of such sale, after retaining the amount of dues and costs incurred, shall be handed over to the owner or claimant of such timber, upon his applying therefor and proving his right thereto. 43 V., c. 28, s. 62.

61. If any person, without authority, cuts, or employs or induces any other person to cut, or assists in cutting any trees of any kind on Indian lands, or removes or carries away, or employs, or induces or assists any other person to remove or carry away, any trees of any kind so cut from Indian lands, he shall not acquire any right to the trees so cut, or any claim to any remuneration for cutting or preparing the same for market, or conveying the same to or towards market; and when the trees, or logs or timber, or other product thereof, have been removed, so that the same cannot, in the opinion of the Superintendent General, conveniently be seized, he shall, in addition to the loss of his labor and disbursements, incur a penalty of three dollars for each tree, rafting stuff excepted, which he is proved to have cut or caused to be cut, or carried away; and such penalty shall be recoverable with costs, at the suit and in the name of the Superintendent General or resident agent, in any court having jurisdiction in civil matters to the amount of the penalty; and in all such cases it shall be incumbent on the person charged to prove his authority to cut; and the averment of the person seizing or prosecuting, that he is duly employed under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary. 43 V., c. 28, s. 63.

62. When the Superintendent General, or any officer or agent acting under him, receives satisfactory information, supported by affidavit made before a justice of the peace or before any other competent authority, that any trees have been cut without authority on Indian lands, describing where the trees, logs, timber or other product thereof are to be found, the Superintendent General, officer or agent, may seize, or cause to be seized, the same in Her Majesty's name, wheresoever found, and place the same under proper custody, until the matter is decided by competent authority. 43 V., c. 28, s. 64, part.

63. When the trees, timber, logs or other product thereof, so reported to have been cut without authority, on Indian lands, have been made up or intermingled with other trees, timber, logs or other product thereof, into a crib, dram or raft, or in any other manner, so that it is difficult to distinguish the trees, timber, logs or other product thereof, cut on reserves

Punishment for unlawfully cutting trees; and forfeiture thereof.

Additional penalty in case of removal of trees.

Proof of right to cut, on whom to lie.

Seizure of trees cut without authority.

Presumption of law in case of mixture of these and other trees.

s. 62, c. 43, R.S.C. 1886, repealed and replaced by s. 6, c. 33, S.C. 1887.

s. 63, c. 43, R.S.C. 1886, repealed and replaced by s. 7, c. 33, S.C. 1887.

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All to be deemed cut on Indian lands without authority.

on reserves or Indian land, without license, from that with which it is made up or intermingled, the whole of the trees, timber, logs or other product thereof, so made up or intermingled, shall be held to have been cut without authority on Indian lands, and shall be seized, and forfeited, and sold, by the Superintendent General, or any other officer or agent acting under him, unless evidence satisfactory to him is adduced, showing the probable quantity not cut on Indian lands. 43 V., c. 28, s. 64, *part*.

Seizing officer may command assistance in the name of the Crown.

64. Every officer or person seizing trees, logs, timber or other product thereof, in the discharge of his duty under this Act, may, in the name of the Crown, call in any assistance necessary for securing and protecting the same. 43 V., c. 28, s. 65, *part*.

Burden of proof in certain cases to lie on claimant, not on prosecutor or seizing officer.

65. Whenever any trees, logs, timber or other product thereof are seized for non-payment of Crown dues, or for any other cause of forfeiture, or whenever any prosecution is brought in respect of any penalty or forfeiture under this Act, and any question arises whether the said dues have been paid or whether the trees, logs, timber or other product were cut on lands other than any of the lands aforesaid, the burden of proving payment, or on what land the same were cut, as the case may be, shall lie on the owner or claimant and not on the officer who seizes the same, or the person who brings such prosecution. 43 V., c. 28, s. 66, *part*.

B. 66, c. 43, R.S.C. 1886, repealed and replaced by s. 5, c. 34, S.C. 1898.

Sale of trees, &c., seized, may be ordered in default of notice of claim.

66. All trees, logs, timber or other product thereof seized under this Act, shall be deemed to be condemned, unless the person from whom the same are seized, or the owner thereof, within one month from the day of the seizure, gives notice to the seizing officer or nearest officer or agent of the Superintendent General, that he claims or intends to claim the same; and in default of such notice, the officer or agent seizing shall report the circumstances to the Superintendent General, who may order the sale of the same by the said officer or agent. 43 V., c. 28, s. 67, *part*.

Proceedings for trial of validity of seizure, &c.

67. Any judge of any superior, county or district court, or any stipendiary magistrate, police magistrate or Indian agent, may, in a summary way, under the "Act respecting summary proceedings before Justices of the Peace," try and determine such seizures,—and may, pending the trial, order the delivery of the trees, logs, timber or other product thereof to the alleged owner, on receiving security by bond, with two good and sufficient sureties, first approved by the said agent, to pay double the value of such trees, logs, timber or other product, in case of their condemnation; and such bond shall be taken in the name of the Superintendent General, for Her Majesty, and shall be delivered up to and kept by the Superintendent General; and if such seized trees, logs, timber or other pro-

Delivery on security given.

Bond to be given, &c.

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duct thereof are condemned, the value thereof shall be paid forthwith to the Superintendent General or agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered. 43 V., c. 28, s. 67, *part*;—45 V., c. 30, s. 3.

68. Every one who avails himself of any false statement or false oath to evade the payment of dues under this Act, shall forfeit the timber in respect of which the dues are attempted to be evaded. 43 V., c. 28, s. 68. Punishment of attempt to evade payment of dues.

MANAGEMENT OF INDIAN MONEYS.

69. All moneys or accretions of any kind applicable to the support or benefit of Indians, or any band of Indians, and all moneys accrued or hereafter to accrue from the sale of any Indian lands or of any timber on any reserves or Indian lands, shall, subject to the provisions of this Act, be applicable to the same purposes and be dealt with in the same manner as they might have been applied to or dealt with but for the passing of this Act. 43 V., c. 28, s. 69. Indian moneys to be dealt with as heretofore.

70. The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom, the moneys arising from sales of Indian lands, and from the property held or to be held in trust for the Indians, or from any timber on Indian lands or reserves, or from any other source, for the benefit of Indians, (with the exception of any sum not exceeding ten per cent. of the proceeds of any lands, timber or property, which is agreed at the time of the surrender to be paid to the members of the band interested therein,) shall be invested, from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given,—and may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Act, and for the construction or repair of roads passing through such reserves or lands, and by way of contribution to schools attended by such Indians. 43 V., c. 28, s. 70. Governor in Council may direct how Indian funds shall be invested and managed and payments made therefrom.

s. 70, c. 43 R.S.C. 1886, repealed and replaced by s. 2, c. 35, S.C. 1895 and subsequently repealed and replaced by s. 6, c. 34, S.C. 1898 and by s. 1, c. 20, S.C. 1906.

71. The proceeds arising from the sale or lease of any Indian lands, or from the timber, hay, stone, minerals or other valuables thereon, or on a reserve, shall be paid to the Minister of Finance and Receiver General to the credit of the Indian fund. 43 V., c. 28, s. 71. Proceeds of sales to be paid to the Receiver General.

s. 72, c. 43 R.S.C. 1886, repealed and replaced by s. 8, c. 33, S.C. 1887, and subsequently repealed and replaced by s. 4, c. 32,

72. The Superintendent General may stop the payment of the annuity and interest money of any Indian who is proved, to the satisfaction of the Superintendent General, Payment of annuity may be stopped in cases of marital desertion.

S.C. 1894 and finally repealed and replaced by s. 7, c. 34, S.C. 1898.

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guilty of deserting his family; and the Superintendent General may apply the same towards the support of any family, woman or child, so deserted. 43 V., c. 28, s. 83, part.

s. 73, c. 43 R.S.C. 1886, repealed and replaced by s. 9, c. 33, S.C. 1887 and subsequently repealed and replaced by s. 8, c. 34, S.C. 1898.

Similar provision as to Indian women.

73. The Superintendent General may also stop the payment of the annuity and interest money of any woman who has no children, and who deserts her husband and lives immorally with another man. 43 V., c. 28, s. 83, part.

s. 75, c. 43, R.S.C. 1886 amended by s. 5, c. 32, S.C. 1894 and subsequently repealed and replaced by s. 3, c. 35, S.C. 1895 and by s. 9, c. 34, S.C. 1898.

Indians may be relieved out of the funds of the band, when sick, &c.

74. The Superintendent General may, whenever sick or disabled, or aged or destitute Indians are not provided for by the band of which they are members, furnish sufficient aid from the funds of the band for the relief of such sick, disabled, aged or destitute Indians. 43 V., c. 28, s. 84.

ELECTION OF CHIEFS.

Governor in Council may provide for election of chiefs.

75. Whenever the Governor in Council deems it advisable, for the good government of a band, to introduce the system of election of chiefs, he may provide that the chiefs of any band of Indians shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall, in such case, be elected for a term of three years, but may be deposed by the Governor in Council for dishonesty, intemperance, immorality or incompetency; and they may be in the proportion of one head chief and two second chiefs or councillors for every two hundred Indians:

Proviso: as to number.

2. No band shall have more than six head chiefs and twelve second chiefs, but any band, composed of thirty Indians, may have one chief:

Proviso: as to present life chiefs.

3. Provided that life chiefs, now living, shall continue to hold the rank of chief until death or resignation, or until their removal, by the Governor in Council, for dishonesty, intemperance, immorality or incompetency; but in the event of the Governor in Council providing that the chiefs of a band shall be elected, the life chiefs shall not exercise the powers of chiefs, unless elected, under the provision aforesaid, to the exercise of such powers:

Further proviso as to them.

Election of chiefs may be set aside for certain reasons.

4. An election may be set aside by the Governor in Council on the report of the Superintendent General, if it is proved by two witnesses before the Indian agent for the locality or such other person as is deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election; and every Indian who is proved guilty of such fraud or irregularity, or connivance thereat, may be declared ineligible for re-election for six years, if the Governor in Council, on the report of the Superintendent General, so directs. 43 V., c. 28, s. 72;—47 V., c. 27, s. 9.

REGULATIONS TO BE MADE BY CHIEFS.

Chiefs to make regulations for certain purposes.

76. The chief or chiefs of any band in council may frame, subject to confirmation by the Governor in Council, rules

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and regulations in respect of the subjects following, that is to say:—

(a) As to what religious denomination the teacher of the school established on the reserve shall belong to: Provided always, that he shall be of the same denomination as the majority of the band; and that the Protestant or Catholic minority may likewise have a separate school, with the approval of and under regulations made by the Governor in Council;

Religious denomination of school teacher.

(b) The care of the public health;

Health.

(c) The observance of order and decorum at assemblies of the Indians in general council, or on other occasions;

Order.

(d) The repression of intemperance and profligacy;

Intemperance, &c.

(e) The prevention of trespass by cattle, and the protection of sheep, horses, mules and cattle;

Trespass.

(f) The construction and maintenance of water-courses, roads, bridges, ditches and fences;

Roads, &c.

(g) The construction and repair of school houses, council houses and other Indian public buildings, and the attendance at school of children between the ages of six and fifteen years;

School houses, &c.

(h) The establishment of pounds and the appointment of pound-keepers;

Pounds.

(i) The locating of the land in their reserves, and the establishment of a register of such locations;

Location of land.

(j) The repression of noxious weeds;

Weeds.

(k) The imposition of punishment, by fine, penalty or imprisonment, or both, for violation of any of such rules or regulations; but the fine or penalty shall in no case exceed thirty dollars, and the imprisonment shall in no case exceed thirty days; and the proceedings for the imposition of such punishment shall be taken under the "Act respecting summary proceedings before Justices of the Peace." 43 V., c. 28, s. 74;—47 V., c. 27, s. 10.

Punishment for infraction of rules.

EXEMPTION FROM TAXATION.

77. No Indian or non-treaty Indian shall be liable to be taxed for any real or personal property, unless he holds, in his individual right, real estate under a lease or in fee simple, or personal property outside of the reserve or special reserve—in which case he shall be liable to be taxed for such real or personal property at the same rate as other persons in the locality in which it is situate:

Liability of Indians or non-treaty Indians to taxation.

2. No taxes shall be levied on the real property of any Indian, acquired under the enfranchisement clauses of this Act, until the same has been declared liable to taxation by proclamation of the Governor in Council, published in the Canada Gazette:

As to taxes on property of an enfranchised Indian.

3. All land vested in the Crown or in any person, in trust for or for the use of any Indian or non-treaty Indian, or any band or irregular band of Indians or non-treaty Indians,

Exemptions from taxation.

subsection 77(3), c. 43, R.S.C. 1886, repealed and replaced by s. 3, c. 22, S.C. 1888.

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shall be exempt from taxation. 43 V., c. 28, ss. 75 and 76;—
47 V., c. 27, s. 11.

LEGAL RIGHTS OF INDIANS.

No lien
or charge to
be taken
on property of
an Indian.

Proviso.

78. No person shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgment or otherwise, upon real or personal property of any Indian or non-treaty Indian, except on real or personal property subject to taxation under the next preceding section; but any person selling any article to an Indian or non-treaty Indian may take security on such article for any part of the price thereof which is unpaid. 43 V., c. 28, s. 77.

As to rights
of action by
Indians.

79. Indians and non-treaty Indians shall have the right to sue for debts due to them, or in respect of any tort or wrong inflicted upon them, or to compel the performance of obligations contracted with them; but in any suit or action between Indians, or in any case of assault in which the offender is an Indian, no appeal shall lie from any judgment, order or conviction by any police magistrate, stipendiary magistrate, or two justices of the peace or an Indian agent, when the sum adjudged or the penalty imposed does not exceed ten dollars. 43 V., c. 28, s. 78;—45 V., c. 30, s. 3;—47 V., c. 27, s. 24.

Things
pawned by
Indians for
intoxicants
not to be
retained.

80. No pawn taken from any Indian or non-treaty Indian for any intoxicant, shall be retained by the person to whom such pawn is delivered; but the thing so pawned may be sued for and shall be recoverable, with costs of suit, in any court of competent jurisdiction by the Indian or non-treaty Indian who pawned the same. 43 V., c. 28, s. 79.

Exemptions
from seizure.

81. No presents given to Indians or non-treaty Indians, and no property purchased or acquired with or by means of any annuities granted to Indians, or any part thereof, and in the possession of any band of such Indians, or of any Indian of any band or irregular band, shall be liable to be taken, seized or distrained for any debt, matter or cause whatsoever:

Traffic in presents and property restricted.

2. No such presents or property shall, in the Province of British Columbia, the Province of Manitoba, the North-West Territories or in the District of Keewatin, be sold, bartered, exchanged or given by any band or irregular band of Indians, or any Indian of any such band, to any person or Indian other than an Indian of such band:

Punishment for contravention.

3. Every such sale, barter, exchange or gift shall be null and void, unless such sale, barter, exchange or gift is made with the written assent of the Superintendent General or his agent; and every one who buys or otherwise acquires any presents or property purchased as aforesaid, without the written consent of the Superintendent General or his agent,

s. 81, c. 43,
R.S.C. 1886,
amended by
s. 7, c. 29,
S.C. 1890.

subsection
81(3), c. 43,
R.S.C. 1886,
amended by
s. 6, c. 29,
S.C. 1890.

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is aforesaid, is guilty of a misdemeanor, and liable to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months:

4. If any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians, are or is unlawfully in the possession of any person, within the true intent and meaning of this section, any person acting under the authority of the Superintendent General may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same, and he shall deal therewith as the Superintendent General directs. 43 V., c. 28, s. 80.

ENFRANCHISEMENT.

82. The eleven sections next following, shall not apply to any band of Indians in the Province of British Columbia, the Province of Manitoba, the North-West Territories or the District of Keewatin, except in so far as the said sections are, by proclamation of the Governor in Council, from time to time, extended to any band of Indians in any of the said Provinces, Territories or District. 43 V., c. 28, s. 107.

83. Whenever any male Indian or unmarried Indian woman, of the full age of twenty-one years, makes application to the Superintendent General to be enfranchised, the Superintendent General shall instruct the agent of the band of which the applicant is a member, to call upon the latter to furnish a certificate, under oath, before a judge of any court of justice, by the priest, clergyman or minister of the religious denomination to which the applicant belongs, or by a stipendiary magistrate or two justices of the peace, to the effect that to the best of the knowledge and belief of the deponent or deponents, the applicant is: enfranchisement is, and has been for at least five years previously, a person of good moral character, temperate in his or her habits, and of sufficient intelligence to be qualified to hold land in fee simple, and otherwise to exercise all the rights and privileges of an enfranchised person. 47 V., c. 27, s. 16, *part*.

84. Upon receipt of such a certificate, the agent shall, with the least possible delay, submit the same to a council of the band of which the applicant is a member; and he shall then inform the Indians assembled at such council, that thirty days will be given within which affidavits made before a judge or a stipendiary magistrate will be received, containing reasons, if any there are, of a personal character affecting the applicant, why such enfranchisement should not be granted to the applicant. 47 V., c. 27, s. 16, *part*.

85. At the expiration of the thirty days aforesaid, the agent shall forward to the Superintendent General all affidavits to be sent to

Present, &c.,
unlawfully in
possession of
any person
may be seized.

Provision as
to Indians in
British Col-
umbia, Mani-
toba, the N.
W. Territories
or Keewatin.

Proceedings
for enfran-
chisement.

Certificate to
be obtained.

To be submit-
ted to council
of band.

Affidavits to
be sent to

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Superintendent General. Davits which have been filed with him in the case, as well as one made by himself before a judge or a stipendiary magistrate, containing his reasons for or against the enfranchisement of the applicant; and if the Superintendent General, after examining the evidence, decides in favor of the applicant, he may grant him or her a location ticket as a probationary Indian for the land occupied by him or her, or for such proportion thereof as appears to the Superintendent General fair and proper. 47 V., c. 27, s. 16, *part.*

Certain educational acquirements to confer enfranchisement. **86.** Every Indian who is admitted to the degree of doctor of medicine, or to any other degree, by any University of learning, or who is admitted, in any Province of Canada, to practise law, either as an advocate, a barrister, solicitor or attorney, or a notary public, or who enters holy orders, or who is licensed by any denomination of Christians as a minister of the gospel, may, upon petition to the Superintendent General, *ipso facto* become and be enfranchised under this Act, and he shall then be entitled to all the rights and privileges to which any other member of the band to which he belongs would be entitled if he was enfranchised under the provisions of this Act; and the Superintendent General may give him a suitable allotment of land from the lands belonging to the band of which he is a member; but if he is not the recognized holder of a location on the reserve, by ticket or otherwise, he shall first obtain the consent of the band and the approval of the Superintendent General to such allotment. 47 V., c. 27, s. 16, *part.*

Patent may issue after probation. **87.** After the expiration of three years, or such longer period as the Superintendent General deems necessary in the event of the conduct of such Indian not being satisfactory, the Governor in Council may, on the report of the Superintendent General, order the issue of letters patent, granting to such Indian the land in fee simple, which has, with this object in view, been allotted to him by location ticket, but without power to sell, lease or otherwise alienate the land, except with the sanction of the Governor in Council; and provisos to such effect shall be inserted in the letters patent conveying the land to the said Indian, and in such cases compliance with the provisions of sections thirty-eight and thirty-nine of this Act shall not be necessary. 47 V., c. 27, s. 17.

Enfranchised Indian to declare name chosen, and to be known by it. **88.** Every such Indian shall, before the issue of such letters patent, declare to the Superintendent General the name and surname by which he wishes to be enfranchised and thereafter known, and on his receiving such letters patent, in such name and surname, he shall be held to be also enfranchised, and he shall thereafter be known by such name or surname; and if such Indian is a married man, his wife and minor unmarried children shall also be held to be

s. 88, c. 43, R.S.C. 1886, amended by s. 4, c. 35, S.C. 1895.

Wife and minor child-

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enfranchised; and from the date of such letters patent the provisions of this Act and of any Act or law making any distinction between the legal rights, privileges, disabilities and liabilities of Indians and those of Her Majesty's other subjects, shall cease to apply to such Indian, or to the wife or minor unmarried children of such Indian as aforesaid, so declared to be enfranchised, who shall no longer be deemed Indians within the meaning of the laws relating to Indians, except in so far as regards their right to participate in the annuities and interest moneys, and rents and councils of the band to which they belonged:

2. Any children of a probationary Indian, who, being minors and unmarried when the probationary ticket was granted to such Indian, arrive at the full age of twenty-one years before the letters patent are issued to such Indian, may, at the discretion of the Governor in Council, receive letters patent in their own names, subject to the same restrictions and reservations as are contained in the letters patent issued to their parent, for their respective shares of the land allotted under the said ticket, at the same time that letters patent are granted to their parent:

3. If any Indian child who arrives at the full age of twenty-one years, during his or her parent's probationary period, is not qualified for enfranchisement, or if any child of such parent, who was a minor at the commencement of such period, is married during such period, a quantity of land equal to the share of such child shall be deducted, in such manner as the Superintendent General directs, from the allotment made to such Indian parent on receiving his probationary ticket. 43 V., c. 28, s. 101;—47 V., c. 27, s. 18.

89. If any probationary Indian fails in qualifying to become enfranchised, or dies before the expiration of the required probation, his claim, or the claim of his heirs, to the land for which a probationary ticket was granted, or the claim of any unqualified Indian, or of any Indian who marries during his or her parent's probationary period, to the land deducted, under the operation of the next preceding section, from his or her parent's probationary allotment, shall, in all respects, be the same as that conferred by an ordinary location ticket under this Act. 43 V., c. 28, s. 102.

90. The children of any widow who becomes either a probationary or enfranchised Indian shall be entitled to the same privileges as those of a male head of a family in like circumstances. 43 V., c. 28, s. 103.

91. In allotting land to probationary Indians, the quantity to be allotted to the head of a family shall be in proportion to the number of such family, compared with the total quantity of land in the reserve, and the whole number of the band; but the Superintendent General may determine

ren also enfranchised. Effect of such enfranchisement

As to children attaining their majority before their father's probation expires.

As to children found unqualified; or being married.

If Indian fails to qualify, or dies before expiration of probation, &c.

As to children of a widow enfranchised, &c.

Rules for allotting lands to probationary Indians

Proviso as to power of Superintendent General in this behalf.

what quantity shall be allotted to each member for enfranchisement purposes, provided that each female of any age, and each male under fourteen years of age, shall receive at least one-half the quantity allotted to each male of fourteen years of age and over. 43 V., c. 28, s. 104;—47 V., c. 27, s. 19.

As to Indians not members of the band but permitted to reside on their reserve.

92. Every Indian who is not a member of the band, and every non-treaty Indian, who, with the consent of the band and the approval of the Superintendent General, has been permitted to reside upon the reserve, or to obtain a location thereon, may, on being assigned a suitable allotment of land by the Superintendent General for enfranchisement, become enfranchised on the same terms and conditions as a member of the band; and such enfranchisement shall confer upon such Indian the same legal rights and privileges, and make such Indian subject to such disabilities and liabilities as affect Her Majesty's other subjects; but such enfranchisement shall not confer upon such Indian any right to participate in the annuities, interest moneys, rents or councils of the band. 43 V., c. 28, s. 105;—47 V., c. 27, s. 20.

Proviso.

s. 93, c. 43 R.S.C. 1886, repealed and replaced by s. 5, c. 35, S.C. 1895.

Provision when band decides that all its members may become enfranchised.

93. If any band, at a council summoned for the purpose according to their rules, and held in the presence of the Superintendent General, or an agent duly authorized by him to attend such council, decides to allow every member of the band who chooses, and who is found qualified, to become enfranchised, and to receive his or her share of the principal moneys of the band, and sets apart for such member a suitable allotment of land for the purpose, any applicant belonging to such band, after such a decision, may be dealt with as provided in the foregoing provisions respecting enfranchisement, until his or her enfranchisement is attained; and whenever any member of the band, who, for the three years immediately succeeding the date on which he was granted letters patent, or for any longer period that the Superintendent General deems necessary, by his exemplary good conduct and management of property proves that he is qualified to receive his share of such moneys, the Governor in Council may, on the report of the Superintendent General to that effect, order that the said Indian be paid his share of the capital funds at the credit of the band, or his share of the principal of the annuities of the band, estimated as yielding five per cent. out of such moneys as are provided for the purpose by Parliament:

Or when Indian becomes qualified by exemplary conduct.

2. If such Indian is a married man he shall also be paid his wife's and minor unmarried children's share of such funds and other principal moneys, and if such Indian is a widow, she shall also be paid her minor unmarried children's share:

If such Indian be a married man or a widow.

And as to unmarried children of

3. The unmarried children of such married Indians, who become of age during the probationary period, either for

enfranchisement or for payment of such moneys, if qualified by the character for integrity, morality and sobriety which they bear, shall receive their own share of such moneys, when their parents are paid; and if not so qualified, before they can become enfranchised or receive payment of such moneys they must themselves pass through the probationary periods:

any such enfranchised and married Indians.

4. All such Indians, and their unmarried minor children, who are paid their share of the principal moneys of their band, as aforesaid, shall thenceforward cease, in every respect, to be Indians of any class within the meaning of this Act, or Indians within the meaning of any other Act or law 43 V., c. 28, s. 106.

Indian laws to cease to apply.

OFFENCES AND PENALTIES.

94. Every one who sells, exchanges with, barter, supplies or gives to any Indian or non-treaty Indian, any intoxicant, or causes or procures the same to be done, or attempts the same or connives thereat, or opens or keeps, or causes to be opened or kept, on any reserve or special reserve, a tavern, house or building in which any intoxicant is sold, bartered, exchanged or given, or who is found in possession of any intoxicant in the house, tent, wigwam or place of abode of any Indian or non-treaty Indian, or of any person, or upon any other part of the reserve or special reserve, or who sells, exchanges with, barter, supplies or gives to any person, on any reserve or special reserve, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, upon the evidence of one credible witness, other than the informer or prosecutor,—or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone, if he is a credible person,—be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labor, or to a penalty not exceeding three hundred dollars and not less than fifty dollars, with costs of prosecution, a moiety of which penalty shall belong to the informer or prosecutor, and the other moiety whereof shall belong to Her Majesty, to form part of the fund for the benefit of that body of Indians or non-treaty Indians, with respect to one or more members of which the offence was committed, or he shall be liable to both penalty and imprisonment in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. 43 V., c. 28, s. 90, part;—44 V., c. 17, s. 10;—45 V., c. 30, s. 3.

s. 94, c. 43, R.S.C. 1886, repealed and replaced by s. 4, c. 22, S.C. 1888 and subsequently amended by s. 6, c. 32, S.C. 1894.

Penalties and their application.

95. The commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicant has been sold, bartered, exchanged, supplied or

Of commanders of vessels on board of which the

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3339 are furnished given to any Indian or non-treaty Indian, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, upon the evidence of one credible witness, other than the informer or prosecutor,—or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone, if he is a credible person,—be liable to a penalty not exceeding three hundred dollars and not less than fifty dollars for each such offence, with costs of prosecution,—which penalty shall be applied as provided in the next preceding section; and in default of immediate payment of such penalty and costs, any person so convicted shall be committed to any common gaol, house of correction, lock-up or other place of confinement by the judge, magistrate or two justices of the peace, or Indian agent, before whom the conviction has taken place, for a term not exceeding six months and not less than one month, with or without hard labor, or until such penalty and costs are paid. 43 V., c. 28, s. 90, *part*.

Penalties and their application.

Imprisonment in default of payment.

Punishment of Indians making or having intoxicants, or selling the same to other Indians.

Penalty or imprisonment, or both.

Evidence of Indians.

96. Every Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or who sells, exchanges with, barter, supplies or gives to any other Indian or non-treaty Indian, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, upon the evidence of one credible witness, other than the informer or prosecutor,—or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone, if he is a credible person,—be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labor, or to a penalty not exceeding one hundred dollars and not less than twenty-five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. 43 V., c. 28, s. 90, *part*.

97. In all cases arising under the three sections next preceding, Indians or non-treaty Indians shall be competent witnesses. 43 V., c. 28, s. 90, *part*.

98. No penalty shall be incurred when the intoxicant is made use of in case of sickness under the sanction of a medical man or under the directions of a minister of religion 43 V., c. 28, s. 90, *part*.

99. Every one who gives or supplies an intoxicant to an Indian or non-treaty Indian on an order, verbal or written, shall be liable to all the penalties to which he would have been liable if he had sold the same without such

s. 98, c. 43, R.S.C. 1886, amended by s. 8, c. 29, S.C. 1890.

s. 99, c. 43, R.S.C. 1886, repealed and replaced by s. 7, c. 32, S.C. 1894.

Giving intoxicants to Indians or being found drunk in reserve, &c.

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order; and every person found drunk in the house, tent, wigwam or other domicile of an Indian, or gambling therein, and every person found within an Indian village, settlement or reserve after sunset, and who refuses to leave after having been requested so to do by an Indian agent or chief, shall be liable to all the fines and penalties to which he would have been liable if he had supplied intoxicants to Indians, and under similar process. 47 V., c. 27, s. 13.

Punishment

100. The keg, barrel, case, box, package or receptacle from which any intoxicant has been sold, exchanged, bartered, supplied or given, as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified,—and any intoxicant imported, manufactured or brought into and upon any reserve or special reserve, or into the house, tent, wigwam or place of abode, or on the person of any Indian or non-treaty Indian, or suspected to be upon any reserve or special reserve, may, upon a search warrant in that behalf being granted by any judge, police magistrate, stipendiary magistrate or justice of the peace be searched for, and if found, seized by any Indian superintendent, agent or bailiff, or other officer connected with the Indian Department, or by any constable, wheresoever found on such land or in such place or on the person of such Indian or non-treaty Indian; and on complaint before any judge, police magistrate, stipendiary magistrate, justice of the peace or Indian agent, he may, on the evidence of any credible witness that this Act has been violated in respect thereof, declare the same forfeited, and cause the same to be forthwith destroyed; and may condemn the Indian or person in whose possession the same is found to pay a penalty not exceeding one hundred dollars and not less than fifty dollars, and the costs of prosecution:

Keg, &c., in which intoxicants are carried, to be forfeited.

Intoxicants and vessels containing them may be searched for, seized and destroyed by order of J.P.

Penalty for having the same in possession.

2. A moiety of such penalty shall belong to the prosecutor and the other moiety to Her Majesty, for the purposes hereinbefore mentioned; and in default of immediate payment, the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement, with or without hard labor, for any term not exceeding six months, and not less than two months, unless such penalty and costs are sooner paid. 43 V., c. 28, s. 91;—44 V., c. 17, s. 11;—45 V., c. 30, s. 3.

Application of penalty.

Imprisonment in default of payment.

101. If it is proved before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, that any vessel, boat, canoe or conveyance of any description, upon the sea or sea coast, or upon any river, lake or stream, is employed in carrying any intoxicant,

Vessels used in conveying intoxicants in contravention of this Act subject to seizure and forfeiture.

to be supplied to Indians or non-treaty Indians, such vessel, boat, canoe or conveyance so employed may be seized and declared forfeited, as in the next preceding section mentioned, and sold, and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned. 43 V., c. 28, s. 92;—45 V., c. 30, s. 8

Articles exchanged for intoxicants may be seized and forfeited.

102. Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which, in violation of this Act, the consideration, either wholly or in part, is an intoxicant, is forfeited to Her Majesty and may be seized, as is hereinbefore provided in respect to any receptacle of any intoxicant, and may be sold, and the proceeds thereof paid to Her Majesty, for the purposes hereinbefore mentioned. 43 V., c. 28, s. 93.

No intoxicant to be introduced at any council or meeting of Indians respecting surrender of reserves.

103. No one shall introduce any intoxicant at any council or meeting of Indians held for the purpose of discussing or of assenting to a release or surrender of a reserve or portion thereof, or for the purpose of assenting to the issuing of a timber or other license; and every person who introduces, at such meeting, and every agent or officer employed by the Superintendent General, or by the Governor in Council, who introduces, allows or countenances by his presence, the use of such intoxicant among such Indians, a week before, or at, or a week after, any such council or meeting, shall incur a penalty of two hundred dollars, recoverable by action in any court of competent jurisdiction,—a moiety of which penalty shall belong to the informer. 43 V., c. 28, s. 38.

s. 104, c. 43 R.S.C. 1886, repealed and replaced by s. 10, c. 33, S.C. 1887.

Intoxicated Indians, how to be dealt with.

104. Any constable may, without process of law, arrest any Indian or non-treaty Indian whom he finds in a state of intoxication, and convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he is sober; and such Indian or non-treaty Indian shall, when sober, be brought before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent, and if convicted of being so found in a state of intoxication, shall be liable to imprisonment in any common gaol, house of correction, lock-up or other place of confinement, for a term not exceeding one month, or to a penalty not exceeding thirty dollars and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. 43 V., c. 28, s. 94, part;—45 V., c. 30, ss. 3 and 5, part

Penalties.

Further penalty if Indian refuses to state where he obtained the intoxicant.

105. If any Indian or non-treaty Indian who has been so convicted, refuses, upon examination, to state or give information of the person, place and time from whom, where and when, he procured such intoxicant, and if from any other Indian or non-treaty Indian, then, if within his know-

ledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days, or to an additional penalty not exceeding fifteen dollars and not less than three dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. 43 V., c. 28, s. 94, part;—45 V., c. 30, ss. 3 and 5, part.

106. Every person who, being the keeper of any house, tent or wigwam, allows or snuffers any Indian woman to be or remain in such house, tent or wigwam, knowing, or having probable cause for believing, that such Indian woman is in or remains in such house, tent or wigwam, with the intention of prostituting herself therein, is guilty of an offence against this Act, and shall, on summary conviction before any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, be liable to a penalty not exceeding one hundred dollars and not less than ten dollars, or to imprisonment in any gaol or place of confinement for a term not exceeding six months:

Penalties on keepers of houses committing certain offences.

s. 106, c. 43 R.S.C. 1886, repealed and replaced by s. 11, c. 33, S.C. 1887.

2. Every Indian who keeps, frequents, or is found in a disorderly house, tent or wigwam used for such a purpose as aforesaid, shall be liable to the same penalty and on a similar process. 43 V., c. 28, s. 95;—45 V., c. 30, s. 3;—47 V., c. 27, s. 14.

Penalty for frequenting disorderly houses.

107. Every person who appears, acts or behaves as master or mistress, or as the person who has the care or management of any house, tent or wigwam, in which any Indian woman is, or remains, for the purpose of prostituting herself therein, shall be deemed, and taken to be the keeper thereof, notwithstanding he or she is not in fact the real keeper thereof. 43 V., c. 28, s. 96.

Who shall be deemed the master or mistress of such houses.

108. No appeal shall lie from any conviction under the fourteen sections next preceding, except to a judge of a superior court, county, circuit or district court, or to the chairman or judge of the court of the sessions of the peace, having jurisdiction where the conviction was had; and such appeal shall be heard, tried and adjudicated upon by such judge or chairman without the intervention of a jury; and no such appeal shall be brought after the expiration of thirty days from the conviction:

To what judges only appeal shall lie from conviction under preceding sections.

2. No such conviction shall be quashed for want of form, or be removed by certiorari into any superior court; and no warrant of commitment shall be held void by reason of any defect therein, if it is therein alleged that the person has been convicted, and if there is a good and valid conviction to sustain the same. 43 V., c. 28, s. 97;—47 V., c. 27, s. 15.

No removal by certiorari.

109. Every agent who knowingly and falsely informs, or causes to be informed, any person applying to him to purchase

Punishment of agents giving false

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Information as to lands.		any land within his division and agency, that the same has already been purchased, or who refuses to permit the person so applying to purchase the same according to existing regulations, shall be liable therefor to the person so applying, in the sum of five dollars for each acre of land which the person so applying offered to purchase, recoverable by action of debt in any court of competent jurisdiction. 43 V., c. 28, s. 54.	
Penalty.			
Recovery.			
Agents not to become interested in or owners of Indian lands.		110. No agent for the sale of Indian lands shall, within his division, directly or indirectly, except under an order of the Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency; and every such purchase or interest shall be void:	
Penalty for violation.		2. Every such agent who so offends shall forfeit his office and incur a penalty of four hundred dollars for every such offence, recoverable in an action of debt by any person who sues for the same. 43 V., c. 28, s. 41.	
Inciting Indians.		111. Every one who induces, incites or stirs up any three or more Indians, non-treaty Indians, or half-breeds apparently acting in concert—	
To threaten.		(a) To make any request or demand of any agent or servant of the Government in a riotous, routous, disorderly or threatening manner, or in a manner calculated to cause a breach of the peace; or—	
To cause breach of peace.		(b) To do any act calculated to cause a breach of the peace, —is guilty of a misdemeanor, and liable to imprisonment for a term not exceeding two years. 47 V., c. 27, s. 1.	
Punishment.			
Inciting to commit indictable offences.		112. Every one who incites any Indian to commit any indictable offence is guilty of felony and liable to imprisonment for any term not exceeding five years. C. S. U. C., c. 128, s. 104.	
Punishment.			
Sale or gift of ammunition may be prohibited.		113. The Superintendent General may, when he considers it in the public interest so to do, prohibit, by public notice to that effect, the sale, gift, or other disposal, to any Indian in the Province of Manitoba or in any part thereof, or in the North-West Territories or in any part thereof, of any fixed ammunition or ball cartridge; and every person who, after such notice, without the permission in writing of the Superintendent General, sells or gives, or in any other manner conveys to any Indian, in the section of country thus prohibited, any fixed ammunition or ball cartridge, shall incur a penalty not exceeding two hundred dollars, or shall be liable to imprisonment for a term not exceeding six months, or to both penalty and imprisonment within the limits aforesaid, at the discretion of the court before which the conviction is had:	
Penalty for violation.			

2. Every offender against the provisions of this section may be tried in a summary manner by any stipendiary or police magistrate or by any two justices of the peace, or by an Indian agent. 45 V., c. 30, s. 3;—47 V., c. 27, s. 2.

114. Every Indian or person who engages in or assists in celebrating the Indian festival known as the "Potlach" or the Indian dance known as the "Tamauawas," is guilty of a misdemeanor, and liable to imprisonment for a term not exceeding six months and not less than two months:

2. Every Indian or person who encourages, either directly or indirectly, an Indian to get up such a festival or dance, or to celebrate the same, or who assists in the celebration of the same, is guilty of a like offence, and shall be liable to the same punishment. 47 V., c. 27, s. 3.

115. Any judge of a court, judge of sessions of the peace, recorder, police magistrate or stipendiary magistrate, shall have full power to do alone whatever is authorized by this Act to be done by a justice of the peace or by two justices of the peace. 44 V., c. 17, s. 6.

116. Any recorder, police magistrate or stipendiary magistrate, appointed for or having jurisdiction to act in any city or town shall, with respect to offences and matters under this Act, have and exercise jurisdiction over the whole county or union of counties or judicial district in which the city or town for which he has been appointed or in which he has jurisdiction is situate. 44 V., c. 17, s. 7.

117. Every Indian agent shall be *ex officio* a justice of the peace for the purposes of this Act, and shall have the power and authority of two justices of the peace, with jurisdiction wheresoever any violation of the provisions of this Act occurs, or wheresoever it is considered by him most conducive to the ends of justice that any violation aforesaid shall be tried. 44 V., c. 17, s. 12;—45 V., c. 30, s. 3;—47 V., c. 27, ss. 22 and 23.

118. If any Indian is convicted of any crime punishable by imprisonment in a penitentiary or other place of confinement, the costs incurred in procuring such conviction, and in carrying out the various sentences recorded, may be defrayed by the Superintendent General, and paid out of any annuity or interest coming to such Indian, or to the hand, as the case may be. 43 V., c. 28, s. 82;—47 V., c. 27, s. 12.

119. Whenever in this Act in which it is provided that the conviction shall take place on the evidence of one credible witness other than the informer or prosecutor, the informer or prosecutor shall, nevertheless, be allowed to give evidence. 44 V., c. 17, s. 13.

Summary trial.

Celebrating a certain feast or dance.

Punishment.

Inciting to celebrate the same.

Who may act as a justice, or as two justices of the peace.

Jurisdiction in city or town to give jurisdiction in surrounding country or district.

Indian Agent to be *ex officio* a justice of the peace.

Indian undergoing imprisonment for crime not to receive share of annuity while imprisoned.

Informer may give evidence.

s. 114, c. 43
R.S.C. 1886,
repealed and
replaced by
s. 6, c. 35,
S.C. 1895.

s. 117, c. 43
R.S.C. 1886,
repealed and
replaced by
s. 9, c. 29,
S.C. 1890
and
subsequently
repealed and
replaced by
s. 8, c. 32,
S.C. 1894 and
by s. 7, c. 35
S.C. 1895.

Evidence of unbelieving Indian may be received on his solemn affirmation.

120. Upon any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever or by whomsoever committed, any court, judge, police or stipendiary magistrate, recorder, coroner, justice of the peace or Indian agent, may receive the evidence of any Indian or non-treaty Indian, who is destitute of the knowledge of God or of any fixed and clear belief in religion, or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian or non-treaty Indian, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as is approved by such court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent, as most binding on the conscience of such Indian or non-treaty Indian. 43 V., c. 28, s. 85;—45 V., c. 30, s. 3, *part.*

Substance of evidence of Indian to be reduced to writing and signed by him and by judge, and interpreter.

121. In the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian or non-treaty Indian, as aforesaid, shall be reduced to writing and signed by the Indian (by mark if necessary), giving the same, and verified by the signature or mark of the person acting as interpreter, if any, and by the signature of the judge, magistrate, recorder, coroner, justice of the peace, Indian agent or person before whom such evidence or information is given. 43 V., c. 28, s. 86;—45 V., c. 30, s. 3.

Indian to be cautioned to tell the truth.

122. The court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent shall, before taking any such evidence, information or examination, caution every such Indian or non-treaty Indian, as aforesaid, that he will be liable to incur punishment if he does not tell the truth, the whole truth and nothing but the truth. 43 V., c. 28, s. 87;—45 V., c. 30, s. 3.

Written declarations, &c., of Indians may be used as evidence as those of other persons.

123. The written declaration or examination so made, taken and verified of any such Indian or non-treaty Indian, as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal proceeding, when under the like circumstances the written affidavit, examination, deposition or confession of any person might be lawfully read and received as evidence. 43 V., c. 28, s. 88.

Effect of solemn affirmation, &c., of Indian.

124. Every solemn affirmation or declaration, in whatsoever form made or taken, by any Indian or non-treaty Indian, as aforesaid, shall be of the same force and effect as if such Indian or non-treaty Indian had taken an oath in the usual form. 43 V., c. 28, s. 89, *part.*

Want of form not to invalidate conviction.

125. No prosecution, conviction or commitment under this Act shall be invalid for want of form, so long as the same is according to the true meaning of this Act. 43 V., c. 28, s. 98.

GENERAL PROVISIONS.

Indians may not have homesteads in Manitoba, the North-West Territories or

126. No Indian or non-treaty Indian, resident in the Province of Manitoba, the North-West Territories or the District of Keewatin, shall be held capable of having acquired or of acquiring a homestead or pre-emption right to a quarter

section, or any portion of land in any surveyed or unsurveyed lands in the Province of Manitoba, the North-West Territories or in the District of Keewatin, or the right to share in the distribution of any lands allotted to half-breeds, subject to the following exceptions:—

Keewatin, except as specified.

(a.) He shall not be disturbed in the occupation of any plot on which he has permanent improvements prior to his becoming a party to any treaty with the Crown;

Undisturbed occupation in a certain case.

(b.) Nothing in this section shall prevent the Superintendent General, if found desirable, from compensating any Indian for his improvements on such a plot of land, without obtaining a formal surrender thereof from the band;

May be compensated for improvements.

(c.) Nothing in this section shall apply to any person who withdrew from any Indian treaty prior to the first day of October, in the year one thousand eight hundred and seventy-four. 43 V., c. 28, s. 81.

Section not to apply to certain Indians.

127. At the election of a chief or chiefs, or at the granting of any ordinary consent required of a band under this Act, those entitled to vote at the council or meeting thereof shall be the male members of the band, of the full age of twenty-one years; and the vote of a majority of such members, at a council or meeting of the band summoned according to its rules, and held in the presence of the Superintendent General, or of an agent acting under his instructions, shall be sufficient to determine such election or grant such consent. 43 V., c. 28, s. 73, *part.*

How and by whom chiefs may be elected.

128. If any band has a council of chiefs or councillors, any ordinary consent required of the band may be granted by a vote of a majority of such chiefs or councillors, at a council summoned according to its rules, and held in the presence of the Superintendent General or his agent. 43 V., c. 28, s. 73, *part.*

How consent may be granted if the band has a Council.

129. All affidavits required under this Act, or intended to be used in reference to any claim, business or transaction in connection with Indian affairs, may be taken before the judge or clerk of any county or circuit court, or any justice of the peace, or any commissioner for taking affidavits in any court, or the Superintendent General, or the deputy of the Superintendent General, or any inspector of Indian agencies, or any Indian agent, or any surveyor duly licensed and sworn, appointed by the Superintendent General to inquire into, or to take evidence, or report in any matter submitted to or pending before the Superintendent General, or if made out of Canada, before the mayor or chief magistrate of, or the British consul in, any city, town or municipality, or before any notary public. 43 V., c. 28, s. 108, *part.*

Before whom affidavits to be used under this Act may be made.

130. Copies of any records, documents, books or papers belonging to or deposited in the department, attested under the signature of the Superintendent General, or of the deputy of the Superintendent General, shall be evidence in all cases in which the original records, documents, books or papers would be evidence. 43 V., c. 28, s. 109.

Certified copies of official papers to be evidence.

131. All regulations made under this Act shall be published in the *Canada Gazette*. 44 V., c. 17, s. 1, *part.*

Publication of regulations.

R.S.C. 1886, c. 43, cont'd.

Chapter 43 of the Revised Statutes of 1886 was subsequently amended with the addition of the following sections. The Act enabling their inclusion in chapter 43 is placed within parentheses.

section 132 (enacted by s. 5, c. 22, S.C. 1883)

sections 133, 134 and 135 (enacted by s. 10, c. 29, S.C. 1890)

section 136 (enacted by s. 4, c. 30, S.C. 1891)

sections 137, 138 and 139 (enacted by s. 11, c. 32, S.C. 1894)

sections 140 and 141 (enacted by s. 8, c. 35, S.C. 1895)

The Indian Advancement Act. R.S.C. 1886, c. 44 (49 Vict)



CHAPTER 44.

The Indian Advancement Act.

A. D. 1886.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

INTERPRETATION.

1. In this Act, unless the context otherwise requires, the expressions used in this Act shall have the same meaning as the same expressions have in "*The Indian Act*," but the expression "reserve" in this Act, includes two or more reserves, and the expression "band" includes two or more bands united for the purposes of this Act by the Order in Council applying it. 47 V., c. 28, s. 2.

APPLICATION OF ACT.

2. This Act may be made applicable, as hereinafter provided, to any band of Indians in any of the Provinces, or in the North-West Territories of Canada, or in the District of Keewatin, except in so far as it is herein otherwise provided:

2. The provisions of "*The Indian Act*" shall continue to apply to every band to which this Act is, from time to time, declared to apply, in so far only as they are not inconsistent with this Act: Provided always, that if it thereafter appears to the Governor in Council that this Act cannot be worked satisfactorily by any band to which it has been declared to apply, the Governor in Council may declare that after a day named in the Order in Council, this Act shall no longer apply to such band, and such band shall thereafter be subject only to "*The Indian Act*," except that by-laws, rules and regulations theretofore made under this Act, and not inconsistent with the seventy-sixth section of "*The Indian Act*," shall continue in force until they are repealed by the Governor in Council. 47 V., c. 28, ss. 1 and 13.

GENERAL PROVISIONS.

3. Whenever any band of Indians is declared by the Governor in Council to be considered fit to have this Act applied to them, this Act shall so apply, from the time appointed in such Order in Council. 47 V., c. 28, s. 3.

R.S.C. 1886, c. 44, cont'd.

Chap. 44. *The Indian Advancement Act.* 49 VICT.

subsection 4(1), c. 44, R.S.C. 1886, repealed and replaced by s. 1, c. 30, S.C. 1890.

Division of reserve into sections.

4. Every reserve to which this Act is to apply shall, by the Order in Council applying it, be divided into sections, the number of which shall not exceed six or be less than two, and each section shall have therein a number of male Indians of full age, equal, as nearly as is found convenient, to such proportion of the male Indians of full age resident on the reserve, as one section of the reserve bears to all the sections:

Designation of each.

2. The sections shall be distinguished by numbers from one upwards, and the reserve shall be designated in the Order in Council as "*The Indian Reserve*," inserting such name as is thought proper, and the sections shall be designated by the numbers assigned to them respectively. 47 V., c. 28, s. 4.

First election of members of the council.

5. On a day and at a place, and between the hours prescribed in the Order in Council, the male Indians of the full age of twenty-one years, resident on the reserve, hereinafter termed electors, shall meet for the purpose of electing the members of the council of the reserve:

Who shall be deemed elected.

2. One or more members, as provided in such Order in Council to represent each section thereof, shall be elected by the electors resident in such section, and the Indian or Indians, as the case may be, having the votes of the greatest number of electors for each section, shall be the councillor or councillors, as the case may be, therefor, provided he or they are respectively possessed of, and living in, a house in the reserve:

Who shall preside at the election, and his powers.

3. The agent for the reserve shall preside at the election, or in his absence some person appointed by him as his deputy, with the consent of the Superintendent General, or some person appointed by the Superintendent General may preside at the said election, and shall take and record the votes of the electors, and may,—subject to appeal to the Superintendent General by or on behalf of any Indian or Indians who deems himself or themselves aggrieved by the action of such agent or deputy, or of such agent or person appointed as aforesaid,—admit or reject the claim of any Indian to be an elector, and may determine who are the councillors for the several sections, and shall report the same to the Superintendent General. 47 V., c. 28, s. 5.

First meeting of councillors.

4. In any case of an equality of votes at any such election the agent or person presiding thereat shall have the casting vote.

6. On a day and at a place, and between the hours prescribed by the Superintendent General, if the day fixed for the same is within eight days from the date at which the councillors were elected, the said councillors shall meet and elect one of their number to act as chief councillor, and the councillor so elected shall be the chief councillor. 47 V., c. 28, s. 6.

R.S.C. 1886, c. 44, cont'd.

1886. *The Indian Advancement Act.* Chap. 44.

7. The councillors shall remain in office until others are elected in their stead, and an election for that purpose shall be held in like manner, at the same place and between the like hours on the like day, in each succeeding year, if it is not a Sunday or holiday, in which case it shall be held on the next day thereafter which is not a Sunday or a holiday:

2. If there is a failure to elect on the day appointed for the election, the Superintendent General shall appoint another day on which it shall be held. 47 V., c. 28, s. 7.

8. In the event of a vacancy in the council, by the death or inability to act of any councillor, more than three months before the time for the next election, an election to fill such vacancy shall be held by the agent or his deputy, after such notice to the electors concerned as the Superintendent General directs, at which only the electors of the section represented by the councillor to be replaced shall vote, and to such election the provisions respecting other elections shall apply, so far as they are applicable:

2. If the councillor to be replaced is the chief councillor, then an election of a chief councillor shall be held in the manner already provided, but the day fixed for such election shall be at least one week after the date when the new councillor is elected:

3. During the time of any vacancy the remaining councillors shall constitute the council, and they may, in the event of a vacancy in the office, appoint a chief from among themselves for the time being. 47 V., c. 28, s. 8.

9. The council shall meet for the despatch of business, at such place on the reserve and at such times as the agent for the reserve appoints, but which shall not exceed twelve times or be less than four times in the year for which it is elected, and due notice of the time and place of each meeting shall be given to each councillor by the agent:

2. At such meeting the agent for the reserve, or his deputy appointed for the purpose, with the consent of the Superintendent General, shall preside and record the proceedings, and may control and regulate all matters of procedure and form, adjourn the meeting to a time named, or *sine die*, and report and certify all by-laws and other acts and proceedings of the council to the Superintendent General, to which certificate full faith and credence shall be given in all courts and places whatsoever:

3. He shall address the council and explain and advise them upon their powers and duties, and any matter requiring their consideration, but he shall have no vote on any question to be decided by the council:

4. Each councillor present shall have a vote on every question to be decided by the council, and such question shall be decided by the majority of votes, the chief coun-

Term of office.

Provision for failure of election.

Vacancies, how filled.

In office of chief councillor.

Remaining councillors to constitute council.

Meetings of the council.

Who shall preside.

Votes of person presiding.

cillor voting as a councillor and having also a casting vote, in case the votes would otherwise be equal:

Quorum. 5. Four councillors shall be a quorum for the despatch of any business. 47 V., c. 28, s. 9.

Council may make by-laws, &c. 10. The council may make by-laws, rules and regulations, which, if approved and confirmed by the Superintendent General, shall have force as law within and with respect to the reserve, and the Indians residing thereon, upon all or any of the following subjects, that is to say:—

Religious denomination of school teacher. (a.) The religious denomination to which the teacher or teachers of the school or schools established on the reserve shall belong, as being that of the majority of the Indians resident on the reserve; but the Protestant or Roman Catholic minority on the reserve may also have a separate school or schools, with the approval of and under regulations made by the Governor in Council;

Health. (b.) The care of the public health;

Order. (c.) The observance of order and decorum at elections of councillors, meetings of the council, and assemblies of Indians on other occasions, or generally, on the reserve, by the appointment of constables and erection of lock-up houses, or by the adoption of other legitimate means;

Intemperance. (d.) The repression of intemperance and profligacy;

Sub-division of reserve. (e.) The sub-division of the land in the reserve, and the distribution of the same amongst the members of the band; also, the sitting apart, for common use, of woodland and land for other purposes;

Trespass. (f.) The protection of and the prevention of trespass by cattle, sheep, horses, mules and other domesticated animals; and the establishment of pounds, the appointment of pound-keepers and the regulation of their duties, fees and charges;

School houses, &c. (g.) The construction and repair of school houses, council houses and other buildings for the use of the Indians on the reserve, and the attendance at school of children between the ages of six and fifteen years;

Roads, &c. (h.) The construction, maintenance and improvement of roads and bridges, and the contributions, in money or labor, and other duties of residents on the reserve, in respect thereof; and the appointment of road masters and fence viewers, and their powers and duties;

Water courses, &c. (i.) The construction and maintenance of water courses, ditches and fences, and the obligations of vicinage, the destruction and repression of noxious weeds and the preservation of the wood on the various holdings, or elsewhere, in the reserve;

Removal of trespassers. (j.) The removal and punishment of persons trespassing upon the reserve, or frequenting it for improper purposes;

Revenue. (k.) The raising of money for any or all of the purposes for which the council may make by-laws, as aforesaid, by assessment and taxation on the lands of Indians enfranchised, or in possession of lands by location ticket in the

Paragraph 10(h), c. 44, R.S.C. 1886, repealed and replaced by s. 2, c. 30, S.C. 1890.

reserve, the valuation for assessment being made yearly, in such manner and at such times as are appointed by the by-law in that behalf, and before subject to revision and variation by the agent for the reserve, and in force only after it has been submitted to him and corrected, if and as he thinks just he requires, and approved by him,—the tax to be imposed for the year in which the by-law is made, and not to exceed one-half of one per cent, on the assessed value of the land on which it is to be paid; and if such tax is not paid at the time prescribed by the by-law, the amount thereof, with the addition of one-half of one per cent, thereon, may be paid by the Superintendent General to the treasurer out of the share of the Indian in default in any moneys of the band; or if such share is insufficient to pay the same, the defaulter shall, for violation of the by-law imposing the tax, be liable to a penalty equal to the deficiency caused by such default: Provided always, that any Indian deeming himself aggrieved by the decision of the agent, made as hereinbefore provided, may appeal to the Superintendent General, whose decision in the matter shall be final;

(l.) The appropriation and payment to the local agent, as treasurer, by the Superintendent General, of so much of the moneys of the band as are required for defraying expenses necessary for carrying out the by-laws made by the council, including those incurred for assistance absolutely necessary for enabling the council or the agent to perform the duties assigned to them;

(m.) The imposition of punishment by penalty or by imprisonment, or by both, for any violation of or disobedience to any by-law, rule or regulation made under this Act, committed by any Indian of the reserve; but such penalty shall, in no case, except for non-payment of taxes, exceed thirty dollars, nor the imprisonment thirty days; the proceedings for the imposition of such punishment may be taken before one justice of the peace, under the "Act respecting summary proceedings before Justices of the Peace;" and the amount of any such penalty shall be paid over to the treasurer of the band to which the Indian incurring it belongs, for the use of such band;

(n.) The amendment, repeal or re-enactment of any such by-law, by a subsequent by-law, made and approved as hereinbefore provided. 47 V., c. 28, s. 10.

11. Every member of a council elected under the provisions of this Act, who is proved to be a habitual drunkard or to be living in immorality, or to have accepted a bribe, or to have been guilty of dishonesty or of misfeasance of office of any kind, shall, on proof of the fact to the satisfaction of the Superintendent General, be disqualified from acting as a member of the council, and shall, on being notified, cease forthwith so to act; and the vacancy occasioned thereby shall be filled in the manner hereinbefore provided. 47 V., c. 28, s. 11.

12. A copy of any by-law, rule or regulation under this Act, approved by the Superintendent General, and purporting to be certified by the agent for the band to which it relates to be a true copy thereof, shall be evidence of such by-law, rule or regulation, and of such approval, without proof of the signature of such agent; and no such by-law, rule or regulation shall be invalidated by any defect of form, if it is substantiated consistent with the intent and meaning of this Act. 47 V., c. 28, s. 12.

Reserve.
Payment out of Indian's share on his account.
Appeal.
Appropriation of certain funds.
Penalties and enforcement thereof.
Amending by-law.
Disqualification in certain cases.
s. 13 added to c. 44, R.S.C. 1886 by s. 3, c. 30, S.C. 1890.
Proof of by-laws, &c.



CHAP. 33.

An Act to amend "The Indian Act."

[Assented to 23rd June, 1887.]

Preamble.
R.S.C., c. 43.

WHEREAS it is expedient to amend the Revised Statutes of Canada, chapter forty-three intituled "An Act respecting Indians:" Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Determina-
tion of mem-
bership of
band.

1. The Superintendent General, may, from time to time, upon the report of an officer, or other person specially appointed by him to make an inquiry, determine who is or who is not a member of any band of Indians entitled to share in the property and annuities of the band; and the decision of the Superintendent General in any such matter shall be final and conclusive, subject to an appeal to the Governor in Council.

Witnesses
may be sum-
moned and
examined
under oath.

2. The Superintendent General, his deputy, or other person specially authorized by the Governor in Council, shall have power, by subpoena issued by him, to summon any person before him and to examine such person under oath in respect to any matter affecting Indians, and to compel the production of papers and writings before him relating to such matters; and if any person duly summoned neglects or refuses to appear at the time and place specified in the subpoena upon such person duly served, or refuses to give evidence or to produce the papers or writings demanded of him, may, by warrant under his hand and seal, cause such person, so refusing or neglecting, to be taken into custody and to be imprisoned in the nearest common gaol, as for contempt of court, for a period not exceeding fourteen days.

Penalty for
non-compli-
ance with
summons.Sub-section 5
of section 25
repealed.

3. Sub-section five of section twenty-six of the said Act is hereby repealed.

Section 27 re-
pealed; new
provision.

4. The twenty-seventh section of the said Act is hereby repealed and the following section substituted therefor:—

Punishment
of Indians
trespassing
on land of
other Indians.

"27. Every Indian who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away or removes from the land of an Indian who holds a location title, or who is otherwise recognized by the department as the occupant of such land, any of the trees, saplings, shrubs,

1887.

Indian Act amended.

Chap. 33.

underwood, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables off the said land; and every Indian who, without license as aforesaid, cuts, carries away or removes from any portion of the reserve of his band, for sale and not for the immediate use of himself and his family, any trees, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables therefrom, for sale, as aforesaid, or who cuts or uses any pine or large timber for any other purpose than for building on his own location or farm, unless with the consent of the hand and the approval of the Superintendent General, shall incur the penalties provided in the next preceding section in respect to Indians of other bands and other persons, and the same proceedings may be had for the recovery thereof as are provided for in the said section."

Or removing
certain
things.Or cutting or
using pine or
large timber
without con-
sent.

Penalty.

5. The thirty-fifth section of the said Act is hereby amended by striking out the words "If any" in the first line thereof and by substituting therefor the words following, that is to say:—"No portion of any reserve shall be taken for the purposes of any railway, road or public work without the consent of the Governor in Council, and if any."

Section 35
amended.

6. The sixty-second section of the said Act is hereby repealed and the following section substituted therefor:—

Section 62 re-
pealed; new
provision.

"62. Any officer or agent acting under the Superintendent General may seize or cause to be seized in Her Majesty's name any logs, timber, wood or other products of trees or any trees themselves, cut without authority on Indian lands or on an Indian reserve, wherever they are found, and place the same under proper custody until a decision can be had in the matter from competent authority."

Seizure of
trees cut
without
authority.

7. The sixty-third section of the said Act is hereby repealed, and the following section substituted therefor:—

Section 63 re-
pealed; new
provision.

"63. When the logs, timber, wood or other products of trees cut without authority, or the trees themselves so cut without authority on Indian lands or on an Indian reserve, have been made up or intermingled with other trees, wood, timber, logs or other products thereof, into a crib, dram or raft, or in any other manner, so that it is difficult to distinguish the timber cut on a reserve or on Indian lands without license from the other timber with which it is made up or intermingled, the whole of the timber so made up or intermingled shall be held to have been cut without authority on a reserve or on Indian lands, and shall be seized and forfeited and sold by the Superintendent General or any officer or agent acting under him, unless evidence satisfactory to him is adduced showing the probable quantity not cut on a reserve or on Indian lands."

Presumption
of law in case
of mixture of
timber cut on
Indian lands
or reserves
with timber
cut elsewhere.

Exception.

8. The seventy-second section of the said Act is hereby repealed and the following section substituted therefor:—

Section 72 re-
pealed; new
provision.

S.C. 1887, c. 33, cont'd.

Chap. 83. *Indian Act amended.* 50-51 VICT.

Payment of annuity may be stopped and offender deprived of participation in lands, in case of desertion of family.

"72. The Superintendent General may stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the Superintendent General, guilty of deserting his family; and the Superintendent General may apply the same towards the support of any family, woman or child, so deserted."

s. 73, c. 43
R.S.C. 1886,
amended by
s. 9, c. 33,
S.C. 1887
and
subsequently
repealed and
replaced by
s. 8, c. 34,
S.C. 1898.

Section 73 repealed; new provision.

Provision in like case as to Indian woman.

9. The seventy-third section of the said Act is hereby repealed and the following section substituted therefor:—

"73. The Superintendent General may also stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any woman who has no children, and who deserts her husband and lives immorally with another man."

Section 104 repealed; new provision

Indians found intoxicated.

10. The one hundred and fourth section of the said Act is hereby repealed and the following section substituted therefor:—

"104. Every Indian who is found in a state of intoxication shall be liable on summary conviction thereof to imprisonment for any term not exceeding one month or to a penalty not exceeding thirty dollars and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent."

May be arrested without warrant and confined till sober.

To be tried when sober.

"2 Any constable or other peace officer may, without warrant, arrest any Indian or non-treaty Indian found in a state of intoxication, and convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he is sober; and such Indian or non-treaty Indian shall, when sober, be brought for trial before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent."

Section 15 amended.

Penalty for harboring Indian prostitutes.

11. Sub-section one of the one hundred and sixth section of the said Act is hereby repealed and the following sub-section substituted therefor:—

"106. Every person and Indian who, being the keeper of any house, tent or wigwam, allows or suffers any Indian woman to be or remain in such house, tent or wigwam, knowing, or having probable cause for believing, that such Indian woman is in or remains in such house, tent or wigwam, with the intention of prostituting herself therein, or who, being an Indian woman, prostitutes herself therein, is guilty of an offence against this Act, and shall, on summary conviction before any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, be liable to a penalty not exceeding one hundred dollars and not less than ten dollars, or to imprisonment in any gaol or place of confinement for a term not exceeding six months."

And on keepers who are Indians and prostitutes.

s. 72, c. 43,
R.S.C. 1886,
amended by
s. 8, c. 33,
S.C. 1887
and subsequently
repealed and
replaced by
s. 4, c. 32,
S.C. 1894
and by
s. 7, c. 34,
S.C. 1898.

An Act further to amend "The Indian Act", Chapter forty-three of the Revised Statutes. S.C. 1888, c. 22 (51 vict.)



51 VICTORIA.

CHAP. 22.

An Act further to amend "The Indian Act," Chapter forty-three of the Revised Statutes.

[Assented to 22nd May, 1888.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Sub-section one of section thirteen of "The Indian Act" is hereby repealed and the following substituted therefor:—

"13. No half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian: and no half-breed head of a family, except the widow of an Indian or a half-breed who has already been admitted into a treaty, shall, unless under very special circumstances, which shall be determined by the Superintendent General or his agent, be accounted an Indian or entitled to be admitted into any Indian treaty; and any half-breed who has been admitted into a treaty shall, on obtaining the consent in writing of the Indian Commissioner or in his absence the Assistant Indian Commissioner, be allowed to withdraw therefrom on signifying in writing his desire so to do.—which signification in writing shall be signed by him in the presence of two witnesses, who shall certify the same on oath before some person authorized by law to administer the same; and such withdrawal shall include the minor unmarried children of such half-breed."

2. Section forty-three of the said Act is hereby amended by adding the following sub-sections thereto:—

"4. Whenever the proper municipal officer having, by the law of the Province in which the land affected is situated, authority to make or execute deeds or conveyances of lands sold for taxes, makes or executes any deed or conveyance purporting to convey any land, or portion of land, the fee of which is vested in the Crown or any person in trust for or for the use of any Indian or non-treaty Indian or band or

Section 13 of R.S.O., c. 43 amended.

As to half breeds in Manitoba and elsewhere.

Withdrawal from treaty.

Section 43 amended.

Conveyance of land sold for taxes.

Chap. 22. Indian Act amended. 51 VICT.

irregular band of Indians or non-treaty Indians, but which has been surrendered under the provisions of this Act, or purporting to grant or convey the interest of any locatee or purchaser from the Crown and such deed or conveyance recites or purports to be based upon a sale of such land or such interest for taxes, the Superintendent General may act upon and treat such deed or conveyance as a valid transfer of all the right and interest of the original locatee or purchaser from the Crown, and of every person claiming under him, in or to such land to the grantee named in such deed or conveyance:

Superintendent General may take action.

Effect of such action.

Issue of patent.

Time for registration.

Section 77 amended.

Exemption from taxation.

Exception.

Rights saved.

"5. So soon as the Superintendent General has signified his approval of such deed or conveyance by endorsement thereon, the grantee shall be substituted in all respects, in relation to the land so conveyed, for the original locatee or purchaser from the Crown, but no such deed or conveyance shall be deemed to confer upon the grantee any greater right or interest in the land than that possessed by the original locatee or purchaser from the Crown:

"6. The Superintendent General may cause a patent to be issued to the grantee named in such deed or conveyance on the completion of the original conditions of the location or sale, unless such deed or conveyance is declared invalid by a court of competent jurisdiction in a suit or action instituted by some person interested in such land within two years of the date of such sale for taxes, and unless within such delay notice of such contestation has been given to the Superintendent General:

"7. Every such deed or conveyance shall be registered in the office of the Superintendent General within two years from the date of the sale for taxes; and unless the same is so registered, it shall not be deemed to have preserved its priority, as against a purchaser in good faith from the original locatee or purchaser from the Crown, in virtue of an assignment registered in like manner previously to the date of the registration of the deed or conveyance based upon a sale for taxes as aforesaid."

3. Sub-section three of section seventy-seven is hereby repealed and the following substituted therefor:—

"3. All land vested in the Crown or in any person, in trust for or for the use of any Indian or non-treaty Indian, or any land or irregular band of Indians or non-treaty Indians, shall be exempt from taxation, except those lands which, having been surrendered by the bands owning them, though unpatented, have been located by or sold or agreed to be sold to any person: and, except as against the Crown and any Indian located on the land, the same shall be liable to taxation in like manner as other lands in the same locality; but nothing herein contained shall interfere with the right of the Superintendent General to cancel the original

1888. Indian Act amended. Chap. 22.

sale or location of any land, or shall render such land liable to taxation until it is again sold or located"

1. Section ninety-four of the said Act is hereby repealed and the following substituted therefor:—

Section 94 repealed; new section.

"94. Every one who by himself, his clerk, servant or agent, and every one who in the employment or on the premises of another directly or indirectly on any pretence or by any device sells, barter, supplies or gives to any Indian or non-treaty Indian any intoxicant, or causes or procures the same to be done or attempts the same or connives thereat, or opens or keeps, or causes to be opened or kept on any reserve or special reserve, a tavern, house or building in which any intoxicant is sold, bartered, supplied or given, or who is found in possession of any intoxicant in the house, tent, wigwam or place of abode of any Indian or non-treaty Indian or of any person, or upon any other part of the reserve or special reserve, or who sells, barter, supplies or gives to any person on any reserve or special reserve any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace or Indian agent, upon the evidence of one credible witness other than the informer or prosecutor—or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone if he is a credible person—be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labor, or to a penalty not exceeding three hundred dollars and not less than fifty dollars with costs of prosecution, or he shall be liable to both penalty and imprisonment in the discretion of the convicting judge, magistrate, stipendiary magistrate, justices of the peace or Indian agent; and a moiety of every such penalty shall belong to the informer or prosecutor, and the other moiety thereof shall belong to Her Majesty to form part of the fund for the benefit of that body of Indians or non-treaty Indians with respect to one or more members of which the offence was committed."

Punishment for furnishing intoxicants to Indians.

s. 94, c. 43, R.S.C. 1886, amended by s. 4, c. 22, S.C. 1888 and subsequently amended by s. 6, c. 32, S.C. 1894.

Penalties.

Application of fines.

5. The said Act is hereby amended by adding the following section thereto:—

New section added.

"132. Notwithstanding anything contained in this Act, the Governor in Council may from time to time direct that any fine, penalty or forfeiture or any portion thereof which would otherwise belong to the Crown for the public use of Canada, or be paid to the Minister of Finance and Receiver General for the use of any band of Indians, or which would belong to Her Majesty to form part of the fund for any body of Indians or non-treaty Indians, or which is ordered to be disposed of in any particular manner, be paid to any Provincial, municipal or local authority."

Application of penalties may be varied.

s. 132 added to c. 43, R.S.C. 1886 by s. 5, c. 22, S.C. 1888 and subsequently repealed and replaced by s. 9, c. 32, S.C. 1894.

An Act further to amend "The Indian Act", Chapter forty-three
of the Revised Statutes. S.C. 1890, c. 29. (53 Vict.)



53 VICTORIA.

CHAP. 29.

An Act further to amend "The Indian Act," chapter
forty-three of the Revised Statutes.

[Assented to 16th May, 1890.]

HER Majesty, by and with the advice and consent of the
Senate and House of Commons of Canada, enacts as
follows:—

1. Section eleven of "*The Indian Act*," is hereby amended R.S.C. c. 43,
s. 11 amended.
by adding the following sub-section thereto:—

"2. Where a band has become enfranchised, or has other-
wise ceased to exist, such commutation may take place upon the
approval of the Superintendent General."

2. Section sixteen of the said Act is hereby amended, S. 16 amended.
by adding the following words at the end thereof: "Provided Provides for
certificates of
occupancy in
Manitoba,
Keewatin and
Western Ter-
ritories.
always, that prior to the location of an Indian under this
section, the Indian Commissioner for Manitoba, Keewatin and
The Western Territories may issue a certificate of occupancy
to any Indian belonging to a band residing upon a reserve
in the aforesaid Province, District or Territories, of so much
land, (in no case however to exceed one hundred and sixty
acres,) as the Indian, with the approval of the Commissioner,
selects; and such certificate may be cancelled at any time by
the Indian Commissioner, but shall, while it remains in force,
vest in the holder thereof, as against all others, lawful posses-
sion of the lands described therein.

3. Sub-section one of section twenty-six of the said Act is Subs. 1. of s. 26,
repealed and
new provision.
hereby repealed, and the following substituted therefor:—

"26. Every person, or Indian, other than an Indian of the
band to which the reserve belongs, who, without the license in
writing of the Superintendent General, or of some officer or
person deputed by him for that purpose, cuts, carries away or
removes from any of the said land, roads or allowances for roads,
in the said reserve, any of the trees, saplings, shrubs, under-
wood, timber, cordwood or part of a tree, or hay thereon, or
removes any of the stone, soil, minerals, metals or other Punishment
for cutting
timber, &c.,
on or taking
stone, miner-
als, &c., from
Reserves.

Chap. 29.	<i>Indian Act amended.</i>	53 VICT.
	valuables from the said land, roads or allowances for roads, shall, on conviction thereof before any stipendiary magistrate, police magistrate or any two justices of the peace or Indian agent, incur—	
Trees.	"(a.) For every tree he cuts, carries away or removes, a penalty of twenty dollars ;	
Saplings, &c.	"(b.) For cutting, carrying away or removing any of the saplinga shrubs, underwood, timber, cordwood or part of a tree or hay, if under the value of one dollar, a penalty of four dollars ; but, if over the value of one dollar, a penalty of twenty dollars ;	
Stone, minerals, &c.	"(c.) For removing any of the stone, soil, minerals, metals, or other valuables aforesaid, a penalty of twenty dollars :—	
And costs.	"And the costs of prosecution in each case :"	
Subs. 2, a. 43, repealed, and new provision. Registration of assignments.	4. Sub-section two of section forty-three of the said Act is hereby repealed, and the following substituted therefor :— "2. Upon any such assignment being produced to the Superintendent General, and, except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the place of such execution, and the names, residences and occupations of the witnesses,—or, as regards lands in the Province of Quebec, upon the production of such assignment, executed in notarial form, or of a notarial copy thereof,—the Superintendent General shall cause the material parts of every such assignment to be registered in such book of registry, and shall cause to be indorsed on every such assignment a certificate of such registration, signed by himself, or by the Deputy Superintendent General, or any other officer of the department by him authorized to sign such certificates :	
Subs. 1, a. 53, amended.	5. Sub-section one of section fifty-three of the said Act is hereby amended by substituting for the words "office of the Registrar General of Canada," in the ninth line thereof, the words "Department of Indian Affairs."	
Subs. 3, a. 81, amended.	6. Sub-section three of section eighty-one of the said Act is hereby amended by adding the following words at the end thereof : "and the burden of proof, concerning such written consent of the Superintendent General or his agent, shall lie on the accused."	
S. 81 further amended.	7. The said section eighty-one is hereby further amended by adding the following sub-section thereto :— "5. Animals given to Indians under treaty stipulations, and the progeny thereof, and farming implements, tools and any other articles given to Indians under treaty stipulations, shall be held to be presents within the meaning of this section."	
S. 98 amended.	8. Section ninety-eight of the said Act is hereby amended by adding the following words at the end thereof : "And the	

1890. *Indian Act amended.* Chap. 29.

burden of proof that the intoxicant has been so made use of shall be on the accused."

9. Section one hundred and seventeen of the said Act is hereby repealed, and the following substituted therefor :—

"117. Every Indian agent shall be *ex officio* a justice of the peace for the purposes of this Act, and shall have the power and authority of two justices of the peace, with jurisdiction wheresoever any violation of the provisions of this Act occurs, and in all cases of infraction, by Indians, of any of the provisions of chapter one hundred and fifty-seven of the Revised Statutes, intitled "*An Act respecting Offences against Public Morals and Public Convenience*," or wheresoever it is considered by him most conducive to the ends of justice that any violation aforesaid shall be tried."

10. The said Act is hereby amended by adding the following sections thereto :—

"133. The Superintendent General may, from time to time, by public notice, declare that, on and after a day therein named, the laws respecting game in force in the Province of Manitoba or The Western Territories, or respecting such game as is specified in such notice, shall apply to Indians within the said Province or Territories, as the case may be, or to Indians in such parts thereof as to him seems expedient."

"134. No official or employee connected with the inside or outside service of the Department of Indian Affairs, and no missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians, and no school teacher on an Indian reserve, shall trade with any Indian, or sell to him, directly or indirectly, any goods or supplies, cattle or other animals :

"2. In Manitoba and the North-West Territories no person or persons shall be allowed, on an Indian reserve, to barter, directly or indirectly, with any Indian, or sell to him any goods or supplies, cattle or other animals, without the special license in writing of the Superintendent General,—which license he may at any time revoke :

"3. Every offender against the provisions of this section shall be liable to a fine equal in amount to double the sum received for the goods, supplies, cattle or other animals sold, and in addition to the costs of prosecution before a police magistrate, a stipendiary magistrate, a justice of the peace or the Indian agent for the locality where the offence occurs ; and the evidence of the Indian to whom the sale was made, and the production to, or view by, the magistrate or Indian agent of the article or animal sold, shall be sufficient evidence on which to convict."

"135. Any offender sentenced by a magistrate or Indian agent, under any provision of this Act or of any amendment thereof, to the payment of a penalty or of costs, or of both, shall, in default of payment, be liable to imprisonment, notwithstanding that such provision does not expressly authorize such imprisonment to be imposed in the event of non-payment of the penalty ; but the term of such imprisonment shall not exceed that to which the offender may be sentenced for the offence."

S. 117 repealed; new provision.

Indian Agent to be *ex officio* a Justice of the Peace.

Powers

New sections added.

Game laws in Manitoba and N. W. Territories.

Officials of Indian Dept. missionaries and teachers prohibited from trading with Indians.

In Manitoba and N. W. T. Indian trader must be licensed.

Penalty

Costs.

Evidence.

Imprisonment in default of payment of penalties incurred under this Act.

s. 117, c. 43 R.S.C. 1886, amended by s. 9, c. 29, S.C. 1890 and subsequently repealed and replaced by s. 8, c. 32, S.C. 1894 and by s. 7, c. 35, S.C. 1895.

s. 134 added to c. 43, R.S.C. 1886, by s. 10, c. 29, S.C. 1890 and subsequently amended by s. 10, c. 32 S.C. 1894.



53 VICTORIA.

CHAP. 30.

An Act to amend "The Indian Advancement Act,"
 chapter forty-four of the Revised Statutes.

[Assented to 16th May, 1890.]

HER Majesty, by and with the advice and consent of the
 Senate and House of Commons of Canada, enacts as
 follows:—

1. Sub-section one of section four of "The Indian Advance-
 ment Act," is hereby repealed and the following substituted
 therefor:—

"4. Every reserve to which this Act is to apply may, by
 the Order in Council applying it, be divided into sections, the
 number of which shall not exceed six or be less than two, and
 each section shall have therein a number of male Indians of
 full age, equal, as nearly as is found convenient, to such pro-
 portion of the male Indians of full age resident on the reserve,
 as one section of the reserve bears to all the sections; or,
 should the majority of the Indians of the reserve so desire, the
 whole reserve may form one section,—the wishes of the Indians
 in respect thereto being first ascertained, in the manner pre-
 scribed in "The Indian Act," in like matters, and certified to
 the Superintendent General by the Indian agent.

2. Paragraph (h) of section ten of the said Act, is hereby
 repealed, and the following substituted therefor:—

"(h.) The construction, maintenance and improvement of
 roads and bridges, and the contributions, in money or labor,
 and other duties of residents on the reserve, in respect thereof;
 the size and kind of sleighs to be used on the roads in the
 winter season, and the manner in which the horse or horses
 or other beasts of burden shall be harnessed to such sleighs;
 and the appointment of road masters and fence viewers, and
 their powers and duties;"

3. The said Act is hereby amended by adding the follow-
 ing section thereto:—

"13. On a day, being one week previous to the day on which
 the election of the councillors is to be held on any reserve under
 section five of this Act, and at a place to be appointed by the In-

Chap. 30. Indian Advancement Act amended. 53 VICT.

dian agent, and between the hours of ten in the forenoon and
 twelve at noon, a meeting of the electors,—of which meeting
 due notice shall be given in the manner customary in the
 land for calling meetings for public purposes—shall be held
 for the purpose of nominating candidates for election as coun-
 cillors as aforesaid:

"2. The Indian agent, or in his absence such person as is
 appointed by the Superintendent General, or failing such
 appointment, a chairman to be chosen by the meeting, shall
 preside over such meeting and shall take and keep the minutes
 thereof:

"3. Only Indians nominated at such meeting shall be recog-
 nized as, or permitted to become, candidates for election as
 aforesaid; and each nomination to be valid must be made on
 the motion of an elector of the section of the reserve for the
 representation whereof the nominee is proposed as a candidate,
 and the motion must be seconded by another elector of that
 section:

"4. The nominations of the candidates shall, so far as
 practicable, be made consecutively and previously to any
 speeches being made by the movers and seconders or by any
 other persons, but nominations may be made up to the hour of
 twelve o'clock noon:

"5. If only one candidate for any councillorship is proposed,
 the Indian agent or chairman shall, at twelve o'clock noon,
 declare such candidate duly elected; and if two or more candi-
 dates are proposed for any councillorship, an election shall
 be held under the provisions of section five of this Act."

Chairman of
meeting.Nomination
necessary.Time for
nomination.Proceedings
after nomina-
tion.R.S.C.,
section 4
amended.Division of re-
serve into sec-
tions.Or whole re-
serve may
form one sec-
tion.Section 10
amended.Council may
make by-laws
as to roads,
&c.Section add-
ed.Nomination of
candidates.



54-55 VICTORIA.

CHAP. 30.

An Act further to amend "The Indian Act."

(Assented to 28th August, 1891.)

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

R.S.C., c. 43, s. 22 amended. 1. Section twenty-two of "The Indian Act," chapter forty-three of the Revised Statutes, is hereby amended by adding the following sub-section thereto:—

Removal at request of agent, &c. "2. Or any such person or Indian other than an Indian of the band may be required orally or in writing by an Indian agent, a chief of the band occupying the reserve, or a constable—

"(a.) To remove (with his family, if any) from the land, marsh or road, or allowance or road upon which he is or has so settled, or is residing or hunting, or which he so occupies; or—

"(b.) To remove his cattle from such land or marsh; or—

"(c.) To cease fishing in any such marsh, river, stream or creek as aforesaid; or—

"(d.) To cease using as aforesaid any such land, river, stream, creek, marsh, road or allowance for road:

Penalty. "And any such person or Indian who fails to comply with such requirement, shall, upon summary conviction, be liable to a penalty of not less than five and not more than ten dollars for every day during which such failure continues, and in default of payment to be imprisoned for a term not exceeding three months."

Section 39 amended. 2. Section thirty-nine of the said Act is hereby amended by inserting in the eighteenth line thereof, after the word "magistrate," the words "or, in the case of reserves in Manitoba or the North-West Territories, before the Indian Commissioner for Manitoba and the North-West Territories, and in the case of reserves in British Columbia, before the Visiting Indian Superintendent for British Columbia, or, in either case, before some other person or officer specially thereunto authorized by the Governor in Council."

s. 39, c. 43, R.S.C. 1886, amended by s. 2, c. 30, S.C. 1891 and subsequently repealed and replaced by s. 3, c. 34, S.C. 1898.

1891.

Indians.

Chap 30.

3. Section forty-seven of the said Act is hereby amended by adding the following sub-section thereto:—

"2. The costs of and incident to any proceedings under this section or any part thereof shall be paid by any party to such proceedings or by the Superintendent General, as the judge or magistrate orders."

4. The said Act is hereby further amended by adding the following section thereto:—

"136. Where shooting privileges over a reserve or part of a reserve, or fishing privileges in any marsh, pond, river, stream or creek, upon or running through a reserve, have, with the consent of the Indians of the band, been leased or granted to any person, it shall not be lawful for any person not under such lease or grant entitled so to do, or for any Indian other than an Indian of the band, to hunt, shoot, kill or destroy any game animals or birds, or to fish for, take, catch or kill any fish to which such exclusive privilege extends, upon the reserve or part of a reserve, or in any marsh, pond, river, stream or creek covered by such lease or grant; and any person or Indian acting in contravention of this section shall, in addition to any other penalty or liability thereby incurred, be liable, on summary conviction, for every such offence to a penalty not exceeding ten dollars and not less than five dollars, and, in default of payment, to imprisonment for any term not exceeding one month."



57-58 VICTORIA.

CHAP. 32.

An Act further to amend "The Indian Act."

[Assented to 23rd July, 1894.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. Section twenty of *The Indian Act*, chapter forty-three of the Revised Statutes, is hereby repealed and the following substituted therefor :—

"20. Indians may devise or bequeath property of any kind in the same manner as other persons: Provided that no devise or bequest of land in a reserve or of any interest therein shall be made to any one not entitled to reside on such reserve, except when the devise or bequest of land is made to the daughter, sister or grand-children of the testator, and that no will purporting to dispose of land in a reserve or any interest therein shall be of any force or effect unless or until the will has been approved by the superintendent general, and that if a will be disapproved by the superintendent general the Indian making the will shall be deemed to have died intestate; and provided further that the superintendent general may approve of a will generally and disallow any disposition thereby made of land in a reserve or of any interest in such land, in which case the will so approved shall have force and effect except so far as such disposition is concerned and the Indian making the will shall be deemed to have died intestate as to the land or interest as to which such disallowance takes place.

Indians may devise or bequeath all property by will.

Provide: as to approval by superintendent general.

Effect of partial approval.

"2. Upon the death of an Indian intestate his property of all kinds, real and personal, movable and immovable, including any recognized interest he may have in land in a reserve, shall devolve one-third upon his widow, if any, if she is a woman of good moral character, as to which fact the superintendent general shall be the sole and final judge, and the remainder (or the whole if there is no widow or if the widow is not of good moral character) upon the children in equal shares if they are Indians within the meaning of this Act: provided that if one

Distribution of estate in case of intestacy.

Chap. 82. *Indians.* 57-58 VICT.

or more of the children of such intestate Indian are living and one or more are dead the inheritance shall devolve upon the children who are living and the descendants of such children as have died, so that each child who is living shall receive such share as would have descended to him if all the children of the intestate who have died leaving issue had been living, and so that the descendants of each child who is dead shall inherit in equal shares the share which their parent would have received if living, and the rule of descent thus prescribed shall apply in every case where the descendants of the intestate, entitled to share in the inheritance, are of unequal degrees of consanguinity to the intestate, so that those who are in the nearest degree of consanguinity shall take the shares which would have descended to them, had all the descendants in the same degree of consanguinity who have died leaving issue, been living, and so that the issue of the descendants, who have died, shall respectively take the shares which their parents, if living, would have received: provided that the superintendent general may in his discretion direct that the widow, if she is of good moral character, shall have the right during her widowhood to occupy any land in the reserve of the band to which the deceased belonged of which he was the recognized owner and to have the use of any property of the deceased for which under section seventy-seven of this Act he was not liable to taxation.

Descendants to inherit per stirpes.

Proviso: as to widow.

Administration of property of minors.

Distribution in case of death without issue.

Distribution of property of Indian woman dying intestate.

"3. During the minority of the children of an Indian who dies intestate the administration and charge of the property to which they are entitled as aforesaid shall devolve upon the widow, if any, of the intestate, if she is of good moral character, and in such case, as each male child attains the age of twenty-one years, and as each female child attains that age or with the consent of the widow marries before that age, the share of such child, shall, subject to the approval of the superintendent general, be conveyed or delivered to him or her; but the superintendent general may at any time remove the widow from such administration and charge and confer the same upon some other person and in like manner may remove such other person and appoint another and so from time to time as occasion requires.

"4. In case any Indian dies intestate without issue, leaving a widow of good moral character, all his property of whatever kind shall devolve upon her, and if he leaves no widow the same shall devolve upon the Indian nearest of kin to the deceased; any interest which he may have had in land in a reserve shall be vested in Her Majesty for the benefit of the band owning such reserve if his nearest of kin is more remote than a brother or sister.

"5. The property of a married Indian woman who dies intestate shall descend in the same manner and be distributed in the same proportions as that of a male Indian under the like circumstances, her widower, if any, taking the share which the widow of such male Indian would take; and the other provi-

1894. *Indians.* Chap. 32.

sions of this section shall in like manner apply to the case of an intestate married woman, the word "widower" being substituted for the word "widow" in each case. The property of an unmarried Indian woman who dies intestate shall descend in the same manner as if she had been a male.

"6. A claimant of land in a reserve or of any interest therein as devisee or legatee or heir of a deceased Indian shall not be held to be lawfully in possession thereof or to be the recognized owner thereof until he shall have obtained a location ticket therefor from the superintendent general.

In any case location ticket requisite for possession.

"7. The superintendent general may, whenever there are minor children, appoint a fit and proper person to take charge of such children and their property and may remove such person and appoint another and so from time to time as occasion requires.

Appointment of guardians of minors.

"8. The superintendent general may decide all questions which arise under this Act, respecting the distribution among those entitled thereto of the property of a deceased Indian, and he shall be the sole and final judge as to who the persons so entitled are. The superintendent general may do whatsoever in his judgment will best give to each claimant his share according to the true intent and meaning of this Act, and to that end if he thinks fit may direct the sale, lease or other disposition of such property or any part thereof and the distribution or application of the proceeds or income thereof, regard being always had in any such disposition to the restrictions upon the disposition of property in a reserve.

Superintendent general to decide disputes.

"9. Notwithstanding anything in this Act it shall be lawful for the courts having jurisdiction in that regard in the case of persons other than Indians, with but not without the consent of the superintendent general, to grant probate of the wills of Indians and letters of administration of the estate and effects of intestate Indians, in which case such courts and the executors and administrators obtaining such probate or thereby appointed shall have the like jurisdiction and powers as in other cases, except that no disposition shall, without the consent of the superintendent general, be made of or dealing had with regard to any right or interest in land in a reserve or any property for which, under section seventy-seven of this Act, an Indian is not liable to taxation."

Probate and letters of administration.

2. Section twenty-one of *The Indian Act* is hereby repealed and the following substituted therefor:—

Section 21 amended.

"21. Every person, or Indian other than an Indian of the band, who, without the authority of the superintendent general, resides or hunts upon, occupies or uses any land or marsh, or who resides upon or occupies any road, or allowance for road, running through any reserve belonging to or occupied by such band, shall be liable, upon summary conviction, to imprisonment for a term not exceeding one month or to a penalty not exceeding ten dollars and not less than five dollars, with costs of prosecution, half of

Only Indians of the band to reside on or use reserve.

Penalty.

which penalty shall belong to the informer; and all deeds, leases, contracts, agreements or instruments of whatsoever kind made, entered into, or consented to by any Indian, purporting to permit persons or Indians other than Indians of the band to reside or hunt upon such reserve, or to occupy or use any portion thereof, shall be void."

All provisions to the contrary are void.

Section 38 amended.

3. Section thirty-eight of *The Indian Act* is hereby repealed and the following substituted therefor:—

"38. No reserve or portion of a reserve shall be sold, alienated or leased until the same has been released or surrendered to the Crown for the purposes of this Act; but the superintendent general may lease, for the benefit of Indians engaged in occupations which interfere with their cultivating land on the reserve, and of sick, infirm or aged Indians, and of widows and orphans or neglected children, lands to which they are entitled without the same being released or surrendered."

Provisions respecting sale or lease of reserve.

Section 72 amended, and 1887, c. 33, s. 8.

4. The section substituted for section seventy-two of *The Indian Act* by section eight of chapter thirty-three of the Statutes of 1887 is hereby repealed and the following substituted therefor:—

"72. The superintendent general may stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the superintendent general, guilty of deserting his family, or of conduct justifying his wife or family in separating from him, or is separated from his family by imprisonment; and the superintendent general may apply the same towards the support of the wife or family of such Indian."

Disposal of annuity, etc. in case of desertion of family.

Section 75 amended.

5. Subsection one of section seventy-five of *The Indian Act* is hereby amended by inserting after the word "deposed" in the seventh line thereof the following words "and declared ineligible for re-election for three years."

Deposition of chiefs for bad conduct.

Section 94 amended, and 1888, c. 22, s. 4.

6. The section substituted for section ninety-four of *The Indian Act* by section four of chapter twenty-two of the Statutes of 1888, is hereby amended by adding thereto the following subsection:—

"2. In this section the expression 'Indian,' in addition to its ordinary signification as defined in section two of this Act, shall extend to and include any person, male or female, who is reputed to belong to a particular band, or who follows the Indian mode of life, or any child of such person."

Meaning of Indian.

Section 99 amended.

7. Section ninety-nine of *The Indian Act* is hereby repealed and the following substituted therefor:—

"99. Any constable or peace officer may arrest without warrant any person or Indian found gambling, or drunk, or with intoxicants in his possession, on any part of a reserve,

Arrest and punishment of gamblers, drunken persons, and per

and may detain him until he can be brought before a justice of the peace, and such person or Indian shall be liable upon summary conviction to imprisonment for a term not exceeding three months or to a penalty not exceeding fifty dollars and not less than ten dollars, with costs of prosecution, and of which penalty shall belong to the informer."

sons having intoxicants.

8. The section substituted for section one hundred and seventeen of *The Indian Act* by section nine of chapter twenty-nine of the Statutes of 1890, is hereby repealed and the following substituted therefor:—

Section 117 amended and 1890, c. 29, s. 9.

"117. Every Indian agent shall, for all the purposes of this Act, or of any other Act respecting Indians, and with respect to any offence against the provisions thereof or against the provisions of section ninety-eight or section one hundred and ninety of *The Criminal Code*, 1892, and with respect to any offence by an Indian against any of the provisions of part XIII. of the said Code, be *ex officio* a justice of the peace, and have the power and authority of two justices of the peace, anywhere within the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined by the Governor in Council, whether the Indian or Indians charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or dealt with, are or are not within his ordinary jurisdiction, charge or supervision as an Indian agent.

Indian agents to be ex officio justices of the peace.

Jurisdiction.

"2. In the North-west Territories and the provinces of Manitoba and British Columbia every Indian agent shall for all such purposes and with respect to any such offence be *ex officio* a justice of the peace and have the power and authority of two justices of the peace anywhere in the said Territories or provinces within which his agency is situated, whether or not the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined as aforesaid, extend to the place where he may have occasion to act as such justice or to exercise such power or authority, and whether the Indians charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or otherwise dealt with, are or are not within his ordinary jurisdiction, charge or supervision as Indian agent."

Special provision as to their jurisdiction in the N. W. Territories, Manitoba and British Columbia.

9. Section one hundred and thirty-two, as added to *The Indian Act* by section five of chapter twenty-two of the Statutes of 1888, is hereby repealed and the following substituted therefor:—

Section 132 amended and 1888, c. 22, s. 5.

"132. Every fine, penalty or forfeiture under this Act, except so much thereof as is payable to an informer or person suing therefor, shall belong to Her Majesty for the benefit of the band of Indians 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 General in Council may from time to time direct that the same be paid

Application of penalties.

s. 117, c.43 R.S.C. 1886, amended by s. 8, c. 32, S.C. 1894 and subsequently repealed and replaced by s. 7, c. 35, S.C. 1895.

Chap. 32. *Indians.* 57-58 V17.

Powers of Governor in Council. to any provincial, municipal or local authority which wholly or in part bears the expense of administering the law under which such fine, penalty or forfeiture is imposed, or that the same be applied in any other manner deemed best adapted to attain the objects of such law or to secure its due administration, and may in case of doubt decide what band is entitled to the benefit of any such fine, penalty or forfeiture."

Section 131 amended and 1890, c. 29, s. 10. 10. Subsection one of section one hundred and thirty-four added to *The Indian Act* by section ten of chapter twenty-nine of the Statutes of 1890, is hereby amended by inserting after the word "shall," in the fifth line thereof, the following words: "without the special license, in writing, of the Superintendent General of Indian Affairs, which license he may at any time revoke."

New sections added. 11. *The Indian Act* is hereby amended by adding the following sections thereto:—

Powers of Governor in Council as to regulations for attendance at school. "137. The Governor in Council may make regulations, either general or affecting the Indians of any province or of any named band, to secure the compulsory attendance of children at school.

"2. Such regulations, in addition to any other provisions deemed expedient, may provide for the arrest and conveyance to school, and detention there, of truant children and of children who are prevented by their parents or guardians from attending: and such regulations may provide for the punishment, upon summary conviction, by fine or imprisonment, or both, of parents and guardians, or persons having the charge of children, who fail, refuse or neglect to cause such children to attend school."

Powers as to establishment of industrial or boarding schools. "138. The Governor in Council may establish an industrial school or a boarding school for Indians, or may declare any existing Indian school to be such industrial school or boarding school for the purposes of this section.

Regulations. "2. The Governor in Council may make regulations, which shall have the force of law, for the committal by justices or Indian agents of children of Indian blood under the age of sixteen years, to such industrial school or boarding school, there to be kept, cared for and educated for a period not extending beyond the time at which such children shall reach the age of eighteen years.

Powers as to application of annuities. "3. Such regulations may provide, in such manner as to the Governor in Council seems best, for the application of the annuities and interest moneys of children committed to such industrial school or boarding school, to the maintenance of such schools respectively, or to the maintenance of the children themselves."

Powers as to direction of expenditure of capital of bands. "139. The Governor in Council may, with the consent of a band, authorize and direct the expenditure of any capital moneys standing at the credit of such band, in the purchase of land as a reserve for the band or as an addition to its reserve,

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or in the purchase of cattle for the band, or in the construction of permanent improvements upon the reserve of the band, or such works thereon or in connection therewith as, in his opinion, will be of permanent value to the band, or will, when completed, properly represent capital."

12. All regulations made by the Governor in Council under this Act shall be published in the *Canada Gazette*, and shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof.

Regulations to be published.

An Act further to amend the Indian Act.
S.C. 1895, c. 35. (58-59 Vict.)



58-59 VICTORIA.

CHAP. 35

An Act further to amend the Indian Act.

[Assented to 22nd July, 1895.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The section substituted for section thirty-eight of *The Indian Act*, chapter forty-three of the Revised Statutes, by section three of chapter thirty-two of the Statutes of 1894 is hereby repealed and the following substituted therefor:—
- “38. No reserve or portion of a reserve shall be sold, alienated or leased until the same has been released or surrendered to the Crown for the purposes of this Act; provided that the superintendent general may lease, for the benefit of any Indian, upon his application for that purpose, the land to which he is entitled without the same being released or surrendered.”
2. Section seventy of *The Indian Act* is hereby repealed and the following substituted therefor:—
- “70. The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom, the moneys arising from the disposal of Indian lands, or of property held or to be held in trust for Indians, or timber on Indian lands or reserves, or from any other source for the benefit of Indians, (with the exception of such sum not exceeding ten per cent of the proceeds of any lands, timber or property, as is agreed at the time of the surrender to be paid to the members of the band interested therein,) shall be invested, from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given; and may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Act, and may authorize and direct the expenditure of such moneys for the construction or repair of
- R.S.C., c. 43, s. 38, c. 43, R.S.C. 1886, amended by s. 1, c. 35, S.C. 1895 and subsequently repealed and replaced by s. 2, c. 34, S.C. 1898.
- Provisions respecting sale or lease of reserves.
- R.S.C., c. 43, s. 70, c. 43, R.S.C. 1886, amended by s. 2, c. 35, S.C. 1895 and subsequently repealed and replaced by s. 6, c. 34, S.C. 1898 and by s. 1, c. 20, S.C. 1906.
- Governor in Council may direct investment and management of Indian funds and payments made therefrom.

Chap. 35. Indians. 58-59 Vict.

roads, bridges, ditches and watercourses on such reserves or lands, for the construction of school buildings, and by way of contribution to schools attended by such Indians."

s. 75, c. 43 R.S.C. 1886 amended by s. 3, c. 35, S.C. 1895 and subsequently repealed and replaced by s. 9, c. 34 S.C. 1898.

Section 75 amended. Governor in Council may provide for election of chiefs. Term of chief tainship. Provisions as to number of chiefs. As at present life chiefs.

Reasons for which election may be set aside.

Punishment of fraud, etc., at elections.

Grounds on which chiefs may be deposed.

New section 88a added.

Payment to individual Indians of share of moneys of band.

3. Section seventy-five of *The Indian Act* is hereby repealed and the following substituted therefor:—

"75. Whenever the Governor in Council deems it advisable, for the good government of a band, to introduce the system of election of chiefs or headmen, he may provide that the chiefs or headmen of any band of Indians shall be elected, as hereinafter provided, at such time and place as the superintendent general directs; and they shall, in such case, be elected for a term of three years:

"2. Bands containing thirty or more Indians shall be entitled to elect chiefs or headmen in the proportion of one for each thirty members; but no band shall have more than fifteen chiefs or headmen: Provided that life chiefs, now living, shall continue to hold the rank of chief until death or resignation, or until their removal, by the Governor in Council, for dishonesty, intemperance, immorality or incompetency; but in the event of the Governor in Council providing that the chiefs or headmen of a band shall be elected, the life chiefs or headmen shall not exercise the powers of chiefs or headmen, unless elected, under the provision aforesaid, to the exercise of such powers:

"3. An election may be set aside by the Governor in Council on the report of the superintendent general, if it is proved by two witnesses before the Indian agent for the locality or such other person as is deputed by the superintendent general to take evidence in the matter, that fraud or gross irregularity was practised at the said election; and every Indian who is proved guilty of such fraud or irregularity, or connivance thereat, may be declared ineligible for re-election for six years, if the Governor in Council, on the report of the superintendent general, so directs:

"4. Any elected or life chief or headman, or any chief or headman chosen according to the custom of any band, may, on the ground of dishonesty, intemperance, immorality or incompetency, be deposed by the Governor in Council and declared ineligible to hold the office of chief or headman for three years."

4. *The Indian Act* is hereby amended by adding the following section thereto, immediately after section eighty-eight:—

"88A. Whenever any member of a band, for three years immediately succeeding the date on which he was granted letters patent, or for any longer period that the superintendent general deems necessary, by his exemplary good conduct and management of property proves that he is qualified to receive his share of the moneys of such band, the Governor in Council may, on the report of the superintendent general to that effect, order that the said Indian he paid his

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share of the capital funds at the credit of the band, or his share of the principal of the annuities of the band, estimated as yielding five per cent, out of such moneys as are provided for the purpose by Parliament:

"2. If such Indian is a married man he shall also be paid his wife's and minor unmarried children's shares of such funds and principal moneys, and if such Indian is a widow, she shall also be paid her minor unmarried children's shares:

Married men's and widows' shares.

"3. The unmarried children of such married Indians who become of age during the probationary period, for payment of such moneys, if qualified by the character for integrity, morality and sobriety which they bear, shall receive their own share of such moneys, when their parents are paid; and if not so qualified, before they receive payment of such moneys they must themselves pass through the probationary period:

Shares of unmarried children of full age.

"4. All such Indians, and their unmarried minor children, who are paid their shares of the principal moneys of their band, as aforesaid, shall thenceforward cease, in every respect, to be Indians of any class within the meaning of this Act, or Indians within the meaning of any other Act or law."

Enfranchisement of individual Indians so receiving shares.

5. Section ninety-three of *The Indian Act* is hereby repealed and the following substituted therefor:—

Section 93 amended.

"93. If any band, at a council summoned for the purpose according to their rules, and held in the presence of the superintendent general, or an agent duly authorized by him to attend such council, decides to allow every member of the band who chooses, and who is found qualified, to become enfranchised, and to receive his or her share of the principal moneys of the band, and sets apart for such member a suitable allotment of land for the purpose, any applicant belonging to such band, or the wife and children of any such applicant, may, after such decision, be dealt with as provided in the foregoing provisions respecting enfranchisement and the payment to enfranchised Indians of their shares of the capital funds at the credit of the band or of the estimated principal of the annuities of the band to which they are entitled."

Provision when band decides that all its members may become enfranchised.

6. Section one hundred and fourteen of *The Indian Act* is hereby repealed and the following substituted therefor:—

Section 114 amended.

"114. Every Indian or other person who engages in, or assists in celebrating or encourages either directly or indirectly another to celebrate, any Indian festival, dance or other ceremony of which the giving away or paying or giving back of money, goods or articles of any sort forms a part, or is a feature, whether such gift of money, goods or articles takes place before, at, or after the celebration of the same, and every Indian or other person who engages or assists in any celebration or dance of which the wounding or mutilation of the dead or living body of any human being or animal forms a part or is a feature, is guilty of an indictable offence and is liable to imprisonment."

Celebrating certain festivals, dances or ceremonies whereat presents are made or human or animal bodies are mutilated.

Indictable offence.

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Proviso. agreement for a term not exceeding six months and not less than two months; but nothing in this section shall be construed to prevent the holding of any agricultural show or exhibition or the giving of prizes for exhibits thereat."

Section 117 further amended. 7. Section one hundred and seventeen of *The Indian Act* as enacted by section eight of chapter thirty-two of the Statutes of 1894, is hereby repealed, and in lieu thereof it is hereby enacted that every Indian agent shall, for all the purposes of *The Indian Act* or of any other Act respecting Indians, and with respect to any offence against the provisions thereof or against the provisions of section ninety-eight or section one hundred and ninety of *The Criminal Code*, 1892, and with respect to any offence by an Indian or non-treaty Indian against any of the provisions of parts XIII. and XV. of the said Code, be *ex officio* a justice of the peace, and have the power and authority of two justices of the peace, anywhere within the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined by the Governor in Council, whether the Indian or non-treaty Indian charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or dealt with, is or is not within his ordinary jurisdiction, charge or supervision as an Indian agent.

Indian agents to be *ex officio* justices of the peace

Jurisdiction.

Special jurisdiction of Indian agents in the N. W. Territories, Manitoba and British Columbia. "2. In the North-west Territories and the provinces of Manitoba and British Columbia every Indian agent shall for all such purposes and with respect to any such offence be *ex officio* a justice of the peace and have the power and authority of two justices of the peace anywhere in the said territories or provinces, whether or not the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined as aforesaid, extend to the place where he may have occasion to act as such justice or to exercise such power or authority, and whether the Indians charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or otherwise dealt with, are or are not within his ordinary jurisdiction, charge or supervision as Indian agent."

New sections 140 and 141 added. 8. *The Indian Act* is hereby amended by adding the following sections thereto:—

Transfer of Indian from one band to another, and provision as to capital moneys in such case. "140. When by a majority vote of a band, or the council of a band, an Indian of one band is admitted into membership in another band, and his admission thereinto is assented to by the superintendent general, such Indian shall cease to have any interest in the lands or moneys of the band of which he was formerly a member, and shall be entitled to share in the lands and moneys of the band to which he is so admitted; but the superintendent general may cause to be deducted from the capital of the band of which such Indian was formerly a member his *per capita* share of such capital and place the same to the credit of the capital of the band into membership in which he had been admitted in the manner aforesaid.

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"141. The Governor in Council may reduce the purchase money due or to become due on sales of Indian lands, or reduce or remit the interest on such purchase money, or reduce the rent at which Indian lands have been leased, when he considers the same to be excessive; and all such reductions heretofore made are hereby confirmed.

"2. A return setting forth all the reductions and remissions made under this section during the preceding fiscal year shall be submitted to both Houses of Parliament on or before the twentieth day of July in each year, if Parliament be then sitting, and otherwise within twenty days after the opening of the then ensuing session of Parliament."

Reduction of purchase money or interest due on sales of Indian lands.

Return to Parliament.

An Act further to amend the Indian Act. S.C. 1898, c. 34.
(61 Vict.)



61 VICTORIA.

CHAP. 34.

An Act further to amend the Indian Act.

[Assented to 13th June, 1898.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section 33 of *The Indian Act*, chapter 43 of the Revised Statutes, is hereby repealed and the following is substituted therefor:—

"33. Indians residing upon any reserve shall be liable, if so directed by the Superintendent General, or any officer or person by him thereunto authorized, to perform labour upon the public roads laid out or used in or through, or abutting upon such reserve, which labour shall be performed under the sole control of the Superintendent General, or officer or person aforesaid, who may direct when, where and how and in what manner such labour shall be applied, and to what extent the same shall be imposed upon Indians who are resident upon any of the said lands; and the Superintendent General, or officer or person aforesaid, shall have the like power to enforce the performance of such labour by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the province or territory in which such reserve is situate, for the non-performance of statute labour; but the labour to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same province, territory, county or other local division, under the laws requiring and regulating such labour and the performance thereof."

R.S.C., c. 43,
new section
33.

Indians liable
to labour on
public roads
in reserves.

Enforcing
labour.

Amount of
labour
limited.

2. The section substituted for section 38 of the said Act by section 1 of chapter 35 of the statutes of 1895, is hereby repealed and the following is substituted therefor:—

"34. No reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Act: provided that the Superintendent General may lease, for the benefit of any Indian,

New section
38.

Sale or lease
of reserves.

upon his application for that purpose, the land to which he is entitled without such land being released or surrendered, and may, without surrender, dispose to the best advantage, in the interests of the Indians, of wild grass and dead or fallen timber."

Section 89 amended.

3. Subsection (b) of section 89 of the said Act, as amended by section 2 of chapter 30 of the statutes of 1891, is hereby repealed and the following is substituted therefor:—

Proof of assent.

"(b) The fact that such release or surrender has been assented to by the hand at such council or meeting shall be certified on oath by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some one of the chiefs or principal men present thereat and entitled to vote, before some judge of a superior, county or district court, stipendiary magistrate or justice of the peace, or, in the case of reserves in Manitoba or the North-west Territories, before the Indian Commissioner for Manitoba and the North-west Territories, and in the case of reserves in British Columbia, before the visiting Indian Superintendent for British Columbia, or, in either case, before some other person or officer specially thereunto authorized by the Governor in Council; and when such assent has been so certified, as aforesaid, such release or surrender shall be submitted to the Governor in Council for acceptance or refusal."

New section 56.

4. Section 56 of the said Act, is hereby repealed and the following is substituted therefor:—

License must describe land and kind of trees to be cut.

"56. Every license shall describe the lands upon which the trees may be cut, and the kind of trees which may be cut, and shall confer, for the time being, on the licensee the right to take and keep possession of the land so described, subject to such regulations as are made; and every license shall vest in the holder thereof all rights of property in all trees of the kind specified, cut within the limits of the license during the term thereof, whether such trees are cut by the authority of the holder of such license or by any other person, with or without his consent; and every license shall entitle the holder thereof to seize, in revendication or otherwise, such trees and the logs, timber or other product thereof, if found in the possession of any unauthorized person, and also to institute any action or suit against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any; and all proceedings pending at the expiration of any license may be continued to final termination, as if the license had not expired."

Rights of licensees as to trespassers.

Continuing proceedings.

New section 66.

5. Section 66 of the said Act is hereby repealed and the following is substituted therefor:—

Sale of trees, etc., seized, in default of notice of claim.

"66. All trees, logs, timber or other product thereof seized under this Act, shall be deemed to be condemned, unless the person from whom they are seized, or the owner thereof,

within one month from the day of the seizure, gives notice to the seizing officer, or nearest officer or agent of the Superintendent General, that he claims, or intends to claim them, and unless within one month from the day of giving such notice he initiates, in some court of competent jurisdiction, proceedings for the purpose of establishing his claim; and in default of such notice and initiation of proceedings, the officer or agent seizing shall report the circumstances to the Superintendent General, who may order the sale, by the said officer or agent, of such trees, logs, timber or other product thereof."

6. The section substituted for section 70 of the said Act by section 2 of chapter 35 of the statutes of 1895, is hereby repealed and the following is substituted therefor:—

New section 70.
Investment and management of Indian funds may be regulated by Governor in Council.

"70. The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom, the moneys arising from the disposal of Indian lands, or of property held or to be held in trust for Indians, or timber on Indian lands or reserves, or from any other source for the benefit of Indians (with the exception of such sum, not exceeding ten per cent of the proceeds of any lands, timber, or property, as is agreed at the time of the surrender to be paid to the members of the band interested therein), shall be invested from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given; and he may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys, under the provisions of this Act, and may authorize and direct the expenditure of such moneys for surveys, for compensation to Indians for improvements or any interest they have in lands taken from them, for the construction or repair of roads, bridges, ditches and water-courses on such reserves or lands, for the construction of school buildings, and by way of contribution to schools attended by such Indians."

s. 70, c. 43 R.S.C. 1886, amended by s. 6, c. 34, S.C. 1898 and subsequently repealed and replaced by s. 1, c. 20, S.C. 1906.

7. Section 72 of the said Act, as enacted by section 4 of chapter 32 of the statutes of 1894, is hereby repealed and the following is substituted therefor:—

New section 72.
Payment of annuity may be stopped in case of marital desertion.

"72. The Superintendent General may stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the Superintendent General, guilty of deserting his family, or of conduct justifying his wife or family in separating from him, or who is separated from his family by imprisonment; and the Superintendent General may apply the same towards the support of the wife or family of such Indian. The Superintendent General may also stop the payment of the annuity and interest money of any Indian parent of an illegitimate child, and apply the same to the support of such child."

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New section 73.	8. The section substituted for section 73 of the said Act by section 9 of chapter 33 of the statutes of 1887, is hereby repealed and the following is substituted therefor:—
Similar provision as to Indian woman.	“73. The Superintendent General may also stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any woman who deserts her husband or family and lives immorally with another man, and the Superintendent General may apply the same to the support of the family so deserted.”
New section 75.	9. The section substituted for section 75 of the said Act by section 3 of chapter 35 of the statutes of 1895, is hereby repealed and the following is substituted therefor:—
Governor in Council may provide for election of chiefs, etc.	“75. Whenever the Governor in Council deems it advisable, for the good government of a band, to introduce the elective system of chiefs and councillors or headmen, he may provide that the chief and councillors or headmen of any band shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall in such case be elected for a term of three years. The councillors or headmen may be in the proportion of two for every two hundred Indians; but no band shall have more than one chief and fifteen councillors or headmen: provided, however, that any band composed of at least thirty members may have a chief.
Term of office.	
Number.	
As to present life chiefs, etc.	“2. Life chiefs and councillors or headmen now living may continue to hold rank until death or resignation, or until their removal by the Governor in Council for dishonesty, intemperance, immorality or incompetency; but in the event of the Governor in Council providing that the chief and councillors or headmen of a band shall be elected, the life chiefs and councillors or headmen shall not exercise powers as such unless elected under the provision aforesaid.
Reason for which election may be set aside.	“3. An election may be set aside by the Governor in Council, on a report of the Superintendent General, if it is proved by two witnesses before the Indian agent for the locality, or such other person as is deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election; and every Indian who is proved guilty of such fraud or irregularity, or connivance thereat, may be declared ineligible for re-election for a period not exceeding six years, if the Governor in Council, on the report of the Superintendent General, so directs.
Punishment of fraud, etc., at election.	
Grounds on which chief, etc., may be deposed.	“4. Any elected or life chief and any councillor or headman, or any chief or councillor or headman chosen according to the custom of any band, may, on the ground of dishonesty, intemperance, immorality or incompetency, be deposed by the Governor in Council and declared ineligible to hold the office of chief or councillor or headman for a period not exceeding three years.”



6 EDWARD VII.

CHAP. 20.

An Act to amend *The Indian Act.*

[Assented to 13th July, 1906.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section 6 of chapter 34 of the statutes of 1898 is repealed and the following is enacted as section 70 of *The Indian Act*, chapter 43 of the Revised Statutes:—

“70. The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom, the moneys arising from the disposal of Indian lands, or of property held or to be held in trust for Indians, or timber on Indian lands or reserves, or from any other source for the benefit of Indians (with the exception of such sum, not exceeding fifty per cent of the proceeds of any lands, and not exceeding ten per cent of the proceeds of any timber or other property, as is agreed at the time of the surrender to be paid to the members of the band interested therein), shall be invested from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given; and he may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Act, and may authorize and direct the expenditure of such moneys for surveys, for compensation to Indians for improvements or any interest they have in lands taken from them, for the construction or repairs of roads, bridges, ditches and watercourses on such reserves or lands, for the construction and repair of school buildings and charitable institutions, and by way of contribution to schools attended by such Indians.”

R. S. C., c. 43,
new s. 70.
Investment
and manage-
ment of
Indian funds
may be
regulated by
Governor in
Council.



CHAPTER 81.

An Act respecting Indians.

SHORT TITLE.

1. This Act may be cited as the Indian Act. R.S., c. 43, Short title.
s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a) 'Superintendent General' means the Superintendent General of Indian Affairs, and 'Deputy Superintendent General' means the Deputy Superintendent General of Indian Affairs; Definitions.
'Superintendent General.'
- (b) 'agent' or 'Indian agent' means and includes a commissioner, assistant commissioner, superintendent, agent or other officer acting under the instructions of the Superintendent General; 'Agent.'
'Indian agent.'
- (c) 'person' means an individual other than an Indian; 'Person.'
- (d) 'band' means any tribe, band or body of Indians who own or are interested in a reserve or in Indian lands in common, of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities or interest moneys for which the Government of Canada is responsible; and, when action is being taken by the band as such, means the band in council; 'Band.'
- (e) 'irregular band' means any tribe, band or body of persons of Indian blood who own no interest in any reserve or lands of which the legal title is vested in the Crown, who possess no common fund managed by the Government of Canada, and who have not had any treaty relations with the Crown; 'Irregular band.'
- (f) 'Indian' means 'Indian.'
- (i) any male person of Indian blood reputed to belong to a particular band,
- (ii) any child of such person,
- (iii) any woman who is or was lawfully married to such person;
- (g) 'non-treaty Indian' means any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even if such person is only a temporary resident in Canada; 'Non-treaty Indian.'

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'Enfranchised Indian.'

(h) 'enfranchised Indian' means any Indian, his wife or minor unmarried child, who has received letters patent granting to him in fee simple any portion of the reserve which has, upon his application for enfranchisement, been allotted to him, or to his wife and minor children, or any unmarried Indian who has received letters patent for an allotment of the reserve;

Paragraph 2(h), c. 81, R.S.C. 1906 repealed by s. 3, c. 50, R.S.C. 1919-20.

'Reserve.'

(i) 'reserve' means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, and which remains so set apart and has not been surrendered to the Crown, and includes all the trees, wood, timber, soil, stone, minerals, metals and other valuables thereon or therein;

'Special reserve.'

(j) 'special reserve' means any tract or tracts of land, and everything belonging thereto, set apart for the use or benefit of and held in trust for any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued, or in a person or persons of European descent;

'Indian lands.'

(k) 'Indian lands' means any reserve or portion of a reserve which has been surrendered to the Crown;

'Intoxicants.'

(l) 'intoxicants' means and includes all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors, or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, and opium, and any preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them are liquid or solid;

'Territories.'

(m) 'Territories' means the Northwest Territories and the Yukon Territory. R.S., c. 43, s. 2.

PART I.

INDIANS.

Application.

Governor in Council may exempt from operation of this Part, and remove such exemption.

3. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this Part, or from the operation of any one or more of the sections of this Part, Indians or non-treaty Indians, or any of them, or any band or irregular band of them, or the reserves or special reserves, or Indian lands, or any portions of them, in any province or in the Territories, or in any of them; and may again, by proclamation, from time to time, remove such exemption. R.S., c. 43, s. 3.

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Department of Indian Affairs.

4. The Minister of the Interior, or the head of any other department appointed for that purpose by the Governor in Council, shall be the Superintendent General of Indian Affairs, and shall, as such, have the control and management of the lands and property of the Indians in Canada. R.S., c. 43, s. 4.

Any Minister may be appointed Superintendent of Indian Affairs. s. 4, c. 81, R.S.C. 1906, amended by s. 1, c. 47, S.C. 1924.

5. There shall be a department of the Civil Service of Canada which shall be called the Department of Indian Affairs, over which the Superintendent General shall preside. R.S., c. 43, s. 5.

Department of Indian Affairs.

6. The Department of Indian Affairs shall have the management, charge and direction of Indian affairs. R.S., c. 43, s. 6.

Duties.

7. The Governor in Council may appoint,—

(a) an officer who shall be called the Deputy of the Superintendent General of Indian Affairs, and such other officers, clerks and servants as are requisite for the proper conduct of the business of the Department;

Appointments by Governor in Council.

(b) an Indian commissioner and an assistant Indian commissioner for the provinces of Manitoba, Saskatchewan and Alberta, and the Territories, or an Indian commissioner and an assistant Indian commissioner for Manitoba and that portion of Canada formerly known as the district of Keewatin, and an Indian commissioner and an assistant Indian commissioner for the provinces of Saskatchewan and Alberta and the Territories, except that portion formerly known as the district of Keewatin, and for the Yukon Territory;

(c) an Indian superintendent for British Columbia;

(d) a deputy governor. R.S., c. 43, ss. 7 and 8.

8. The Deputy Governor shall have the power, in the absence of or under instructions of the Governor General, to sign letters patent for Indian lands.

Deputy Governor.

2. The signature of the Deputy Governor to such patents shall have the same force and virtue as if such patents were signed by the Governor General. R.S., c. 43, s. 8.

May sign letters patent.

Schools.

9. The Governor in Council may make regulations, either general or affecting the Indians of any province or of any named band, to secure the compulsory attendance of children at school.

Regulations. s. 9, c. 81, R.S.C. 1906, repealed and replaced by

2. Such regulations, in addition to any other provisions deemed expedient, may provide for the arrest and conveyance to school, and detention there, of truant children and of children

Compulsory attendance. s. 1, c. 50, S.C. 1919-20.

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ren who are prevented by their parents or guardians from attending; and such regulations may provide for the punishment, upon summary conviction, by fine or imprisonment, or both, of parents and guardians, or persons having the charge of children, who fail, refuse, or neglect to cause such children to attend school. 57-58 V., c. 32, s. 11.

s. 10, c. 81, R.S.C. 1906 amended by s. 1, c. 35, S.C. 1914 and subsequently repealed and replaced by s. 1, c. 50, S.C. 1919-20.

10. The Governor in Council may establish an industrial school or a boarding school for Indians, or may declare any existing Indian school to be such industrial school or boarding school for the purposes of this and the next following section. 57-58 V., c. 32, s. 11.

11. The Governor in Council may make regulations, which shall have the force of law, for the committal by justices or Indian agents of children of Indian blood under the age of sixteen years, to such industrial school or boarding school, there to be kept, cared for and educated for a period not extending beyond the time at which such children shall reach the age of eighteen years.

s. 11, c. 81, R.S.C. 1906 amended by s. 2, c. 35, S.C. 1914.

2. Such regulations may provide, in such manner as to the Governor in Council seems best, for the application of the annuities and interest moneys of children committed to such industrial school or boarding school, to the maintenance of such schools respectively, or to the maintenance of the children themselves. 57-58 V., c. 32, s. 11.

Membership of Band.

Exclusion of natural children from band.

12. Any illegitimate child may, unless he has, with the consent of the band whereof the father or mother of such child is a member, shared in the distribution moneys of such band for a period exceeding two years, be, at any time, excluded from the membership thereof by the Superintendent General. R.S., c. 43, s. 9.

Loss of membership, through residence in a foreign country without leave.

13. Any Indian who has for five years continuously resided in a foreign country without the consent, in writing, of the Superintendent General or his agent, shall cease to be a member of the band of which he was formerly a member; and he shall not again become a member of that band, or of any other band, unless the consent of such band, with the approval of the Superintendent General or his agent, is first obtained. R.S., c. 43, s. 10.

s. 14, c. 81, R.S.C. 1906 repealed and replaced by s. 2, c. 50, S.C. 1919-20.

14. Any Indian woman who marries any person other than an Indian, or a non-treaty Indian, shall cease to be an Indian in every respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and

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rents: Provided that such income may be commuted to her at any time at ten years' purchase, with the consent of the band.

2. Where a band has become enfranchised, or has otherwise ceased to exist, such commutation may take place upon the approval of the Superintendent General. R.S., c. 43, s. 11; 53 V., c. 29, s. 1.

If band enfranchised

15. Any Indian woman who marries an Indian of any other band, or a non-treaty Indian, shall cease to be a member of the band to which she formerly belonged, and shall become a member of the band or irregular band of which her husband is a member.

Marriage of Indian woman with Indian of another band or non-treaty Indian.

2. If she marries a non-treaty Indian, while becoming a member of the irregular band of which her husband is a member, she shall be entitled to share equally with the members of the band of which she was formerly a member, in the distribution of their moneys; but such income may be commuted to her at any time at ten years' purchase, with the consent of the band. R.S., c. 43, s. 12.

If she marries non-treaty Indian.

16. No half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian.

As to half-breeds in Manitoba. Half breed heads of families.

2. No half-breed head of a family, except the widow of an Indian or a half-breed who has already been admitted into a treaty, shall, unless under very special circumstances, which shall be determined by the Superintendent General or his agent, be accounted an Indian or entitled to be admitted into any Indian treaty.

3. Any half-breed who has been admitted into a treaty shall, on obtaining the consent in writing of the Indian commissioner, or in his absence the assistant Indian commissioner, be allowed to withdraw therefrom on signifying his desire so to do in writing, signed by him in the presence of two witnesses, who shall attest his signature on oath before some person authorized by law to administer such oath.

Withdrawal from treaty.

subsection 16(3), c. 81, R.S.C. 1906 amended by s. 3, c. 35, S.C. 1914.

4. Such withdrawal shall include the minor unmarried children of such half-breed. 51 V., c. 22, s. 1.

Minor children.

17. When, by a majority vote of a band, or the council of a band, an Indian of one band is admitted into membership in another band, and his admission thereinto is assented to by the Superintendent General, such Indian shall cease to have any interest in the lands or moneys of the band of which he was formerly a member, and shall be entitled to share in the lauds and moneys of the band to which he is so admitted.

Transfer of Indian from one band to another.

subsection 16(4), c. 81, R.S.C. 1906 amended by s. 4, c. 35, S.C. 1914.

2. The Superintendent General may cause to be deducted from the capital of the band of which such Indian was formerly a member his per capita share of such capital and place the same to the credit of the capital of the band into membership in which he has been admitted in the manner aforesaid. 58-59 V., c. 35, a. 8.

Share of capital.

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Determination of membership of band.	<p>18. The Superintendent General may, from time to time, upon the report of an officer, or other person specially appointed by him to make an inquiry, determine who is or who is not a member of any band of Indians entitled to share in the property and annuities of the band.</p>	
Decision of Supt. Gen.	<p>2. The decision of the Superintendent General in any such matter shall be final and conclusive, subject to an appeal to the Governor in Council. 50-51 V., c. 33, s. 1.</p>	
<i>Reserves.</i>		
Reserves to be subject to this Part.	<p>19. All reserves for Indians, or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as they were held heretofore, but shall be subject to the provisions of this Part. R.S., c. 43, s. 14.</p>	
Surveys, plans, reports and subdivision into lots of reserves may be authorized.	<p>20. The Superintendent General may authorize surveys, plans and reports to be made of any reserve for Indians, showing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as is required; and may authorize the whole or any portion of a reserve to be subdivided into lots. R.S., c. 43, s. 15.</p>	
Possession of land in reserve.	<p>21. No Indian shall be deemed to be lawfully in possession of any land in a reserve, unless he has been or is located for the same by the band, or council of the band, with the approval of the Superintendent General; but no Indian shall be dispossessed of any land on which he has improvements, without receiving compensation for such improvements, at a valuation approved by the Superintendent General, from the Indian who obtains the land, or from the funds of the band, as is determined by the Superintendent General: Provided that prior to the location of an Indian under this section, in the province of Manitoba, Saskatchewan or Alberta, or the Territories, the Indian commissioner may issue a certificate of occupancy to any Indian belonging to a band residing upon a reserve in the aforesaid provinces or territories, of so much land, not exceeding in any case one hundred and sixty acres, as the Indian, with the approval of the commissioner, selects.</p>	
Improvements.	<p>2. Such certificate may be cancelled at any time by the Indian commissioner, but shall, while it remains in force, entitle the holder thereof, as against all others, to lawful possession of the lands described therein. R.S., c. 43, s. 16; 43 V., c. 29, s. 2.</p>	
Certificate of Indian Commissioner.	<p>22. When the Superintendent General approves of any location as aforesaid, he shall issue, in triplicate, a ticket granting a location title to such Indian, one triplicate of which he shall retain in a book to be kept for the purpose; and the other two of which he shall forward to the local agent.</p>	
Cancellation of certificate by the Indian Commissioner.		
Location ticket in triplicate.		

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2. The local agent shall deliver to the Indian in whose favour it is issued one of such duplicates so forwarded, and shall cause the other to be copied into a register of the band, provided for the purpose, and shall file the same. R.S., c. 43, s. 17.

Delivery of ticket to Indian.

23. The conferring of any such location title shall not have the effect of rendering the land covered thereby subject to seizure under legal process, and such title shall be transferable only to an Indian of the same band, and then only with the consent and approval of the Superintendent General, whose consent and approval shall be given only by the issue of a ticket, in the manner prescribed in the last preceding section. R.S., c. 43, s. 18.

Effect of such ticket limited.

24. Every Indian and every non-treaty Indian, in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or the Territories, who had, previously to the selection of a reserve, possession of and who has made permanent improvements on a plot of land which upon such selection becomes included in, or surrounded by, a reserve, shall have the same privileges, in respect of such plot, as an Indian enjoys who holds under a location title. R.S., c. 43, s. 19.

Privilege of Indians having improved lands included in reserves in certain provinces.

Descent of Property.

25. Indians may devise or bequeath property of any kind in the same manner as other persons: Provided that no devise or bequest of land in a reserve or of any interest therein unless to the daughter, sister or grand-children of the testator, shall be made to any one not entitled to reside on such reserve, and that no will purporting to dispose of land in a reserve or any interest therein shall be of any force or effect unless or until the will has been approved by the Superintendent General, and that if a will be disapproved by the Superintendent General the Indian making the will shall be deemed to have died intestate; and the Superintendent General may approve of a will generally and disallow any disposition thereby made of land in a reserve or of any interest in such land, in which case the will so approved shall have force and effect except so far as such disallowed disposition is concerned, and the Indian making the will shall be deemed to have died intestate as to the land or interest the disposition of which is so disallowed. 57-58 V., c. 32, s. 1.

Indians may devise property by will. R.S.C. 1906, amended by s. 1, c. 26, S.C. 1918.

26. Upon the death of an Indian intestate his property of all kinds, real and personal, movable and immovable, including any recognized interest he may have in land in a reserve, shall descend as follows:—

Distribution of estate in case of intestacy.

(a) one-third of the inheritance shall devolve upon his widow, if she is a woman of good moral character, and the

One-third to widow.

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Otherwise children inherit the whole.

Representation of descent heir.

Inheritance per stirpes.

Superintendent General, sole judge of character of widow.

Administration of property of minors.

Removal of widow from administration.

s. 27A added to s. 27, c. 81 R.S.C. 1906 by s. 5, c. 35, S.C. 1914 and subsequently repealed and replaced by s. 2, c. 47, S.C. 1924.

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remainder upon his children, if all are living, or, if any who are dead have died without issue; or,

(b) If there is no widow, or if the widow is not of good moral character, the whole inheritance shall devolve upon his children in equal shares, if all are living, or, if any who are dead have died without issue;

(c) If one or more of the children are living, and one or more are dead, having had lawful issue, the inheritance so far as the same does not descend to the widow, shall devolve upon the children who are living, and the descendants of such children as have died, so that each child who is living shall receive such share as would have descended to him if all the children of the intestate who have died leaving issue had been living, and so that the descendants of each child who is dead shall inherit in equal shares the share which their parent would have received if living;

(d) If the descendants of the intestate entitled to share in the inheritance are of unequal degrees of consanguinity to the intestate, the inheritance shall devolve so that those who are in the nearest degree of consanguinity shall take the shares which would have descended to them, had all the descendants in the same degree of consanguinity who have died leaving issue, been living, and so that the issue of the descendants who have died shall respectively take the shares which their parents, if living, would have received: Provided that the Superintendent General may, in his discretion direct that the widow, if she is of good moral character, shall have the right, during her widowhood, to occupy any land in the reserve of the land to which the deceased belonged of which he was the recognized owner, and to have the use of any property of the deceased for which, under the provisions of this Part, he was not liable to taxation.

2. The Superintendent General shall be the sole and final judge as to the moral character of the widow of any intestate Indian. 57-58 V., c. 32, s. 1.

27. During the minority of the children of an Indian who dies intestate, the administration and charge of the property to which they are entitled as aforesaid shall devolve upon the widow, if any, of the intestate, if she is of good moral character; and, in such case, as each male child attains the age of twenty-one years, and as each female child attains that age, or with the consent of the widow, marries before that age, the share of such child shall, subject to the approval of the Superintendent General, be conveyed or delivered to him or her.

2. The Superintendent General may, at any time, remove the widow from such administration and charge and confer the same upon some other person, and, in like manner, may remove such other person and appoint another, and so, from time to time, as occasion requires.

3. The Superintendent General may, whenever there are minor children, appoint a fit and proper person to take charge of such children and their property, and may remove such person and appoint another, and so, from time to time, as occasion requires. 57-58 V., c. 32, s. 1.

Appointment of guardians to minors

28. In case any Indian dies intestate without issue, leaving a widow of good moral character, all his property of whatever kind shall devolve upon her, and if he leaves no widow the same shall devolve upon the Indian nearest of kin to the deceased: Provided that any interest which he may have had in land in a reserve shall be vested in His Majesty for the benefit of the land owning such reserve if his nearest of kin is more remote than a brother or sister. 57-58 V., c. 32, s. 1.

Death of Indian without issue, widow to inherit, otherwise nearest of kin to inherit. s. 28, c. 81, R.S.C. 1906, repealed and replaced by s. 3, c. 47, S.C. 1924.

29. The property of a married Indian woman who dies intestate shall descend in the same manner and be distributed in the same proportions as that of a male Indian who dies intestate, her widower, if any, taking the share which the widow of such male Indian would take.

Property of a married Indian woman.

2. The other provisions of this Part respecting the descent of property shall in like manner apply to the case of an intestate married woman, the word widower being substituted for the word widow in each case.

Idem.

3. The property of an unmarried Indian woman who dies intestate shall descend in the same manner as if she had been a male. 57-58 V., c. 32, s. 1.

Idem.

30. A claimant of land in a reserve or of any interest therein as devisee or legatee or heir of a deceased Indian shall not be held to be lawfully in possession thereof or to be the recognized owner thereof until he shall have obtained a location ticket therefor from the Superintendent General. 57-58 V., c. 32, s. 1.

In any case location ticket requisite for possession by heir.

31. The Superintendent General may decide all questions which arise under this Part, respecting the distribution among those entitled thereto of the property of a deceased Indian, and he shall be the sole and final judge as to who the persons so entitled are.

Superintendent general to decide disputes.

2. The Superintendent General may do whatsoever in his judgment will best give to each claimant his share according to the true intent and meaning of this Part, and to that end, if he thinks fit, may direct the sale, lease or other disposition of such property or any part thereof, and the distribution or application of the proceeds or income thereof, regard being always had in any such disposition to the restriction upon the disposition of property in a reserve. 57-58 V., c. 32, s. 1.

His powers.

32. Notwithstanding anything in this Part it shall be lawful for the courts having jurisdiction in that regard in

Probate and letters of

R.S., 1906.

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administra-
tion. the case of persons other than Indians, with but not without the consent of the Superintendent General, to grant probate of the wills of Indians and letters of administration of the estate and effects of intestate Indians, in which case such courts and the executors and administrators obtaining such probate, or thereby appointed, shall have the like jurisdiction and powers as in other cases, except that no disposition shall, without the consent of the Superintendent General, be made of or dealing had with regard to any right or interest in land in a reserve or any property for which, under the provisions of this Part, an Indian is not liable to taxation. 57-58 V., c. 32, s. 1.

Trespassing on Reserves.

Only Indians
of the band
to reside on
or use the
reserve. 33. No person, or Indian other than an Indian of the band, shall without the authority of the Superintendent General, reside or hunt upon, occupy or use any land or marsh, or reside upon or occupy any road, or allowance for road, running through any reserve belonging to or occupied by such band.

Certain con-
tracts, etc.,
to be void. 2. All deeds, leases, contracts, agreements or instruments of whatsoever kind made, entered into, or consented to by any Indian, purporting to permit persons or Indians other than Indians of the band to reside or hunt upon such reserve, or to occupy or use any portion thereof, shall be void. 57-58 V., c. 32, s. 2.

Removal of
trespassers
and their
cattle, etc. 34. If any Indian is illegally in possession of any land on a reserve, or if any person, or Indian other than an Indian of the band, without the license of the Superintendent General,—

- (a) settles, resides or hunts upon, occupies, uses, or causes or permits any cattle or other animals owned by him, or in his charge, to trespass on any such land or marsh; or,
- (b) fishes in any marsh, river, stream or creek on or running through a reserve; or,
- (c) settles, resides upon or occupies any road, or allowance for road, on such reserve;

the Superintendent General or such other officer or person as he thereunto deputed and authorizes, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith as the case may be,—

Warrant.

- (a) to remove from the said land, marsh or road, or allowance for road, every such person or Indian and his family, so settled, or who is residing or hunting upon, or occupying, or is illegally in possession of the same; or,

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- (b) to remove such cattle or other animals from such land or marsh; or,
- (c) to cause such person or Indian to cease fishing in any marsh, river, stream or creek, as aforesaid; or,
- (d) to notify such person or Indian to cease using, as aforesaid, the said lands, river, streams, creeks or marshes, roads or allowance for roads.

2. The person to whom such warrant is directed, shall execute the same, and, for that purpose, shall have the same powers as in the execution of criminal process. Execution.

3. The expenses incurred in any such removal or notification, or causing to cease fishing, shall be borne, as the case may be, by the person removed or notified, or caused to cease fishing, or who owns the cattle or other animals removed, or who has them in charge, and may be recovered from him as the costs in any ordinary action or suit, or if the trespasser is an Indian, such expenses may be deducted from his share of annuity and interest money, if any such are due to him. Costs.

4. Any such person or Indian other than an Indian of the band may be required orally or in writing by an Indian agent, a chief of the band occupying the reserve, or a constable, as the case may be,— Removal.

- (a) to remove with his family, if any, from the land, marsh or road, or allowance for road, upon which he is or has so settled, or is residing or hunting, or which he so occupies; or,
- (b) to remove his cattle from such land or marsh; or,
- (c) to cease fishing in any such marsh, river, stream or creek as aforesaid; or,
- (d) to cease using as aforesaid any such land, river, stream, creek, marsh, road or allowance for road. R.S., c. 43, s. 22; 54-55 V., c. 30, s. 1.

35. If any person or Indian, after he has been removed or notified as aforesaid, or after any cattle or other animals owned by him or in his charge have been removed as aforesaid,— Removal and
punishment
of persons
returning
after having
been re-
moved.

- (a) returns to, settles, resides or hunts upon or occupies or uses as aforesaid any of the said land or marsh; or,
- (b) causes or permits any cattle or other animals owned by him or in his charge to return to any of the said land or marsh; or,
- (c) returns to any marsh, river, stream or creek on or running through a reserve, for the purpose of fishing therein; or,
- (d) returns to, settles or resides upon or occupies any of the said roads or allowances for roads;

the Superintendent General, or any officer or person deputed or authorized, as aforesaid, upon view, or upon proof on oath before him, to his satisfaction, that the person or Indian has.—

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- (a) returned to, settled, resided or hunted upon or occupied or used as aforesaid any of the said lands or marshes; or,
- (b) caused or permitted any cattle or other animals owned by him, or in his charge, to return to any of the said land or marsh; or,
- (c) returned to any marsh, river, stream or creek on or running through a reserve for the purpose of fishing therein; or,
- (d) returned to, settled or resided upon or occupied any of the said roads or allowances for roads;

Warrant to sheriff to arrest and commit to gaol.

shall direct and send his warrant, signed and sealed, to the sheriff of the proper county or district, or to any literate person therein, commanding him forthwith to arrest such person or Indian, and bring him before any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, who may, on summary conviction, commit him to the common gaol of the said county or district, or if there is no gaol in the said county or district, or if the reserve is not situated within any county or district, then the gaol nearest to the said reserve in the province, there to remain for the time ordered in the warrant of commitment.

Limit of imprisonment.

2. The length of imprisonment aforesaid shall not exceed thirty days for the first offence, and thirty days additional for each subsequent offence.

Direction of warrant.

3. If the said reserve is not situated within any county or district, such warrant shall be directed and sent to some literate person within such reserve. R.S., c. 43, s. 23.

Arrest and imprisonment.

36. Such sheriff or other person shall accordingly arrest the said person or Indian, and deliver him to the keeper of the proper gaol, who shall receive such person or Indian, and imprison him in the said gaol for the term aforesaid. R.S., c. 43, s. 24.

s. 37A added to s. 37, c. 81, R.S.C. 1906 by s. 1, c. 28, S.C. 1910 and subsequently subsection 37A(1), c. 8 R.S.C. 1906, repealed and replaced by s. 4, c. 14, S.C. 1911.

Judgment to be drawn up and filed.

37. The Superintendent General, or such officer or person aforesaid, shall cause the judgment or order against the offender to be drawn up and filed in his office.

Final.

2. Such judgments shall not be appealed from, or removed by certiorari or otherwise, but shall be final. R.S., c. 43, s. 25.

Sale or Barter.

Governor in Council may make regulations as to sale or barter of produce by Indians.

38. The Governor in Council may make regulations for prohibiting or regulating the sale, barter, exchange or gift by any hand or irregular band of Indians, or by any Indian of any hand or irregular band, in the province of Manitoba, Saskatchewan or Alberta, or the Territories, of any grain or root crops, or other produce grown upon any reserve, and may further provide that such sale, barter, exchange or gift shall be null and void, unless the same are made in accordance with such regulations. R.S., c. 43, s. 30.

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39. No person shall buy or otherwise acquire from any band or irregular band of Indians, or from any Indian, any grain, root crops, or other produce from upon any reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories. R.S., c. 43, s. 30. Buying of produce prohibited.

40. If any such grain or root crops, or other produce as aforesaid, are unlawfully in the possession of any person with- in the intent and meaning of this Part, or of any regulations made by the Governor in Council under this Part, any person acting under the authority, either general or special, of the Superintendent General, may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same; and he shall deal therewith as the Superintendent General, or any officer or person thereunto by him authorized, directs. R.S., c. 43, s. 31. Superintendent general may order seizure of produce unlawfully possessed by any person.

41. The Governor in Council may make regulations for prohibiting the cutting, carrying away or removing from any reserve or special reserve, of any hard or sugar-maple tree or sapling. R.S., c. 43, s. 32. Governor in Council may prohibit cutting of trees on reserve.

42. No official or employee connected with the inside or outside service of the Department of Indian Affairs, and no missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians, and no school teacher on an Indian reserve, shall, without the special license in writing of the Superintendent General, trade with any Indian, or sell to him directly or indirectly, any goods or supplies, cattle or other animals. Trading with Indians prohibited without license of Superintendent General.

2. The Superintendent General may at any time revoke the license so given by him. 53 V., c. 29, s. 10; 57-58 V., c. 32, s. 10. Revocation of license.

43. No person shall barter directly or indirectly with any Indian on a reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories, or sell to any such Indian any goods or supplies, cattle or other animals without the special license in writing of the Superintendent General. Bartering with Indians without a license prohibited.

2. The Superintendent General may, at any time, revoke the license by him given. Revocation of license.

3. Upon prosecution of any offender against the provisions of this and the last preceding section, the evidence of the Indian to whom the sale was made, and the production to, or view by, the magistrate or Indian agent of the article or animal sold, shall be sufficient evidence on which to convict. 53 V., c. 29, s. 10. Evidence.

Roads and Bridges.

44. Indians residing upon any reserve shall be liable, if so directed by the Superintendent General, or any officer or person Indians liable to

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work on public roads on reserves, and to what extent.

by him thereunto authorized, to perform labour upon the public roads laid out or used in or through, or abutting upon such reserve, which labour shall be performed under the sole control of the Superintendent General, or officer or person aforesaid, who may direct when, where and how and in what manner such labour shall be applied, and to what extent the same shall be imposed upon any Indian who is a resident upon the reserve.

Powers of Superintendent General.

2. The Superintendent General, or person or officer aforesaid shall have the like power to enforce the performance of such labour by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the province or territory in which such reserve is situated, for the non-performance of statute labour; but the labour to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same province, territory, county or other local division, under the laws requiring and regulating such labour and the performance thereof. 61 V., c. 34, s. 1.

Band to cause roads to be kept in order.

45. Every band of Indians shall cause the roads, bridges, ditches and fences within its reserve to be put and maintained in proper order, in accordance with the instructions received, from time to time, from the Superintendent General, or from the agent of the Superintendent General.

Work may be done at cost of band.

2. Whenever in the opinion of the Superintendent General, such roads, bridges, ditches and fences are not so put or maintained in order, he may cause the work to be performed at the cost of the band, or of the particular Indian in default, as the case may be, either out of its or his annual allowances or otherwise. R.S., c. 43, s. 34.

Lands taken for Public Purposes.

subsection 46(1), c. 81, R.S.C. 1906 repealed and replaced by s. 1, c. 14, S.C. 1911.

Consent of Governor in Council.

46. No portion of any reserve shall be taken for the purposes of any railway, road or public work without the consent of the Governor in Council, and, if any railway, road, or public work passes through or causes injury to any reserve, or, if any act occasioning damage to any reserve is done under the authority of an Act of Parliament or of the legislature of any province, compensation shall be made therefor to the Indians of the band in the same manner as is provided with respect to the lands or rights of other persons.

Compensation.

2. The Superintendent General shall, in any case in which an arbitration is had, name the arbitrator on behalf of the Indians, and shall act for them in any matter relating to the settlement of such compensation.

Arbitration.

3. The amount awarded in any case shall be paid to the Minister of Finance for the use of the band of Indians for whose benefit the reserve is held, and for the benefit of any Indian who has improvements taken or injured. R.S., c. 43, s. 35; 50-51 V., c. 33, s. 5.

Payment.

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Surrender and Forfeiture of Lands in Reserve.

47. If, by the violation of the conditions of any trust respecting any special reserve, or by the breaking up of any society, corporation or community, or, if by the death of any person or persons without a legal succession or trusteeship, in whom the title to a special reserve is held in trust, the said title lapses or becomes void in law, the legal title shall become vested in His Majesty in trust, and the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve.

Title to vest in His Majesty, if title of reserves held in trust lapses.

2. The trustees of any special reserve may, at any time, surrender the same to His Majesty in trust, whereupon the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve. R.S., c. 43, s. 37.

Surrender of certain reserves to His Majesty in trust.

48. Except as in this Part otherwise provided, no reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Part: Provided that the Superintendent General may lease, for the benefit of any Indian, upon his application for that purpose, the land to which he is entitled without such land being released or surrendered, and may, without surrender, dispose to the best advantage, in the interests of the Indians, of wild grass and dead or fallen timber. 61 V., c. 34, s. 2.

Sale or release of reserves.

s. 48, c. 81, R.S.C. 1906, amended by s. 1, c. 56, S.C. 1919.

Proviso.

49. Except as in this Part otherwise provided, no release or surrender of a reserve, or a portion of a reserve, held for the use of the Indians of any band, or of any individual Indian, shall be valid or binding, unless the release or surrender shall be assented to by a majority of the male members of the band of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose, according to the rules of the band, and held in the presence of the Superintendent General, or of an officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General.

Release or surrender of a reserve, when valid.

s. 49A added to s. 49, c. 81 R.S.C. 1906 by s. 1, c. 14, S.C. 1911.

Assent of band.

2. No Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near, and is interested in the reserve in question.

Who may vote.

3. The fact that such release or surrender has been assented to by the band at such council or meeting shall be certified on oath by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some of the chiefs or principal men present thereat and entitled to vote, before some judge of a superior, county or district court, stipendiary magistrate or justice of the peace, or, in the case of reserves in the province of Manitoba, Saskatchewan or Alberta, or the Territories, before the Indian commissioner,

Proof of assent.

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subsection
49(3), c. 81,
R.S.C. 1906
amended by
s. 2, c. 26,
S.C. 1918.

Approval of
Governor in
Council.

and in the case of reserves in British Columbia, before the visiting Indian Superintendent for British Columbia, or, in either case, before some other person or officer specially thereunto authorized by the Governor in Council.

4. When such assent has been so certified, as aforesaid, such release or surrender shall be submitted to the Governor in Council for acceptance or refusal. R.S., c. 43, s. 39; 61 V., c. 34, s. 3.

Act not to
confirm
invalid re-
leases or
surrenders.

50. Nothing in this Part shall confirm any release or surrender which, but for this Part, would have been invalid; and no release or surrender of any reserve, or portion of a reserve, to any person other than His Majesty, shall be valid. R.S., c. 43, s. 40.

Indian lands
to be held
for the same
purpose as
heretofore.

51. All Indian lands which are reserves or portions of reserves surrendered, or to be surrendered, to His Majesty, shall be deemed to be held for the same purpose as heretofore; and shall be managed, leased and sold as the Governor in Council directs, subject to the conditions of surrender and the provisions of this Part. R.S., c. 43, s. 41.

Sale and Transfer of Indian Lands.

Effect of
former cer-
tificate of
sale or
receipts.

52. Every certificate of sale or receipt for money received on the sale of Indian lands granted or made by the Superintendent General or any agent of his, so long as the sale to which such certificate or receipt relates is in force and not rescinded, shall entitle the person to whom the same is granted, or his assignee, by instrument registered under this or any former Act providing for registration in such cases, to take possession of and occupy the land therein comprised, subject to the conditions of such sale, and unless the same has been revoked or cancelled, to maintain thereunder actions and suits against any wrongdoer or trespasser, as effectually as he could do under a patent from the Crown; but the same shall have no force against a license to cut timber existing at the time of the granting or making thereof.

Evidence of
possession.

2. Such certificate or receipt shall be *prima facie* evidence of possession by such person, or the assignee, under an instrument registered as aforesaid in any such action or suit. R.S., c. 43, s. 42.

Register of
assignments
to be kept.

53. The Superintendent General shall keep a book for registering, at the option of the persons interested, the particulars of any assignment made, as well by the original purchaser or lessee of Indian lands, or his heirs or legal representatives, as by any subsequent assignee of any such lands, or the heirs or legal representatives of such assignee. R.S., c. 43, s. 43.

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54. Upon any such assignment being produced to the Superintendent General, and, except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the place of such execution, and the names, residences and occupations of the witnesses, or, as to lands in the province of Quebec, upon the production of any such assignment executed in notarial form, or of a notarial copy thereof, the Superintendent General shall cause the material parts of the assignment to be registered in the said book, and shall cause to be endorsed on the assignment a certificate of such registration signed by himself or by the Deputy Superintendent General, or any other officer of the Department by him authorized to sign such certificates. 53 V., c. 29, s. 4.

Registration
of assign-
ments.

55. Every such assignment so registered shall be valid against any assignment previously executed, which is subsequently registered or is unregistered.

Effect of
assignment
and registra-
tion.

2. No such registration shall be made until all the conditions of the sale, grant or location are complied with or dispensed with by the Superintendent General.

Require-
ments.

3. Every assignment registered as aforesaid shall be unconditional in its terms. R.S., c. 43, s. 43.

Uncon-
ditional.

56. If any subscribing witness to any such assignment is dead, or is absent from Canada, the Superintendent General may register such assignment upon the production of an affidavit proving the death or absence of such witness, and his handwriting, or the handwriting of the person making such assignment. R.S., c. 43, s. 44.

Proof for
registration.

57. No agent for the sale of Indian lands shall, within his division, directly or indirectly, except under an order of the Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency; and every such purchase or interest shall be void. R.S., c. 43, s. 110.

Agents not
to be inter-
ested in or
owners of
Indian lands.

Tax Sales.

58. Whenever the proper municipal officer having, by the law of the province in which the land affected is situate, authority to make or execute deeds or conveyances of lands sold for taxes, makes or executes any deed or conveyance purporting to grant or convey Indian lands which have been sold or located, but not patented, or the interest therein of the locatee or purchaser from the Crown, and such deed or conveyance recites or purports to be based upon a sale of such lands or such interest for taxes, the Superintendent General may approve of such deed or conveyance, and act upon and treat it as a valid transfer of all the right and interest of the original locatee or purchaser from the Crown, and of every person claiming under

Conveyance
of lands sold
for taxes.

Superinten-
dent General
may approve.

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him in or to such land to the grantee named in such deed or conveyance.

Effect of such approval.

2. When the Superintendent General has signified his approval of such deed or conveyance by endorsement thereon, the grantee shall be substituted in all respects, in relation to the land so conveyed, for the original locatee or purchaser from the Crown, but no such deed or conveyance shall be deemed to confer upon the grantee any greater right or interest in the land than that possessed by the original locatee or purchaser from the Crown. 51 V., c. 22, s. 2.

Issue of patent.

59. The Superintendent General may cause a patent to be issued to the grantee named in such deed or conveyance on the completion of the original conditions of the location or sale, unless such deed or conveyance is declared invalid by a court of competent jurisdiction in a suit or action instituted by some person interested in such land within two years after the date of the sale for taxes, and unless within such delay notice of such contestation has been given to the Superintendent General. 51 V., c. 22, s. 2.

Time for registration.

60. Every such deed or conveyance shall be registered in the office of the Superintendent General within two years from the date of the sale for taxes; and unless the same is so registered, it shall not be deemed to have preserved its priority, as against a purchaser in good faith from the original locatee or purchaser from the Crown, in virtue of an assignment registered prior to the date of the registration of the deed or conveyance based upon a sale for taxes as aforesaid. 51 V., c. 22, s. 2.

Cancellation.

s. 61, c. 81, R.S.C. 1906 amended by s. 4, c. 47, S.C. 1924.

In cases of fraud, mistake, or non-observance of conditions.

61. If the Superintendent General is satisfied that any purchaser or lessee of any Indian lands, or any person claiming under or through him, has been guilty of any fraud or imposition, or has violated any of the conditions of the sale or lease, or if any such sale or lease has been made or issued in error or mistake, he may cancel such sale or lease and resume the land therein mentioned, or dispose of it as if no sale or lease thereof had ever been made. R.S., c. 43, s. 46.

Ejectment.

Obtaining possession after such cancellation, in case of resistance.

62. Whenever any purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale or lease thereof, as aforesaid, or whenever any person is wrongfully in possession of any Indian land and refuses to vacate or abandon possession of the same, the Superintendent General may apply to the judge of the county court of the county or district in which the land lies, or to any judge of a superior court, or in the Northwest Terri-

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tories to any stipendiary magistrate, for an order in the nature of a writ of *habere facias possessionem*, or writ of possession.

2. The said judge or magistrate, upon proof to his satisfaction that the right or title of the person to hold such land has been revoked or cancelled, as aforesaid, or that such person is wrongfully in possession of Indian lands, shall grant an order requiring the purchaser, lessee or person in possession to deliver up the same to the Superintendent General, or person by him authorized to receive such possession. Order as to writ of possession.

3. The order shall have the same force as a writ of *habere facias possessionem*, or writ of possession. Effect.

4. The sheriff, or any bailiff or person to whom it has been entrusted for execution by the Superintendent General, shall execute the same in like manner as he would execute such writ in an action of ejectment or a possessory action. Execution of order.

5. The costs of and incident to any proceedings under this section or any part thereof shall be paid by any party to such proceedings or by the Superintendent General, as the judge or magistrate orders. R.S., c. 43, s. 47; 54-55 V., c. 30, s. 3. Costs.

Rent.

63. Whenever any rent payable to the Crown on any lease of Indian lands is in arrear, the same may be recovered,— Enforcing payment of rent due to the Crown.

- (a) by warrant of distress issued by the Superintendent General or any agent or officer appointed under this Part and authorized by the Superintendent General to act in such cases, and with like proceedings thereon as in ordinary cases of landlord and tenant directed to any person or persons by him named therein; or
- (b) by warrant of distress, and with like proceedings thereon as in case of a distress warrant by a justice of the peace for non-payment of a pecuniary penalty issued by him and directed as aforesaid; or
- (c) by action of debt, as in ordinary cases of rent in arrear, brought therefor in the name of the Superintendent General.

2. Demand of rent shall not be necessary in any case. R.S., c. 43, s. 48. No demand required.

Powers of Superintendent General.

64. When by law or by any deed, lease or agreement relating to Indian lands, any notice is required to be given, or any act to be done by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Superintendent General. R.S., c. 43, s. 49. To act and give notice for the Crown.

65. Whenever it is found that, by reason of false survey or error in the books or plans in the Department of Indian Affairs, or in the late Indian branch of the Department of the Interior, Cases of deficiency of land.

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any grant, sale or appropriation of land is deficient, or whenever any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Superintendent General may order the purchase money of so much land as is deficient with the interest thereon from the time of the application therefor to be paid to the original purchaser in land or money as the Superintendent General directs.

2. If the land has passed from the original purchaser, and the claimant was ignorant of a deficiency at the time of his purchase, the Superintendent General may order payment as aforesaid of the purchase money for so much of the land as is deficient which the claimant has paid.

3. No such claim shall be entertained unless application is made within five years from the date of the patent, and unless the deficiency is equal to one-tenth of the whole quantity described as contained in the particular lot or parcel of land granted. R.S., c. 43, s. 52.

66. The Superintendent General may, from time to time, by public notice, declare that, on and after a day therein named, the laws respecting game in force in the province of Manitoba, Saskatchewan or Alberta, or the Territories, or respecting such game as is specified in such notice, shall apply to Indians within the said province or Territories, as the case may be, or to Indians in such parts thereof as to him seems expedient. 53 V., c. 29, s. 10.

67. The Superintendent General, his deputy, or other person specially authorized by the Governor in Council, shall have power, by subpoena issued by him, to require any person to appear before him, and to bring with him any papers or writings relating to any matter affecting Indians, and to examine such person under oath in respect to any such matter.

2. If any person duly summoned by subpoena as aforesaid neglects or refuses to appear at the time and place specified in the subpoena, or refuses to give evidence or to produce the papers or writings demanded of him, the Superintendent General, his deputy or such other person may, by warrant under his hand and seal, cause such person so refusing or neglecting to be taken into custody and to be imprisoned in the nearest common gaol as for contempt of court, for a period not exceeding fourteen days. 50-51 V., c. 33, s. 2.

Patents.

68. Every patent for Indian lands shall be prepared in the Department of Indian Affairs, and shall be signed by the Superintendent General or his deputy or by some other person thereunto specially authorized by order of the Governor in Council, and, when so signed, shall be registered by an officer specially appointed for that purpose by the Registrar General.

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and then transmitted to the Secretary of State of Canada, by whom, or by the Under Secretary of State, the same shall be countersigned and the Great Seal thereto caused to be affixed: Provided that every such patent for land shall be signed by the Governor or by the Deputy Governor appointed under this Part for that purpose. R.S., c. 43, s. 45.

69. On any application for a patent by the heir, assignee or devisee of the original purchaser from the Crown, the Superintendent General may receive proof, in such manner as he directs and requires, in support of any claim for a patent, when the original purchaser is dead; and upon being satisfied that the claim has been equitably and justly established, may allow the same, and cause a patent to issue accordingly: Provided that nothing in this section shall limit the right of a person claiming a patent to land in the province of Ontario to make application at any time to the Commissioner, under the Act respecting claims to lands in Upper Canada for which no patents have been issued, being chapter eighty of the Consolidated Statutes of Upper Canada. R.S., c. 43, s. 45.

70. Whenever letters patent have been issued to or in the name of the wrong person, through mistake, or contain any clerical error or misnomer, or wrong description of any material fact therein, or of the land thereby intended to be granted, the Superintendent General, if there is no adverse claim, may direct the defective letters patent to be cancelled, and a minute of such cancellation to be entered in the margin of the registry of the original letters patent, and correct letters patent to be issued in their stead.

2. Such correct letters patent shall relate back to the date of those so cancelled, and have the same effect as if issued at the date of such cancelled letters patent. R.S., c. 43, s. 50.

71. In all cases in which grants or letters patent have been issued for the same land, inconsistent with each other, through error, and in all cases of sales or appropriations of the same land, inconsistent with each other, the Superintendent General may, in cases of sale, cause a repayment of the purchase money, with interest.

2. When the land has passed from the original purchaser, or has been improved before a discovery of the error, the Superintendent General may, in substitution, assign land or grant a certificate entitling the person to purchase Indian lands of such value, and to such extent as he deems just and equitable under the circumstances: Provided that no such claim shall be entertained unless it is preferred within five years from the discovery of the error. R.S., c. 43, s. 51.

72. Whenever patents for Indian lands have issued through fraud or in error or improvidence, the Exchequer Court of

Patent to issue to heir, assignee or devisee after proof of right thereto.

Provided.

Cancellation of erroneous letters patent.

Issue of correct ones in their stead.

Inconsistent patents of the same land.

Compensation in certain cases.

Provided.

Certain courts may void patents.

s. 67, c. 81 R.S.C. 1906 amended by s. 3, c. 26, S.C. 1918.

Witnesses may be summoned and examined under oath.

Failure of witness to appear.

Patents how to be prepared, signed and registered.

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issued in error, etc.	Canada or a superior court in any province may, in respect of lands situate within its jurisdiction, upon information, action, bill or plaint, respecting such lands, and upon hearing the parties interested, or upon default of the said parties after such notice of proceeding as the said courts shall respectively order, decree such patents to be void; and, upon a registry of such decree in the Department of Indian Affairs, such patents shall be void to all intents.		4. All proceedings pending at the expiration of any license may be continued to final termination, as if the license had not expired. 61 V., c. 34, s. 4.		Continuing proceedings.
Effect of registry of decree. Practice in such cases.	2. The practice in such cases shall be regulated by orders, from time to time, made by the said courts respectively. R.S., c. 43, a. 53; 53 V., c. 29, s. 5.		76. Every person who obtains a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Superintendent General, a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square or other timber, manufactured and carried away under such license, which return shall be sworn to by the holder of the license or his agent, or by his foreman.		Return to be made by licensee.
	<i>Timber Lands.</i>		2. Every person who refuses or neglects to make such return, or who evades, or attempts to evade, any regulation made by the Governor in Council in that behalf, shall be held to have cut without authority, and the timber or other product made shall be dealt with accordingly. R.S., c. 43, s. 57.		Effect of neglect to make such return.
Licenses to cut trees, by whom and how to be granted.	73. The Superintendent General, or any officer or agent authorized by him to that effect, may grant licenses to cut trees on ungranted Indian lands, or on reserves at such rates and subject to such conditions, regulations and restrictions, as are, from time to time, established by the Governor in Council, and such conditions, regulations and restrictions shall be adapted to the locality in which such reserves or lands are situated. R.S., c. 43, a. 54.		77. All trees cut, and the logs, timber or other product thereof, shall be liable for the payment of the dues thereon, so long as and wherever the same, or any part thereof, are found, whether in the original logs or manufactured into deals, boards or other stuff.		Trees cut and their product liable for payment of dues.
For what time.	74. No license shall be so granted for a longer period than twelve months from the date thereof; and if, in consequence of any incorrectness of survey or other error or cause whatsoever, a license is found to comprise land included in a license of a prior date, or land not being reserve, or ungranted Indian lands, the license granted shall be void in so far as it comprises such land, and the holder or proprietor of the license so rendered void shall have no claim upon the Crown for indemnity or compensation by reason of such avoidance. R.S., c. 43, s. 55.		2. All officers or agents entrusted with the collection of such dues may follow and seize and detain the same wherever they are found until the dues are paid or secured. R.S., c. 43, s. 58.		May be seized and detained.
As to error in description, etc.	75. Every license shall describe the lands upon which the trees may be cut, and the kind of trees which may be cut, and shall confer, for the time being, on the licensee the right to take and keep possession of the land so described, subject to such regulations as are made.		78. No instrument or security taken for dues, either before or after the cutting of the trees, as collateral security, or to facilitate collection, shall in any way affect the lien for such dues, but the lien shall subsist until the said dues are actually discharged. R.S., c. 43, s. 59.		Security taken for dues not to affect lien.
License must describe lands and kind of trees to be cut.	2. Every license shall vest in the holder thereof all rights of property in all trees of the kind specified, cut within the limits of the license during the term thereof, whether such trees are cut by the authority of the holder of such license or by any other person, with or without his consent.		79. If any timber so seized and detained for non-payment of dues remains more than twelve months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid, the Superintendent General may order a sale of the said timber to be made after sufficient notice.		Sale of seized timber after certain delay.
To vest property in trees cut.	3. Every license shall entitle the holder thereof to seize, in revendication or otherwise, such trees and the logs, timber or other product thereof, if found in the possession of any unauthorized person, and also to institute any action or suit against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any.		2. The net proceeds of such sale, after deducting the amount of dues, expenses, and costs incurred, shall be handed over to the owner or claimant of such timber, upon his applying therefor and proving his right thereto. R.S., c. 43, s. 60.		Proceeds.
Rights of licensee as to trespassers.	3. Every license shall entitle the holder thereof to seize, in revendication or otherwise, such trees and the logs, timber or other product thereof, if found in the possession of any unauthorized person, and also to institute any action or suit against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any.		80. Any officer or agent acting under the Superintendent General may seize or cause to be seized in His Majesty's name any logs, timber, wood or other products of trees, or any trees themselves, cut without authority on Indian lands or on a reserve, wherever they are found, and place the same under proper custody until a decision can be had in the matter from competent authority. 50-51 V., c. 33, s. 6.		Seizure of trees cut without authority.

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Presumption of law in case of mixture of timber cut on Indian lands or reserves, with timber cut elsewhere.

81. When the logs, timber, wood, or other products of trees, or the trees themselves cut without authority on Indian lands or on a reserve, have been made up or intermingled with other trees, wood, timber, logs, or other products of trees into a crib, dram or raft, or in any other manner, so that it is difficult to distinguish the timber cut on Indian lands or on a reserve without license, from the other timber with which it is made up or intermingled, the whole of the timber so made up or intermingled shall be held to have been cut without authority on Indian lands or on a reserve, and shall be seized and forfeited and sold by the Superintendent General or any officer or agent acting under him, unless evidence satisfactory to him is adduced showing the probable quantity not cut on Indian lands or on a reserve. 50-51 V., c. 33, s. 7.

Seizing officer may command assistance in name of Crown.

82. Every officer or person seizing trees, logs, timber or other products of trees in the discharge of his duty under this Part may, in the name of the Crown, call in any assistance necessary for securing and protecting the same. R.S., c. 43, s. 64.

Burden of proof, in certain cases, to be on claimant.

83. Whenever any trees, logs, timber or other product of trees are seized for non-payment of Crown dues, or for any other cause of forfeiture, or whenever any prosecution is brought in respect of any penalty or forfeiture under this Part, and any question arises whether said dues have been paid or whether the trees, logs, timber or other product were cut on lands other than any of the lands aforesaid, the burden of proving payment, or on what land the same were cut, as the case may be, shall lie on the owner or claimant and not on the officer who seizes the same, or the person who brings such prosecution. R.S., c. 43, s. 65.

Condemnation in default of notice of claim.

84. All trees, logs, timber or other product of trees seized under this Part shall be deemed to be condemned unless the person from whom they are seized, or the owner thereof within one month from the day of the seizure, gives notice to the seizing officer, or nearest officer or agent of the Superintendent General that he claims, or intends to claim them, and unless within one month from the day of giving such notice he initiates, in some court of competent jurisdiction, proceedings for the purpose of establishing his claim.

Sale.

2. In default of such notice and initiation of proceedings, the officer or agent seizing shall report the circumstances to the Superintendent General, who may order the sale by the said officer or agent of such trees, logs, timber or other products. 61 V., c. 31, s. 5.

Proceedings for trial of validity of seizure.

85. Any judge of any superior, county or district court, or any stipendiary magistrate, police magistrate or Indian agent, may, in a summary way, under the provisions of Part XV. of the Criminal Code, try and determine such seizures; and may,

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pending the trial, order the delivery of the trees, or the logs, timber or other product to the alleged owner, on receiving security by bond, with two good and sufficient sureties, first approved by the said agent, to pay double the value of such trees, logs, timber or other product, in case of their condemnation.

Delivery of security given.

2. Such bond shall be taken in the name of the Superintendent General, for His Majesty, and shall be delivered up to and kept by the Superintendent General.

Bond to be given.

3. If such seized trees, logs, timber or other product are condemned, the value thereof shall be paid forthwith to the Superintendent General or agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered. R.S., c. 43, s. 67.

Value of condemned trees to be paid to the Superintendent General.

86. Every one who avails himself of any false statement or false oath to evade the payment of dues under this Part, shall forfeit the timber in respect of which the dues are attempted to be evaded. R.S., c. 43, s. 68.

Forfeiture of timber for attempt to evade payment.

Management of Indian Moneys.

87. All moneys or securities of any kind applicable to the support or benefit of Indians, or any band of Indians, and all moneys accrued or hereafter to accrue from the sale of any Indian lands or the proceeds of any timber on any Indian lands or a reserve shall, subject to the provisions of this Part, be applicable to the same purposes, and be dealt with in the same manner as they might have been applied to or dealt with but for the passing of this Part. R.S., c. 43, s. 69.

Indian moneys to be dealt with as heretofore.

s. 87, c. 81, R.S.C. 1906, amended by s. 2, c. 28, S.C. 1910.

88. The Governor in Council may reduce the purchase money due or to become due on sales of Indian lands, or reduce or remit the interest on such purchase money, or reduce the rent at which Indian lands have been leased, when he considers the same excessive.

Reduction of purchase money due on sales of Indian lands.

2. A return setting forth all the reductions and remissions made under this section during the fiscal year shall be submitted to both Houses of Parliament within twenty days after the expiration of such year, if Parliament is then sitting, and, if Parliament is not then sitting, within twenty days after the opening of the next ensuing session of Parliament. 55-59 V., c. 35, s. 8.

Returns of reductions to Parliament.

89. With the exception of such sum not exceeding fifty per centum of the proceeds of any land, and not exceeding ten per centum of the proceeds of any timber or other property, as is agreed at the time of the surrender to be paid to the members of the band interested therein, the Governor in Council may, subject to the provisions of this Part, direct how and in what manner, and by whom, the moneys arising from the disposal of Indian lands, or of property held or to be held in trust for

Investment and management of Indian funds may be regulated by Governor in Council.

subsection 89(1), c. 81, R.S.C. 1906 amended by s. 2, c. 56, S.C. 1919.

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subsection
89(2), c. 81
R.S.C. 1906
amended by
s. 1, c. 32,
S.C. 1926-27.

Indians, or timber on Indian lands or reserves, or from any other source for the benefit of Indians, shall be invested from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given.

2. The Governor in Council may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Part, and may authorize and direct the expenditure of such moneys for surveys, for compensation to Indians for improvements or any interest they had in lands taken from them, for the construction or repair of roads, bridges, ditches and watercourses on such reserves or lands, for the construction and repair of school buildings and charitable institutions, and by way of contribution to schools attended by such Indians. 6 E. VII., c. 20, s. 1.

s. 90, c. 81
R.S.C. 1906
amended by
s. 4, c. 26,
S.C. 1918
and
subsequently
repealed and
replaced by
s. 5, c. 47,
S.C. 1924.

Power of
Governor in
Council as
to direction
of expendi-
ture of capi-
tal of band.

90. The Governor in Council may, with the consent of a band, authorize and direct the expenditure of any capital moneys standing at the credit of such band, in the purchase of land as a reserve for the band or as an addition to its reserve, or in the purchase of cattle for the band, or in the construction of permanent improvements upon the reserve of the band, or such works thereon or in connection therewith as, in his opinion, will be of permanent value to the band, or will, when completed, properly represent capital. 57-58 V., c. 32, s. 11.

Proceeds of
sales to be
paid to Min-
ister of
Finance.

91. The proceeds arising from the sale or lease of any Indian lands, or from the timber, hay, stone, minerals or other valuables thereon, or on a reserve, shall be paid to the Minister of Finance to the credit of the Indian fund. R.S., c. 43, s. 71.

s. 92, c. 81
R.S.C. 1906,
amended by
s. 6, c. 35,
S.C. 1914
and subsequently
by s. 5, c. 26,
S.C. 1918 and
by s. 2, c. 32,
S.C. 1926-27.

Powers of
Supt. Gen'l

92. The Superintendent General may,—

- (a) stop the payment of the annuity and interest money of as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the Superintendent General, guilty of deserting his family, or of conduct justifying his wife or family in separating from him, or who is separated from his family by imprisonment, and apply the same towards the support of the wife or family of such Indian; or,
- (b) stop the payment of the annuity and interest money of any Indian parent of an illegitimate child, and apply the same to the support of such child; or,
- (c) stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any woman who deserts her husband or family and lives immorally with another man, and apply the same to the support of the family so deserted; or,

(d) whenever sick or disabled, or aged or destitute Indians are not provided for by the band of which they are members, furnish sufficient aid from the funds of the band for the relief of such sick, disabled, aged or destitute Indians. R.S., c. 43, s. 74; 61 V., c. 34, s. 7 and 8.

Election of Chiefs.

93. Whenever the Governor in Council deems it advisable for the good government of a band, to introduce the elective system of chiefs and councillors or headmen, he may provide that the chief and councillors or headmen of any band shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall in such case be elected for a term of three years.

Governor in
Council may
provide for
election of
chiefs.

2. The councillors or headmen may be in the proportion of two for every two hundred Indians.

Councillors
or headmen.
Numbers.

3. No band shall have more than one chief and fifteen councillors or headmen.

4. Any band composed of at least thirty members may have a chief. 61 V., c. 34, s. 9.

Band of 30
chief.

94. Life chiefs and councillors or headmen now living may continue to hold rank until death or resignation, or until their removal by the Governor in Council for dishonesty, intemperance, immorality or incompetency.

As to present
life chiefs.

2. In the event of the Governor in Council providing that the chief and councillors or headmen of a band shall be elected, the life chiefs and councillors or headmen shall not exercise powers as such unless elected under the provision aforesaid. 61 V., c. 34, s. 9.

Election
required for
exercise of
powers.

95. An election may be set aside by the Governor in Council, on a report of the Superintendent General, if it is proved by two witnesses before the Indian agent for the locality, or such other person as is deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election.

Reason for
which an
election may
be set aside.

2. Every Indian who is proved guilty of such fraud or irregularity, or connivance thereat, may be declared ineligible for re-election for a period not exceeding six years, if the Governor in Council, on the report of the Superintendent General, so directs. 61 V., c. 31, s. 9.

Punishment
of fraud at
election.

96. Any elected or life chief and any councillor or headman, or any chief or councillor or headman chosen according to the custom of any band, may, on the ground of dishonesty, intemperance, immorality or incompetency, be deposed by the Governor in Council and declared ineligible to hold the office of chief or councillor or headman for a period not exceeding three years. 61 V., c. 34, s. 9.

Grounds on
which chief,
etc., may be
deposed.

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Regulations to be made by Chiefs.

Chiefs to make regulations as to schools. 97. The chief or chiefs of any band in council may, subject to confirmation by the Governor in Council, make rules and regulations as to the religious denomination to which the teacher of the school established on the reserve shall belong.

Denominations. 2. If the majority of the band belongs to any one religious denomination, the teacher of the school established on the reserve shall belong to the same denomination.

Minority. 3. The Protestant or Catholic minority of any band may, with the approval of and under regulations made by the Governor in Council, have a separate school established on the reserve. R.S., c. 43, s. 76.

Other cases. 98. The chief or chiefs of any band in council may likewise and subject to such confirmation, make rules and regulations as to,—

Health. (a) the care of the public health;

Order. (b) the observance of order and decorum at assemblies of the Indians in general council, or on other occasions;

Intemperance. (c) the repression of intemperance and profligacy;

Trespass. (d) the prevention of trespass by cattle, and the protection of sheep, horses, mules and cattle;

Roads, etc. (e) the construction and maintenance of watercourses, roads, bridges, ditches and fences;

Schoo. houses. (f) the construction and repair of school houses, council houses and other Indian public buildings, and the attendance at school of children between the ages of six and fifteen years;

Pounds. (g) the establishment of pounds and the appointment of pound-keepers;

Locating of land. (h) the locating of the land in their reserves, and the establishment of a register of such locations;

Weeds. (i) the repression of noxious weeds.

Governor in Council may provide for punishment for violation. 2. The Governor in Council may by the rules and regulations aforesaid provide for the imposition of punishment by fine, penalty or imprisonment, or both for violation of any of such rules or regulations.

Limit of penalty. 3. The fine or penalty shall in no case exceed thirty dollars, and the imprisonment shall in no case exceed thirty days.

Criminal Code to apply. 4. The proceedings for the imposition of such punishment shall be taken under Part XV. of the Criminal Code. R.S., c. 43, s. 76.

Taxation.

Liable by Indians to taxation. 99. No Indian or non-treaty Indian shall be liable to be taxed for any real or personal property, unless he holds, in his individual right, real estate under a lease or in fee simple, or personal property outside of the reserve or special reserve, in which case he shall be liable to be taxed for such real or

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personal property at the same rate as other persons in the locality in which it is situate. R.S., c. 43, s. 77.

100. No taxes shall be levied on the real property of any Indian, acquired under the enfranchisement clauses of this Part, until the same has been declared liable to taxation by proclamation of the Governor in Council, published in the *Canada Gazette*. R.S., c. 43, s. 77. As to taxes on property of an enfranchised Indian.

101. All land vested in the Crown or in any person in trust or for the use of any Indian or non-treaty Indian or any band or irregular band of Indians or non-treaty Indians shall be exempt from taxation, except those lands which, having been surrendered by the bands owning them, though unpatented, have been located by or sold or agreed to be sold to any person; and, except as against the Crown and any Indian located on the land, the same shall be liable to taxation in like manner as other lands in the same locality: Provided that nothing herein contained shall interfere with the right of the Superintendent General to cancel the original sale or location of any land, or shall render such land liable to taxation until it is again sold or located. 51 V., c. 22, s. 3. Exemption from taxation.

Legal Rights of Indians.

102. No person shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgment or otherwise, upon real or personal property of any Indian or non-treaty Indian, except on real or personal property subject to taxation under the last three preceding sections: Provided that any person selling any article to an Indian or non-treaty Indian may take security on such article for any part of the price thereof which is unpaid. R.S., c. 43, s. 78. No lien or charge to be taken on property of Indians.

103. Indians and non-treaty Indians shall have the right to sue for debts due to them, or in respect of any tort or wrong inflicted upon them, or to compel the performance of obligations contracted with them: Provided that, in any suit or action between Indians, or in any case of assault in which the offender is an Indian, no appeal shall lie from any judgment, order or conviction by any police magistrate, stipendiary magistrate, or two justices of the peace or an Indian agent, when the sum adjudged or the penalty imposed does not exceed ten dollars. R.S., c. 43, s. 79. As to rights of action by Indians.

104. No pawn taken from any Indian or non-treaty Indian for any intoxicant shall be retained by the person to whom such pawn is delivered; but the thing so pawned may be sued for and shall be recoverable, with costs of suit, in any court of competent jurisdiction by the Indian or non-treaty Indian who pawned the same. R.S., c. 43, s. 80. Things pawned by Indians for intoxicants not to be retained.

Paragraph 98(c), c. 81 R.S.C. 1906, repealed and replaced by s. 3, c. 32, S.C. 1926-27.

R.S.C. 1906, c. 81, cont'd.

R.S.C. 1906, c. 81, cont'd.

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105. No presents given to Indians or non-treaty Indians, and no property purchased or acquired with or by means of any annuities granted to Indians, or any part thereof, and in the possession of any band of such Indians, or of any Indian of any band or irregular band, shall be liable to be taken, seized or distrained for any debt, matter or cause whatsoever.

2. No such presents or property shall, in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or in the Territories be sold, bartered, exchanged, or given by any band or irregular band of Indians, or any Indian of any such band to any person or Indian other than an Indian of such band.

3. Animals given to Indians under treaty stipulations, and the progeny thereof, and farming implements, tools and any other articles given to Indians under treaty stipulations shall be held to be presents within the meaning of this section.

4. Every such sale, barter, exchange or gift shall be null and void unless such sale, barter, exchange or gift is made with the written assent of the Superintendent General or his agent. R.S., c. 43, s. 81; 53 V., c. 29, s. 7.

106. If any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians, are or is unlawfully in the possession of any person, within the true intent and meaning of the last preceding section, any person acting under the authority of the Superintendent General may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same, and shall deal therewith as the Superintendent General directs. R.S., c. 43, s. 81.

Enfranchisement.

107. The provisions of this Part respecting enfranchisement of Indians shall not apply to any band of Indians in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or the Territories, except in so far as such provisions are, by proclamation of the Governor in Council, from time to time, extended to any band of Indians in any of the said provinces or territories. R.S., c. 43, s. 82.

108. Whenever any male Indian or unmarried Indian woman, of the full age of twenty-one years, makes application to the Superintendent General to be enfranchised, the Superintendent General shall instruct the agent of the band of which the applicant is a member, to call upon the latter to furnish a certificate, under oath, before a judge of any court of justice, by the priest, clergyman or minister of the religious denomination to which the applicant belongs, or by a stipendiary magistrate or two justices of the peace, to the effect that to the best of the knowledge and belief of the deponent or deponents, the

applicant for enfranchisement is, and has been for at least five years previously, a person of good moral character, temperate in his or her habits, and of sufficient intelligence to be qualified to hold land in fee simple, and otherwise to exercise all the rights and privileges of an enfranchised person. R.S., c. 43, s. 83.

109. Upon receipt of such a certificate, the agent shall, with the least possible delay, submit the same to a council of the band of which the applicant is a member; and he shall then inform the Indians assembled at such council, that thirty days will be given within which affidavits made before a judge or a stipendiary magistrate will be received, containing reasons, if any there are, of a personal character affecting the applicant, why such enfranchisement should not be granted to the applicant. R.S., c. 43, s. 84.

110. At the expiration of the thirty days aforesaid, the agent shall forward to the Superintendent General all affidavits which have been filed with him in the case, as well as one made by himself before a judge or a stipendiary magistrate, containing his reasons for or against the enfranchisement of the applicant.

2. If the Superintendent General, after examining the evidence, decides in favour of the applicant, he may grant to the applicant a location ticket for the land occupied by him or her as a probationary Indian, or for such proportion thereof as appears to the Superintendent General fair and proper. R.S., c. 43, s. 85.

111. Every Indian who is admitted to the degree of doctor of medicine, or to any other degree, by any university of learning, or who is admitted, in any province of Canada, to practise law, either as an advocate, a barrister, solicitor or attorney, or a notary public, or who enters holy orders, or who is licensed by any denomination of christians as a minister of the gospel, may, upon petition to the Superintendent General, *ipso facto* become and be enfranchised under this Part, and he shall then be entitled to all the rights and privileges to which any other member of the band to which he belongs would be entitled if he was enfranchised under the provisions of this Part.

2. The Superintendent General may give him a suitable allotment of land from the lands belonging to the band of which he is a member: Provided that, if he is not the recognized holder of a location on the reserve by ticket or otherwise, he shall first obtain the consent of the band and the approval of the Superintendent General to such allotment. R.S., c. 43, s. 86.

112. After the expiration of three years, or, if the conduct of such Indian has not been satisfactory, after such longer

Exemption from seizure

Traffic in presents and property restricted.

Animals, farming implements, etc., deemed presents.

Sale, etc., null and void.

Presents, unlawfully in possession of any person, may be seized.

Special application of this Part.

Proceedings for enfranchisement.

To be submitted to council of band

Affidavits to be sent to Superintendent General.

Location ticket to be granted.

Certain educational acquirements to confer enfranchisement.

Allotment in such case.

Patent may issue after probation.

s. 108, c. 81, R.S.C. 1906, repealed and replaced by s. 3, c. 50, S.C. 1919-20.

s. 109, c. 81, R.S.C. 1906 repealed and replaced by s. 3, c. 50, S.C. 1919-20.

s. 110, c. 81, R.S.C. 1906 repealed and replaced by s. 3, c. 50, S.C. 1919-20.

s. 111, c. 81, R.S.C. 1906 repealed and replaced by s. 3, c. 50, S.C. 1919-20.

s. 112, c. 81, R.S.C. 1906 repealed and replaced by s. 3, c. 50, S.C. 1919-20.

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period as the Superintendent General deems necessary, the Governor in Council may, on the report of the Superintendent General, order the issue of letters patent, granting to such Indian the land in fee simple, which has been allotted to him by location ticket.

Conditions. 2. Such letters patent shall contain a provision that such Indian shall not have power to sell, lease or otherwise alienate the land except with the sanction of the Governor in Council.

Compliance not necessary. 3. In such cases compliance with the provisions of this Part respecting leases or surrender of lands in a reserve shall not be necessary. R.S., c. 43, s. 87.

s. 113, c. 81 R.S.C. 1906 repealed and replaced by s. 3, c. 50, S.C. 1919-20.

Enfranchised Indian to declare name chosen and be known by same. 113. Every such Indian shall, before the issue of such letters patent, declare to the Superintendent General the name and surname by which he wishes to be enfranchised and thereafter known, and, on his receiving such letters patent, in such name and surname, he shall be held to be enfranchised, and he shall thereafter be known by such name or surname; and, if such Indian is a married man, his wife and minor unmarried children shall also be held to be enfranchised.

Wife and minor children also enfranchised. 2. From the date of such letters patent, the provisions of this Part and of any Act or law making any distinction between the legal rights, privileges, disabilities and liabilities of Indians and those of His Majesty's other subjects, shall cease to apply to such Indian, or his wife or his minor unmarried children, and he and they shall no longer be deemed Indians within the meaning of the laws relating to Indians, except in so far as regards their right to participate in the annuities and interest moneys, and rents and councils of the band to which they belonged. R.S., c. 43, s. 88.

s. 114, c. 81 R.S.C. 1906 repealed and replaced by s. 3, c. 50, S.C. 1919-20.

Children attain their majority before their father's probation expires. 114. Any children of a probationary Indian, who, having been minors and unmarried when the probationary ticket was granted to such Indian, arrive at the full age of twenty-one years before the letters patent are issued to such Indian, may, at the discretion of the Governor in Council, receive letters patent in their own names, subject to the same restrictions and reservations as are contained in the letters patent issued to their parent, for their respective shares of the land allotted under the said ticket, at the same time that letters patent are granted to their parent. R.S., c. 43, s. 88.

s. 115, c. 81 R.S.C. 1906 repealed and replaced by s. 3, c. 50, S.C. 1919-20.

Children and unmarried or being married. 115. If any Indian child who arrives at the full age of twenty-one years, during his or her parent's probationary period, is not qualified for enfranchisement, or if any child of such parent, who was a minor at the commencement of such period, is married during such period, a quantity of land equal to the share of such child shall be deducted, in such manner as the Superintendent General directs, from the allotment made to

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such Indian parent on receiving his probationary ticket. R.S., c. 43, s. 88.

116. The children of any widow who becomes either a probationary or enfranchised Indian shall be entitled to the same privileges as those of a male head of a family in like circumstances. R.S., c. 43, s. 90.

Children of widow enfranchised. s. 116, c. 81 R.S.C. 1906 repealed and

117. Whenever any member of a band, for three years immediately succeeding the date on which he was granted letters patent upon his enfranchisement as aforesaid, or for any longer period that the Superintendent General deems necessary, by his exemplary good conduct and management of property proves that he is qualified to receive his share of the moneys of such band, the Governor in Council may, on the report of the Superintendent General to that effect, order that the said Indian be paid his share of the capital funds at the credit of the band, or his share of the principal of the annuities of the band, estimated as yielding five per centum out of such moneys as are provided for the purpose by Parliament.

Payment to individual Indian of share of moneys of band. s. 3, c. 50 S.C. 1919-20.

s. 117, c. 81 R.S.C. 1906 repealed and replaced by s. 3, c. 50 S.C. 1919-20.

2. If such Indian is a married man he shall be paid his wife's and minor unmarried children's shares of such funds and principal moneys, and if such Indian is a widow, she shall also be paid her minor unmarried children's shares. 58-59 V., c. 35, s. 4.

Married men and widows' shares.

118. The unmarried children of such married Indians who, during the probationary period for payment of such moneys become of age, if qualified by the character for integrity, morality and sobriety which they bear, shall receive their own share of such moneys, when their parents are paid.

Shares of unmarried children of full age. s. 118, c. 81 R.S.C. 1906 repealed and

2. If not so qualified, before they receive payment of such moneys, they must themselves pass through the probationary period. 58-59 V., c. 35, s. 4.

Probationary period required. replaced by s. 3, c. 50, S.C. 1919-20.

119. All such Indians, and their unmarried minor children, who are paid their shares of the principal moneys of their band, as aforesaid, shall thenceforward cease, in every respect, to be Indians of any class within the meaning of this Part, or Indians within the meaning of any other Act or law. 58-59 V., c. 35, s. 4.

Enfranchisement of individual Indians so receiving shares. s. 119, c. 81 R.S.C. 1906 repealed and replaced by s. 3, c. 50, S.C. 1919-20.

120. If any probationary Indian fails in qualifying to become enfranchised, or dies before the expiration of the required probation, his claim, or the claim of his heirs, to the land for which a probationary ticket was granted, or the claim of any unqualified Indian, or of any Indian who marries during his or her parent's probationary period, to the land deducted under the operation of this Part from his or her parent's probationary allotment, shall, in all respects, be the same as that

If Indian fails to qualify or dies before expiration of probation. s. 120, c. 81 R.S.C. 1906 repealed and replaced by s. 3, c. 50 S.C. 1919-20.

R.S.C. 1906, c. 81, cont'd.

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conferred by an ordinary location ticket under this Part. R.S., c. 43, s. 89.

s. 121, c. 81
R.S.C. 1906
repealed
and
replaced by
s. 3,
c. 50,
S.C. 1919-20.

Rules for
allotting
lands to pro-
bationary
Indians.
Proviso.

121. In allotting land to probationary Indians, the quantity to be allotted to the head of a family shall be in proportion to the number of such family, compared with the total quantity of land in the reserve, and the whole number of the band: Provided that the Superintendent General may determine what quantity shall be allotted to each member for enfranchisement purposes, and that each female of any age, and each male under fourteen years of age, shall receive at least one-half the quantity allotted to each male of fourteen years of age and over. R.S., c. 43, s. 91.

s. 122, c. 81
R.S.C. 1906
amended by
s. 6, c. 26,
S.C. 1918
and
subsequently
repealed and
replaced by
s. 3, c. 50,
S.C. 1919-20.

Indians not
members of
the band
permitted to
reside on
reserve.

122. Every Indian who is not a member of the band, and every non treaty Indian, who, with the consent of the band and the approval of the Superintendent General, has been permitted to reside upon the reserve, or to obtain a location thereon, may, on being assigned a suitable allotment of land by the Superintendent General for enfranchisement, become enfranchised on the same terms and conditions as a member of the band: Provided that such enfranchisement shall not confer upon such Indian any right to participate in the annuities, interest moneys, rents or councils of the band.

2. Such enfranchisement shall confer upon such Indian the same legal rights and privileges, and make such Indian subject to such disabilities and liabilities as affect His Majesty's other subjects. R.S., c. 43, s. 92.

See also,
s. 7, c. 47
S.C. 1924.
s. 123, c. 81
R.S.C. 1906
repealed and
replaced by
s. 3, c. 50,
S.C. 1919-20.

Provision
when band
decides that
all its mem-
bers may
become en-
franchised.

123. If any band, at a council summoned for the purpose according to their rules, and held in the presence of the Superintendent General, or an agent duly authorized by him to attend such council, decides to allow every member of the band who chooses, and who is found qualified, to become enfranchised, and to receive his or her share of the principal moneys of the band, and sets apart for each such member a suitable allotment of land for the purpose, any applicant belonging to such band, or the wife and children of any such applicant, may, after such decision, be dealt with as provided in the foregoing provisions respecting enfranchisement and the payment to enfranchised Indians of their shares of the capital funds at the credit of the band or of the estimated principal of the annuities of the band to which they are entitled. 58-59 V., c. 35, s. 5.

Offences and Penalties.

See marginal
notes to **c. 50,**
S.C. 1919-20,
for later
amendments to
sections
107 to 111
as enacted
by **s. 3, c. 50,**
S.C. 1919-20.

Residing,
etc., upon
any reserve
without
authority.

124. Every person, or Indian other than an Indian of the band, who, without the authority of the Superintendent General, resides or hunts upon, occupies or uses any land or marsh, or who resides upon or occupies any road, or allowance for

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R.S.C. 1906, c. 81, cont'd.

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road, running through any reserve belonging to or occupied by such band shall be liable, upon summary conviction, to imprisonment for a term not exceeding one month or to a penalty not exceeding ten dollars and not less than five dollars, with costs of prosecution, half of which penalty shall belong to the informer. 57-58 V., c. 32, s. 2.

Penalty.

125. Any person or Indian who, being lawfully required by an Indian agent, a chief of the band occupying a reserve, or a constable,—

Refusing
to remove
from reserve
on demand
of chief.

- (a) to remove with his family, if any, from the land, marsh, road, or allowance for road upon which he is or has settled or is residing or hunting, or which he occupies; or,
- (b) to remove his cattle from such land or marsh; or,
- (c) to cease fishing in any marsh, river, stream or creek on or running through a reserve; or,
- (d) to cease using, occupying, settling or residing upon any land, river, stream, creek, marsh, road or allowance for a road in a reserve;

failure to comply with such requirement, shall, upon summary conviction, be liable to a penalty of not less than five dollars and not more than ten dollars for every day during which such failure continues, and, in default of payment, to be imprisoned for a term not exceeding three months. 54-55 V., c. 30, s. 1.

Penalty.

126. Every Indian, not being an Indian of the band, who, in the case where shooting privileges over a reserve or part of a reserve, or fishing privileges in any marsh, pond, river, stream or creek upon or running through a reserve, have, with the consent of the Indians of the band, been leased or granted to any person, and, in such case, every person not, under such lease or grant, entitled so to do, who hunts, shoots, kills or destroys any game animals or birds, or who fishes for, takes, catches or kills any fish to which such exclusive privilege extends, upon the reserve or part of a reserve, or in any marsh, pond, river, stream or creek covered by such lease or grant, shall, in addition to any other penalty or liability thereby incurred, be liable, on summary conviction, for every such offence to a penalty not exceeding ten dollars and not less than five dollars, and, in default of payment, to imprisonment for any term not exceeding one month. 54-55 V., c. 30, s. 4.

Shooting or
fishing on
reserved
territory.

Penalty.

127. Every person, or Indian, other than an Indian of the band to which the reserve belongs, who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away or removes from any of the lands, roads or allowances for roads in a reserve, any of the trees, saplings, shrubs, underwood, timber, cordwood or part of a tree, or bay, or removes any

Treepassing
on reserves
and cutting
or removing

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			of the stone, soil, minerals, metals or other valuables from the said lands, roads or allowances for roads, shall, on summary conviction thereof before any stipendiary magistrate, police magistrate or any two justices of the peace or an Indian agent, incur in each case the costs of prosecution and, —
Trees.		(a)	for every tree he cuts, carries away or removes, a penalty of twenty dollars;
Timber.		(b)	for cutting, carrying away or removing any of the saplings, shrubs, underwood, timber, cordwood or part of a tree or hay, if under the value of one dollar, a penalty of four dollars: and, if over the value of one dollar, a penalty of twenty dollars;
Stone, soil, minerals.		(c)	for removing any of the stone, soil, minerals, metals, or other valuables aforesaid, a penalty of twenty dollars.
Punishment in case of default of payment.		2.	In default of immediate payment of the said penalties and costs, such magistrate, justices of the peace, or Indian agent may issue a warrant directed to any person or persons by him or them named therein, to levy the amount of the said penalties and costs by distress and sale of the goods and chattels of the person or Indian liable to pay the same, or may, without proceeding by distress and sale, upon non payment of such penalties and costs, order the person or Indian liable therefor to be imprisoned in the common gaol of the county or district in which the said reserve or any part thereof lies for a term not exceeding thirty days, if the penalty does not exceed twenty dollars, or for a term not exceeding three months, if the penalty exceeds twenty dollars.
Issue of warrant, etc.		3.	The Superintendent General, or such other officer or person as he shall authorize in that behalf may issue the warrant on any such conviction; or may, without proceeding by distress and sale, make such order upon such conviction as such magistrate, justices of the peace or Indian agent could make; and similar proceedings may be had upon the warrant so issued as if it had been issued by the magistrate, justices of the peace or Indian agent before whom the person was convicted.
Committal in default of distress		4.	If upon the return of any warrant for distress and sale, the amount thereof has not been made, or if any part of it remains unpaid, such magistrate, or justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as aforesaid, may commit the person in default to the common gaol, as aforesaid, for a term not exceeding thirty days, if the sum claimed upon the said warrant does not exceed twenty dollars, or for a term not exceeding three months if the sum exceeds twenty dollars.
Application of penalties.		5.	All such penalties shall be paid to the Minister of Finance, and shall be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council directs. R.S., c. 43, s. 26; 53 V., c. 29, a. 3.

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			128. Every Indian of the band who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, —
		(a)	cuts, carries away or removes from land in a reserve held by another Indian under a location title or by an Indian otherwise recognized by the Department as the occupant thereof any of the trees, cordwood, or part of a tree, saplings, shrubs, underwood, timber or hay thereon, or removes from such land any of the stone, soil, minerals, metals or other valuables; or,
		(b)	cuts, carries away or removes from any portion of the reserve of his band, for sale and not for the immediate use of himself and his family any trees, timber, cordwood or part of a tree, saplings, shrubs, underwood or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables therefrom, for sale, as aforesaid; or,
		(c)	unless with the consent of the band and the approval of the Superintendent General, cuts or uses any pine or large timber for any purpose other than for building on his own location or farm;
			shall incur the penalties provided in the last preceding section in respect to Indians of other bands and other persons.
		2.	The same proceedings may be had for the recovery thereof as are provided for in the said section. 50-51 V., c. 33, s. 4.
			129. Every person who buys or otherwise acquires from any Indian or band or irregular band of Indians in the province of Manitoba, Saskatchewan or Alberta, or the Territories, any grain, root crops or other produce contrary to regulations made by the Governor in Council in that behalf, shall, on summary conviction before a stipendiary magistrate, police magistrate or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. R.S., c. 43, s. 30.
			130. Every person who cuts, carries away or removes from any reserve or special reserve, any hard or sugar-maple tree or sapling, or buys or otherwise acquires from any Indian or non-treaty Indian, or other person, any hard or sugar-maple tree or sapling so cut, carried away or removed from any reserve or special reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories, contrary to regulation made in that behalf by the Governor in Council, shall, on summary conviction before a stipendiary magistrate, police magistrate, or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both. R.S., c. 43, s. 32.

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Trading without license.		<p>131. Every person being,—</p> <p>(a) an official or employee connected with the inside or outside service of the Department of Indian Affairs; or,</p> <p>(b) a missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians; or,</p> <p>(c) a school teacher on an Indian reserve; and,</p> <p>(d) in the province of Manitoba, Saskatchewan or Alberta, or the Territories;</p> <p>who, on a reserve, without the special license in writing of the Superintendent General, trades with any Indian or directly or indirectly sells to him any goods or supplies, cattle or other animals, shall be liable to a fine equal in amount to double the sum received for the goods, supplies, cattle or other animals sold, and, in addition, to the costs of prosecution before a police magistrate, a stipendiary magistrate, a justice of the peace or the Indian agent for the locality where the offence occurs. 53 V., c. 29, a. 10; 57-58 V., c. 32, a. 10.</p>	
Penalty.			<p>shall be liable to a fine equal in amount to double the sum received for the goods, supplies, cattle or other animals sold, and, in addition, to the costs of prosecution before a police magistrate, a stipendiary magistrate, a justice of the peace or the Indian agent for the locality where the offence occurs. 53 V., c. 29, a. 10; 57-58 V., c. 32, a. 10.</p>
Cutting trees or assisting in cutting trees on Indian lands.		<p>132. If any person without authority, cuts or employs, or induces any other person to cut, or assists in cutting any trees of any kind on Indian lands or on any reserve, or removes or carries away, or employs, or induces or assists any other person to remove or carry away any trees of any kind so cut from any Indian lands or reserve, he shall not acquire any right to the trees so cut, or any claim to any remuneration for cutting or preparing the same for market, or conveying the same to or towards market.</p> <p>2. When the trees or logs or timber or any products thereof have been removed, so that the same cannot, in the opinion of the Superintendent General, conveniently be seized, he shall, in addition to the loss of his labour and disbursements, incur a penalty of three dollars for each tree, rafting stuff excepted, which he is proved to have cut or caused to be cut or carried away.</p> <p>3. Such penalty shall be recoverable with costs at the suit and in the name of the Superintendent General or resident agent in any court having jurisdiction in civil matters to the amount of the penalty.</p> <p>4. In all such cases, it shall be incumbent on the person charged to prove his authority to cut.</p> <p>5. The averment of the person seizing or prosecuting that he is duly employed under the authority of this Part shall be sufficient proof thereof, unless the defendant proves the contrary. R.S., c. 43, s. 61.</p>	
Confers no property or right to remuneration.			<p>shall not acquire any right to the trees so cut, or any claim to any remuneration for cutting or preparing the same for market, or conveying the same to or towards market.</p>
If trees cannot be seized.			<p>in addition to the loss of his labour and disbursements, incur a penalty of three dollars for each tree, rafting stuff excepted, which he is proved to have cut or caused to be cut or carried away.</p>
Penalty.			<p>shall be liable to a fine of three dollars for each tree, rafting stuff excepted, which he is proved to have cut or caused to be cut or carried away.</p>
Recovery of penalty.			<p>Such penalty shall be recoverable with costs at the suit and in the name of the Superintendent General or resident agent in any court having jurisdiction in civil matters to the amount of the penalty.</p>
Proof of authority.			<p>In all such cases, it shall be incumbent on the person charged to prove his authority to cut.</p>
What shall be sufficient evidence.			<p>The averment of the person seizing or prosecuting that he is duly employed under the authority of this Part shall be sufficient proof thereof, unless the defendant proves the contrary. R.S., c. 43, s. 61.</p>
Buying or acquiring presents given to Indians.		<p>133. Every person or Indian other than an Indian of the band who, without the written consent of the Superintendent General or his agent, the burden of proof concerning which shall be on the accused, buys or otherwise acquires any presents</p>	

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given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians or any part thereof, is guilty of an offence, and liable on summary conviction, to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months. R.S., c. 43, s. 51; 53 V., c. 29, s. 6.

134. Every agent for the sale of Indian lands who, within his division, directly or indirectly, except under an order of the Governor in Council, purchases any land which he is appointed to sell, or becomes proprietor of or interested in any such land, during the time of his agency shall forfeit his office and incur a penalty of four hundred dollars for every such offence, recoverable in an action of debt by any person who sues for the same. R.S., c. 43, s. 110.

135. Every one who by himself, his clerk, servant or agent, and every one who in the employment or on the premises of another directly or indirectly on any pretense or by any device,—

(a) sells, barter, supplies or gives to any Indian or non-treaty Indian, or to any person male or female who is reputed to belong to a particular band, or who follows the Indian mode of life, or any child of such person any intoxicant, or causes or procures the same to be done or attempts the same or connives thereat; or,

(b) opens or keeps or causes to be opened or kept on any reserve or special reserve a tavern, house or building in which any intoxicant is sold, supplied or given; or,

(c) is found in possession of any intoxicant in the house, tent, wigwam; or place of abode of any Indian or non-treaty Indian or of any person on any reserve or special reserve, or on any other part of any reserve or special reserve; or,

(d) sells, barter, supplies or gives to any person on any reserve or special reserve any intoxicant;

shall, on summary conviction before any judge, police magistrate, stipendiary magistrate, or two justices of the peace or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding three hundred dollars and not less than fifty dollars with costs of prosecution, or to both penalty and imprisonment in the discretion of the convicting judge, magistrate, justices of the peace or Indian agent.

2. A moiety of every such penalty shall belong to the informer or prosecutor, and the other moiety thereof to His Majesty to form part of the fund for the benefit of that body of Indians or non-treaty Indians with respect to one or more

Land sale agent purchasing Indian land.

Penalty.

Every person

Selling intoxicants to Indians.

French version of par. 135(1)(a), c. 81, R.S.C. 1906, corrected by s. 10, c. 35, S.C. 1914.

Opening and keeping a tavern on a reserve.

Having intoxicants in his possession in house of Indian.

Selling intoxicants on reserve.

Penalty.

Application of penalty.

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members of which the offence was committed. 51 V., c. 22, s. 4; 57-58 V., c. 32, s. 6.

Commander of vessel whereon intoxicants are sold guilty of offence.

Penalty.

Application of penalties.

Indians having intoxicants and selling the same to Indians.

Penalty.

Exception in case of illness.

Proof.

Arrest without warrant of any person or Indian with intoxicants.

s. 139, c. 81, R.S.C. 1906 amended by s. 4, c. 50, S.C. 1919-20.

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136. The commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicant has been sold, bartered, exchanged, supplied or given to any Indian or non-treaty Indian, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, be liable to a penalty not exceeding three hundred dollars and not less than fifty dollars for each such offence, with costs of prosecution, and in default of immediate payment of such penalty and costs, any person so convicted shall be committed to any common gaol, house of correction, lock-up or other place of confinement by the judge, magistrate or two justices of the peace, or Indian agent, before whom the conviction has taken place, for a term not exceeding six months and not less than one month, with or without hard labour, or until such penalty and costs are paid.

2. The penalty shall be applied as provided in the last preceding section. R.S., c. 43, s. 95.

137. Every Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or who sells, exchanges with, barter, supplies or gives to any other Indian or non-treaty Indian, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding one hundred dollars and not less than twenty-five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. R.S., c. 43, s. 96.

138. No penalty shall be incurred when the intoxicant is made use of in case of sickness under the sanction of a medical man or under the directions of a minister of religion.

2. The burden of proof that the intoxicant has been so made use of shall be on the accused. R.S., c. 43, s. 95; 53 V., c. 29, s. 5.

139. Any constable or peace officer may arrest without warrant any person or Indian found gambling, or drunk, or with intoxicants in his possession, on any part of a reserve, and may detain him until he can be brought before a justice of the peace, and such person or Indian shall be liable upon summary conviction to imprisonment for a term not exceeding three months or to a penalty not exceeding fifty dollars

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and not less than ten dollars, with costs of prosecution, half of which pecuniary penalty shall belong to the informer. 57-58 V., c. 32, s. 7.

140. The keg, barrel, case, box, package or receptacle from which any intoxicant has been sold, exchanged, bartered, supplied or given, as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified; and any intoxicant imported, manufactured or brought into and upon any reserve or special reserve, or into the house, tent, wigwam or place of abode, or on the person of any Indian or non-treaty Indian, or suspected to be upon any reserve or special reserve, may be searched for under a search warrant in that behalf granted by any judge, police magistrate, stipendiary magistrate or justice of the peace, and, if found, seized by any Indian superintendent, agent or bailiff, or other officer connected with the Department of Indian Affairs, or by any constable, wheresoever found on such land or in such place or on the person of such Indian or non-treaty Indian.

2. On complaint before any judge, police magistrate, stipendiary magistrate, justice of the peace or Indian agent, he may, on evidence that this Act has been violated in respect of any such intoxicant or of any such keg, barrel, case, box, package, receptacle or vessel, or contents thereof, declare the same forfeited, and cause the same to be forthwith destroyed.

3. Such judge, magistrate, justice of the peace or Indian agent may condemn the Indian or person in whose possession the same is found to pay a penalty not exceeding one hundred dollars and not less than fifty dollars, and the costs of prosecution; and, in default of immediate payment, the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement, with or without hard labour, for any term not exceeding six months, and not less than two months, unless such penalty and costs are sooner paid.

4. A moiety of such penalty shall belong to the prosecutor, and the other moiety to His Majesty for the purpose hereinbefore mentioned. R.S., c. 43, s. 100.

141. If it is proved before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, that any vessel, boat, canoe or conveyance of any description, upon the sea or sea-coast, or upon any river, lake or stream, is employed in carrying any intoxicant, to be supplied to Indians or non-treaty Indians, such vessel, boat, canoe or conveyance so employed may be seized and declared forfeited, as in the last preceding section mentioned, and sold, and the proceeds thereof paid to His Majesty for the purpose hereinbefore mentioned. R.S., c. 43, s. 101.

Kegs, etc., in which intoxicants are carried to be forfeited.

Search.

Seizure.

Destruction of kegs, etc.

Indian or person found in possession to be punished. Penalty.

Application of penalty.

Vessels used in carrying intoxicants for Indians, to be forfeited and sold.

Proceeds.

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Articles exchanged for intoxicants to be forfeited and sold.

142. Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which, in violation of this Act, the consideration, either wholly or in part, is an intoxicant, shall be forfeited to His Majesty and may be seized, as is hereinbefore provided in respect to any receptacle of any intoxicant, and may be sold, and the proceeds thereof paid to His Majesty, for the purpose hereinbefore mentioned. R.S., c. 43, s. 102.

Introducing intoxicants at Indian council or meeting.

143. Every person who introduces any intoxicant at any council or meeting of Indians held for the purpose of discussing or assenting to a release or surrender of a reserve or portion thereof or for the purpose of assenting to the issuing of a license, and every agent or officer employed by the Superintendent General, or by the Governor in Council, who introduces, allows or countenances by his presence the use of such intoxicant among such Indians during the week before or at or the week after such council or meeting, shall incur a penalty of two hundred dollars recoverable by action in any court of competent jurisdiction.

Penalty.

Application of penalty.

2. A moiety of such penalty shall belong to the informer. R.S., c. 43, s. 103.

Indian intoxicated.

144. Every Indian who is found in a state of intoxication shall be liable on summary conviction thereof to imprisonment for any term not exceeding one month, or to a penalty not exceeding thirty dollars and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. 50-51 V., c. 33, s. 10.

Penalty.

Arrest without warrant of intoxicated Indian.

145. Any constable or other peace officer may, without warrant, arrest any Indian or non-treaty Indian found in a state of intoxication, and convey him to any common goal, house of correction, lock-up, or other place of confinement, there to be kept until he is sober; and such Indian or non-treaty Indian shall, when sober, be brought for trial before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent. 50-51 V., c. 33, s. 10.

s. 146, c. 81, R.S.C. 1906 amended by s. 5, c. 32, S.C. 1926-27.

Refusal to state where intoxicant was procured.

146. If any Indian or non-treaty Indian who has been so convicted, refuses, upon examination, to state or give information of the person from whom, the place where, and the time when, he procured such intoxicant, and if from any other Indian or non-treaty Indian, then, if within his knowledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days, or to an additional penalty not exceeding fifteen dollars and not less than three dollars, or to both penalty and imprisonment,

Penalty.

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in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. R.S., c. 43, s. 105.

147. Every agent who knowingly and falsely informs, or causes to be informed, any person applying to him to purchase any land within his division and agency, that the same has already been purchased, or who refuses to permit the person so applying to purchase the same according to existing regulations, shall be liable therefor to the person so applying, in the sum of five dollars for each acre of land which the person so applying offered to purchase, recoverable by action of debt in any court of competent jurisdiction. R.S., c. 43, s. 109.

Agent who causes to be informed, any person applying to him to purchase any land within his division and agency, that the same has already been purchased, or who refuses to permit the person so applying to purchase the same according to existing regulations, shall be liable therefor to the person so applying, in the sum of five dollars for each acre of land which the person so applying offered to purchase, recoverable by action of debt in any court of competent jurisdiction.

Penalty.

148. Every person who, after public notice by the Superintendent General prohibiting the sale, gift, or other disposal to Indians in any part of the province of Manitoba, Saskatchewan or Alberta, or the Territories, of any fixed ammunition or ball cartridge, without the permission in writing of the Superintendent General, sells or gives, or in any other manner conveys to any Indian, in the portion of the said provinces or Territories to which such notice applies, any fixed ammunition or ball cartridge, shall, on summary conviction before any stipendiary or police magistrate or by any two justices of the peace, or by an Indian agent, be liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months, or to both penalty and imprisonment, within the limits aforesaid, at the discretion of the court before which the conviction is had. R.S., c. 43, s. 113.

Sale, etc. of ammunition when prohibited.

Penalty.

149. Every Indian or other person who engages in, or assists in celebrating or encourages either directly or indirectly another to celebrate any Indian festival, dance or other ceremony of which the giving away or paying or giving back of money, goods or articles of any sort forms a part, or is a feature, whether such gift of money, goods or articles takes place before, at, or after the celebration of the same, or who engages or assists in any celebration or dance of which the wounding or mutilation of the dead or living body of any human being or animal forms a part or is a feature, is guilty of an indictable offence and is liable to imprisonment for a term not exceeding six months and not less than two months: Provided that nothing in this section shall be construed to prevent the holding of any agricultural show or exhibition or the giving of prizes for exhibits thereat. 58-59 V., c. 35, s. 6.

Celebrating festivities, dances or ceremonies at which presents are made, or bodies mutilated.

Penalty.

s. 149, c. 81 R.S.C. 1906, amended by s. 8, c. 35, S.C. 1914 and subsequently amended by s. 7, c. 26, S.C. 1918 and by s. 6, c. 32, S.C. 1926-27.

150. Every fine, penalty or forfeiture under this Act, except so much thereof as is payable to an informer or person suing therefor, shall belong to His Majesty for the benefit of the band of Indians with respect to which or to one or more members of which the offence was committed, or to which the

Application of penalties.

R.S., 1906.

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Governor in Council may apply the same other wise. offender, if an Indian, belongs: Provided that the Governor in Council may from time to time direct that the same be paid to any provincial, municipal or local authority which wholly or in part bears the expense of administering the law under which such fine, penalty or forfeiture is imposed, or that the same be applied in any other manner deemed best adapted to attain the objects of such law or to secure its due administration, and may in case of doubt decide what fund is entitled to the benefit of any such fine, penalty or forfeiture. 57-58 V., c. 32, s. 9.

Evidence and Procedure.

Evidence of unbelieving Indian may be received on his solemn affirmation. **151.** Upon any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever or by whomsoever committed, any court, judge, police or stipendiary magistrate, recorder, coroner, justice of the peace or Indian agent, may receive the evidence of any Indian or non-treaty Indian, who is destitute of the knowledge of God or of any fixed and clear belief in religion, or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian or non-treaty Indian, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as is approved by such court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent, as most binding on the conscience of such Indian or non-treaty Indian. R.S., c. 43, s. 120.

Substance of evidence of Indian to be reduced to writing and signed. **152.** In the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian or non-treaty Indian, as aforesaid, shall be reduced to writing and signed by the Indian, by mark if necessary, giving the same, and verified by the signature or mark of the person acting as interpreter, if any, and by the signature of the judge, magistrate, recorder, coroner, justice of the peace, Indian agent or person before whom such evidence or information is given. R.S., c. 43, s. 121.

Indian to be cautioned to tell the truth. **153.** The court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent shall, before taking any such evidence, information or examination, caution every such Indian or non-treaty Indian, as aforesaid, that he will be liable to incur punishment if he does not tell the truth, the whole truth and nothing but the truth. R.S., c. 43, s. 122.

Effect of solemn affirmation of Indian. **154.** Every solemn affirmation or declaration, in whatsoever form made or taken, by any Indian or non-treaty Indian, as aforesaid, shall be of the same force and effect as if such Indian or non-treaty Indian had taken an oath in the usual form. R.S., c. 43, s. 124.

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155. The written declaration or examination so made, taken and verified, of any such Indian or non-treaty Indian, as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal proceeding when under the like circumstances the written affidavit, examination, deposition or confession of any person might be lawfully read and received as evidence.

2. Copies of any records, documents, books or papers belonging to or deposited in the Department, attested under the signature of the Superintendent General or of the Deputy of the Superintendent General, shall be evidence in all cases in which the original records, documents, books or papers would be evidence. R.S., c. 43, ss. 123 and 130.

156. In any order, writ, warrant, summons and proceeding whatsoever made, issued or taken by the Superintendent General, or any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, it shall not be necessary to insert or express the name of the person or Indian summoned, arrested, distrained upon, imprisoned or otherwise proceeded against therein, except when the name of such person or Indian is truly given to or known by the Superintendent General, or such officer or person, or such stipendiary magistrate, police magistrate, justice of the peace or Indian agent.

2. If the name is not truly given to or known by him, he may name or describe the person or Indian by any part of the name of such person or Indian given to or known by him.

3. If no part of the name is given to or known by him, he may describe the person or Indian proceeded against in any manner by which he may be identified.

4. All such proceedings containing or purporting to give the name or description of any such person or Indian, as aforesaid, shall *prima facie* be sufficient. R.S., c. 43, s. 28.

157. All sheriffs, gaolers or peace officers, to whom any such process is directed by the Superintendent General, or by any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, and all other persons to whom such process is directed with their consent, shall obey the same; and all other officers shall, upon reasonable requisition so to do, assist in the execution thereof. R.S., c. 43, s. 29.

158. In all cases of encroachment upon, or of violation of trust respecting any special reserve, proceedings may be taken in the name of His Majesty, in any superior court, notwithstanding the legal title is not vested in His Majesty. R.S., c. 43, s. 36.

Written declaration of Indian may be used in evidence.

Certified copies of records, official papers, etc., to be evidence.

Name of offender need not be entered in the warrant in certain cases.

What description shall suffice.

Where name unknown.

Prima facie sufficient.

Execution of order of Superintendent General by sheriffs, gaolers, etc.

His Majesty's name to be used in certain cases.

Chap. 81. *Indians.* Part I.

Who may act as justice or two justices of the peace. **159.** Any judge of a court, judge of sessions of the peace, recorder, police magistrate or stipendiary magistrate, shall have full power to do alone whatever is authorized by this Part to be done by a justice of the peace or by two justices of the peace. R.S., c. 43, s. 115.

Jurisdiction in city or town to give jurisdiction in surrounding county or district. **160.** Any recorder, police magistrate or stipendiary magistrate, appointed for or having jurisdiction to act in any city or town shall, with respect to offences and matters under this Part, have and exercise jurisdiction over the whole county or union of counties or judicial district in which the city or town for which he has been appointed or in which he has jurisdiction is situate. R.S., c. 43, s. 116.

Indian agent ex officio justice of the peace. **161.** Every Indian agent shall for all the purposes of this Act or of any other Act respecting Indians, and with respect to,—

- (a) any offence against the provisions of this Act or any other Act respecting Indians; or,
- (b) any offence against the provisions of the Criminal Code respecting the inciting of Indians to commit riotous acts; or,
- (c) any offence by any Indian or non-treaty Indian against any of the provisions of those parts of the Criminal Code relating to vagrancy and offences against morality;

Jurisdiction. be *ex officio* a justice of the peace and have the power and authority of two justices of the peace, anywhere within the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined by the Governor in Council, whether the Indian or non-treaty Indian charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or dealt with, is or is not within his ordinary jurisdiction, charge or supervision as an Indian agent. 58-59 V., c. 35, s. 7.

Special jurisdiction. **162.** In the provinces of Manitoba, British Columbia, Saskatchewan and Alberta, and in the Territories, every Indian agent shall, for all such purposes and with respect to any such offence, be *ex officio* a justice of the peace and have the power and authority of two justices of the peace, whether or not the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined as aforesaid, extend to the place where he may have occasion to act as such justice or to exercise such power or authority, and whether the Indians charged with or in any way concerned in or affected by the offence, matter or thing, to be tried, investigated or otherwise dealt with, are or are not within his ordinary jurisdiction, charge or supervision as Indian agent. 58-59 V., c. 35, s. 7.

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163. If any Indian is convicted of any crime punishable by imprisonment in a penitentiary or other place of confinement, the costs incurred in procuring such conviction, and in carrying out the various sentences recorded, may be defrayed by the Superintendent General, and paid out of any annuity or interest coming to such Indian, or to the band, as the case may be. R.S., c. 43, s. 118.

General.

164. No Indian or non-treaty Indian resident in the province of Manitoba, Saskatchewan or Alberta, or the Territories, shall be held capable of having acquired or of acquiring a homestead or pre-emption right under any Act respecting Dominion lands, to a quarter section, or any parcel of land in any surveyed or unsurveyed lands in the said provinces or territories, or the right to share in the distribution of any lands allotted to half-breeds: Provided that,—

- (a) he shall not be disturbed in the occupation of any plot on which he had permanent improvements prior to his becoming a party to any treaty with the Crown;
- (b) nothing in this section shall prevent the Superintendent General, if found desirable, from compensating any Indian for his improvements on such a plot of land, without obtaining a formal surrender thereof from the band; and,
- (c) nothing in this section shall apply to any person who withdrew from any Indian treaty prior to the first day of October, in the year one thousand eight hundred and seventy-four. R.S., c. 43, s. 126.

165. Where shooting privileges over a reserve or part of a reserve, or fishing privileges thereon have, with the consent of the Indians of the band, been leased or granted to any person, it shall not be lawful for any person, not under such lease or grant entitled so to do, or for any Indian other than an Indian of the band, to hunt, shoot, kill or destroy any game animals or birds, or to fish for, take, catch or kill any fish to which such exclusive privilege extends, upon the reserve or part of a reserve. 54-55 V., c. 30, s. 4.

166. At the election of a chief or chiefs, or at the granting of any ordinary consent required of a band under this Part, those entitled to vote at the council or meeting thereof shall be the male members of the band, of the full age of twenty-one years; and the vote of a majority of such members, at a council or meeting of the band summoned according to its rules, and held in the presence of the Superintendent General, or of an agent acting under his instructions, shall be sufficient to determine such election or grant such consent. R.S., c. 43, s. 127.

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How consent may be granted, if band has council. **167.** If any band has a council of chiefs or councillors, any ordinary consent required of the band may be granted by a vote of a majority of such chiefs or councillors, at a council summoned according to its rules, and held in the presence of the Superintendent General or his agent. R.S., c. 43, s. 125.

No intoxicants to be introduced at any Indian council meeting. **168.** No one shall introduce any intoxicant at any council or meeting of Indians held for the purpose of discussing or of assenting to a release or surrender of a reserve or portion thereof, or for the purpose of assenting to the issuing of a timber or other license. R.S., c. 43, s. 103.

Before whom affidavits are to be made under this Act. **169.** All affidavits required under this Act or intended to be used in reference to any claim, business or transaction in connection with Indian affairs, may be taken before the judge or clerk of any county or circuit court, or any justice of the peace, or any commissioner for taking affidavits in any court, or the Superintendent General, or the deputy of the Superintendent General, or any inspector of Indian agencies, or any Indian agent, or any surveyor duly licensed and sworn, appointed by the Superintendent General to inquire into, or to take evidence, or report in any matter submitted to or pending before the Superintendent General, or if made out of Canada, before the mayor or chief magistrate of, or the British consul in, any city, town or municipality, or before any notary public. R.S., c. 43, s. 129.

Publication of regulations and laying before Parliament. **170.** All regulations made by the Governor in Council under this Part shall be published in the *Canada Gazette*, and shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof. R.S., c. 43, s. 131; 57-58 V., c. 32, s. 12.

Payments for Indian annuities for Ontario and Quebec. **171.** There shall be payable, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, for Indian annuities for Ontario and Quebec, twenty-six thousand six hundred and sixty-four dollars per annum. R.S., c. 4, s. 5.

s. 171, c. 81, R.S.C. 1906 amended by s. 3, c. 14, S.C. 1911.

PART II.

INDIAN ADVANCEMENT.

Interpretation.

Definitions. 'Reserve.' **172.** In this Part, unless the context otherwise requires, —
(a) 'reserve' includes two or more reserves, and 'band' includes two or more bands united for the purposes of this Part by the order in council applying it;

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(b) 'electors' means the male Indians of the full age of twenty-one years resident on any reserve to which this Part applies. R.S., c. 44, ss. 1 and 5.

Application of this Part.

173. This Part may be made applicable, as hereinafter provided, to any band of Indians in any of the provinces, or in the Territories, except in so far as it is herein otherwise provided. R.S., c. 44, s. 2.

Application of Part.

174. Whenever any band of Indians is declared by the Governor in Council to be considered fit to have this Part applied to it, this Part shall so apply from the time appointed in such order in council. R.S., c. 44, s. 3.

When this Part shall apply.

Application of Part I.

175. The provisions of Part I. of this Act shall continue to apply to every band to which this Part is, from time to time, declared to apply, in so far only as they are not inconsistent with this Part: Provided that, if it thereafter appears to the Governor in Council that this Part cannot be worked satisfactorily by any band to which it has been declared to apply, the Governor in Council may by order in council, declare that after a day named in the order in council, this Part shall no longer apply to such band, and such band shall thereafter be subject only to Part I., except that by-laws, rules and regulations theretofore made under this Part, and not *ultra vires* of the chiefs in council under Part I., shall continue in force until they are repealed by the Governor in Council. R.S., c. 44, s. 2.

Application of Part I.
As to by-laws.

Division of Reserves.

176. Every reserve to which this Part is to apply may, by the order in council applying it, be divided into sections, the number of which shall not exceed six, and each section shall have therein, as nearly as is found convenient, an equal number of male Indians of the full age of twenty-one years, or, should the majority of the Indians of the reserve so desire, the whole reserve may form one section, the wishes of the Indians in respect thereto being first ascertained in the manner prescribed in Part I. in like matters, and certified to the Superintendent General by the Indian agent.

Division of reserves into sections.

2. The sections shall be distinguished by numbers from one upwards, and the reserve shall be designated in the order in council as *The Indian Reserve*, inserting such name as is thought proper, and the sections shall be designated by the numbers assigned to them respectively. R.S., c. 44, s. 4; 53 V., c. 30, s. 1.

Designation of each.

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Nominations for Election of Councillors.

Meeting for election of councillors. **177.** A meeting of the electors for the purpose of nominating candidates for election as councillors shall be held between the hours of ten o'clock in the forenoon and twelve o'clock at noon, at a place to be appointed by the Indian agent, on a day being one week previous to the day on which the election of councillors is to be held on any reserve as hereinafter provided.

Notice of meeting. **2.** Due notice of such meeting shall be given in the manner customary in the band for calling meetings for public purposes. 53 V., c. 30, s. 3.

Chairman to preside. **178.** The Indian agent, or in his absence such person as is appointed by the Superintendent General, or failing such appointment, a chairman to be chosen by the meeting, shall preside over such meeting and shall take and keep the minutes thereof. 53 V., c. 30, s. 3.

Candidates and their nomination. **179.** Only Indians nominated at such meeting shall be recognized as, or permitted to become candidates for election as aforesaid; and each nomination to be valid must be made on the motion of an elector of the section of the reserve for the representation whereof the nominee is proposed as a candidate, and the motion must be seconded by another elector of that section. 53 V., c. 30, s. 3.

Time of nomination. **180.** The nominations of the candidates shall, so far as practicable, be made consecutively and previously to any speeches being made by the movers and seconders or by any other persons, but nominations may be made up to the hour of twelve o'clock noon. 53 V., c. 30, s. 3.

Proceedings after nomination. **181.** If only one candidate for any councillorship is proposed, the Indian agent or chairman shall, at twelve o'clock noon, declare such candidate duly elected; and if two or more candidates are proposed for any councillorship, an election shall be held under the provisions of this Part. 53 V., c. 30, s. 3.

Elections.

First election of members of the council. **182.** On a day and at a place, and between the hours prescribed in the order in council, the electors shall meet for the purpose of electing the members of the council of the reserve. R.S., c. 41, s. 5.

Who shall be elected. **183.** One or more members to represent each section of the reserve, as provided in such order in council, shall be elected by the electors resident in each section, and the Indian or Indians, as the case may be, having the votes of the greatest number of electors for each section, shall be the councillor or councillors,

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as the case may be therefor, provided he or they are respectively possessed of, and living in, a house in the reserve. R.S., c. 44, s. 5.

184. The agent for the reserve shall preside at the election or in his absence some person appointed by him as his deputy, with the consent of the Superintendent General, or some person appointed by the Superintendent General may preside at the said election, and shall take and record the votes of the electors, and may, subject to appeal to the Superintendent General by or on behalf of any Indian or Indians who deems himself or themselves aggrieved by the action of such agent or deputy, or of such agent or person appointed as aforesaid, admit or reject the claim of any Indian to be an elector, and may determine who are the councillors for the several sections, and shall report the same to the Superintendent General.

2. In any case of an equality of votes at any such election the agent or person presiding thereat shall have the casting vote. R.S., c. 44, s. 5.

Who shall preside at the election and his powers.

Chairman to have casting vote.

Meetings of Council.

185. On a day and at a place, and between the hours prescribed by the Superintendent General, if the day fixed for the same is within eight days from the date at which the councillors were elected, the said councillors shall meet and elect one of their number to act as chief councillor, and the councillor so elected shall be the chief councillor. R.S., c. 44, s. 6.

186. The council shall meet for the despatch of business, at such place on the reserve and at such times as the agent for the reserve appoints, but which shall not exceed twelve times or be less than four times in the year for which it is elected, and due notice of the time and place of each meeting shall be given to each councillor by the agent. R.S., c. 44, s. 9.

187. At such meeting of the council the agent for the reserve, or his deputy appointed for the purpose with the consent of the Superintendent General, shall,—

- (a) preside, and record the proceedings;
- (b) control and regulate all matters of procedure and form and adjourn the meeting to a time named or *sine die*;
- (c) report and certify all by-laws and other acts and proceedings of the council to the Superintendent General;
- (d) address the council and explain and advise the members thereof upon their powers and duties.

2. No such agent or deputy shall vote on any question to be decided by the council. R.S., c. 44, s. 9.

First meeting of council.

Meetings of the council.

Agent at such meeting, his duties.

Not to vote.

188. Full faith and credence shall be given in all courts and places whatsoever to any certificate given by such agent

Full faith and credence given to

Chap. 81. *Indians.* Part II.

188. or deputy under the provisions of paragraph (c) of the last preceding section. R.S., c. 44, s. 9.

189. Each councillor present shall have a vote on every question to be decided by the council, and such question shall be decided by the majority of votes, the chief councillor voting as a councillor and having also a casting vote, in case the votes would otherwise be equal.

190. Four councillors shall be a quorum for the despatch of any business. R.S., c. 44, s. 9.

Term of Office, Vacancies, Etc.

190. The councillors shall remain in office until others are elected in their stead, and an election for that purpose shall be held in like manner, at the same place and between the like hours on the like day, in each succeeding year, if it is not a Sunday or holiday, in which case it shall be held on the next day thereafter which is not a Sunday or a holiday.

2. If there is a failure to elect on the day appointed for the election, the Superintendent General shall appoint another day on which it shall be held. R.S., c. 44, s. 7.

191. In the event of a vacancy in the council, by the death or inability to act of any councillor, more than three months before the time for the next election, an election to fill such vacancy shall be held by the agent or his deputy, after such notice to the electors concerned as the Superintendent General directs, at which only the electors of the section represented by the councillor to be replaced shall vote, and to such election the provisions respecting other elections shall apply, so far as they are applicable.

2. If the councillor to be replaced is the chief councillor, then an election of a chief councillor shall be held in the manner already provided, but the day fixed for such election shall be at least one week after the date when the new councillor is elected. R.S., c. 44, s. 8.

192. During the time of any vacancy in the council the remaining councillors shall constitute the council, and they may, in the event of a vacancy in the office, appoint a chief from among themselves for the time being. R.S., c. 44, s. 8.

193. Every member of a council elected under the provisions of this Part, who is proved to be a habitual drunkard or to be living in immorality, or to have accepted a bribe, or to have been guilty of dishonesty or of misfeasance of office of any kind, shall, on proof of the fact to the satisfaction of the Superintendent General, be disqualified from acting as a member of the council, and shall, on being notified, cease forthwith so to act; and the vacancy occasioned thereby shall

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be filled in the manner hereinafore provided. R.S., c. 44, s. 11.

Powers of Council.

194. The council may, by by-law, rule or regulation, approved and confirmed by the Superintendent General, provide that the religious denomination to which the teacher or teachers of the school or schools established on the reserve shall belong, shall be that of the majority of the Indians resident on the reserve: Provided that the Protestant or Roman Catholic minority on the reserve may also have a separate school or schools, with the approval of and under regulations made by the Governor in Council.

Classified by the Superintendent General as to religious denomination of school teacher.

2. The council may also make by-laws, rules and regulations, approved and confirmed by the Superintendent General, regulating all or any of the following subjects and purposes, that is to say:—

Also by-laws as to

- (a) The care of the public health; Health.
- (b) The observance of order and decorum at elections of councillors, meetings of the council, and assemblies of Indians on other occasions, or generally, on the reserve, by the appointment of constables and erection of lock up houses, or by the adoption of other legitimate means; Order.
- (c) The repression of intemperance and profligacy; Intemperance.
- (d) The subdivision of the land in the reserve, and the distribution of the same amongst the members of the band; also, the setting apart, for common use, of woodland and land for other purposes; Subdivision of reserve.
- (e) The protection of and the prevention of trespass by cattle, sheep, horses, mules and other domesticated animals; and the establishment of pounds, the appointment of poundkeepers and the regulation of their duties, fees and charges; Trespass.
- (f) The construction and repairs of school houses, council houses and other buildings for the use of the Indians on the reserve, and the attendance at school of children between the ages of six and fifteen years; School houses, etc.
- (g) the construction, maintenance and improvement of roads and bridges, and the contributions, in money or labour, and other duties of residents on the reserve, in respect thereof; the size and kind of sleighs to be used on the roads in the winter season, and the manner, in which the horse or horses or other beasts of burden shall be harnessed to such sleighs; and the appointment of road-masters and fence-viewers, and their powers and duties; Roads, etc.
- (h) The construction and maintenance of watercourses, ditches and fences, and the obligations of vicinny, the destruction and repression of noxious weeds and the preservation of the wood on the various holdings, or else where, in the reserve; Water courses, etc.

Paragraph 194(2)(c), c. 81, R.S.C. 1906, repealed and replaced by s. 7, c. 32 S.C. 1926-27 and subsection 194(2), c.81, R.S.C. 1906 amended by s. 5, c. 50, S.C. 1919-20.

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Removal of trespassers.	(i)	The removal and punishment of persons trespassing upon the reserve, or frequenting it for improper purposes;	
Revenue.	(j)	The raising of money for any or all of the purposes for which the council may make by-laws as aforesaid, by assessment and taxation of the lands of Indians enfranchised, or in possession of lands by location ticket in the reserve: Provided that the valuation for assessment shall be made yearly, in such manner and at such times as are appointed by the by-law in that behalf, and be subject to revision and correction by the agent for the reserve, and shall come into force only after it has been submitted to him and corrected, if and as he thinks justice requires, and approved by him, and that the tax shall be imposed for the year in which the by-law is made, and shall not exceed one-half of one per centum on the assessed value of the land on which it is to be paid; and provided also that any Indian deeming himself aggrieved by the decision of the agent, made as hereinbefore provided, may appeal to the Superintendent General, whose decision in the matter shall be final;	
Assessments.			
Rates.			
Payment of Indian's share on his default.			
Appeal.			
Appropriation of certain funds.	(k)	The appropriation and payment to the local agent, as treasurer, by the Superintendent General, of so much of the moneys of the band as are required for defraying expenses necessary for carrying out the by-laws made by the council, including those incurred for assistance absolutely necessary for enabling the council or the agent to perform the duties assigned to them;	
Penalties and enforcement thereof.	(l)	The imposition of punishment by penalty or by imprisonment, or by both, for any violation of or disobedience to any law, rule or regulation made under this Part, committed by any Indian of the reserve; but such penalty shall, in no case, except for non-payment of taxes, exceed thirty dollars, and the imprisonment shall not exceed thirty days.	
Taxes how recovered.	2.	If any tax authorized by any by-law, or any part thereof, is not paid at the time prescribed by the by-law, the amount unpaid, with the addition of one-half of one per centum thereof, may be paid by the Superintendent General to the treasurer out of the share in any money of the band of the Indian in default; and, if such share is insufficient to pay the tax, or any portion thereof so remaining unpaid, the defaulter shall be deemed to have violated the by-law imposing the tax, and shall incur a penalty therefor equal to the amount of the tax or the balance thereof remaining unpaid, as the case may be.	
Penalty.			
Proceedings for the imposition of punishment.	3.	The proceedings for the imposition of any punishment authorized by this section, or the by-laws, rules or regulations approved and confirmed thereunder, may be taken before one justice of the peace, under Part XV. of the Criminal Code; and the amount of any such penalty shall be paid over to the	

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treasurer of the band to which the Indian incurring it belongs for the use of such band.

4. The by-laws, rules and regulations by this section authorized to be made shall, when approved and confirmed by the Superintendent General, have the force of law within and with respect to the reserve, and the Indians residing thereon. R.S., c. 44, s. 10; 53 V., c. 30, s. 2.

Evidence.

195. A copy of any by-law, rule or regulation under this Part, approved by the Superintendent General, and purporting to be certified by the agent for the band to which it relates to be a true copy thereof, shall be evidence of such by-law, rule or regulation, and of such approval, without proof of the signature of such agent; and no such by-law, rule or regulation shall be invalidated by any defect of form, if it is substantially consistent with the intent and meaning of this Part. R.S., c. 44, s. 12.

Note:
 The following sections were added to chapter 81 of the Revised Statutes, 1906:
 sections 196, 197, 198, 199-- as enacted by s. 3, c. 56, R.S.C. 1919.



9-10 EDWARD VII.

CHAP. 28.

An Act to amend the Indian Act.

[Assented to 4th May, 1910.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. *The Indian Act*, chapter 81 of the Revised Statutes, 1906, is amended by inserting the following heading and section immediately after section 37 thereof:—

“Recovery of Possession of Reserves.”

“37A. If the possession of any lands reserved or claimed to be reserved for the Indians is withheld, or if any such lands are adversely occupied or claimed by any person, or if any trespass is committed thereon, the possession may be recovered for the Indians, or the conflicting claims may be adjudged and determined, or damages may be recovered, in an action at the suit of His Majesty on behalf of the Indians, or of the band or tribe of Indians claiming possession or entitled to the declaration, relief or damages claimed.”

“2. The Exchequer Court of Canada shall have jurisdiction to hear and determine any such action.

“3. Any such action may be instituted by information of the Attorney General of Canada upon the instructions of the Superintendent General of Indian Affairs.

“4. Nothing in this section shall impair, abridge or in anywise affect any existing remedy or mode of procedure provided for cases, or any of them, to which this section applies.”

2. Section 87 of the said Act is amended by adding thereto the following subsection:—

“2. No contract or agreement binding or purporting to bind, or in any way dealing with the moneys or securities

subsection 37A(1), c. 81, R.S.C. 1906, repealed and replaced by s. 4, c. 14, S.C. 1911.

Damages.

Eschequer Court jurisdiction. Attorney General may institute action. Existing remedies preserved.

S. 87 amended.

Contracts affecting Indian

Chap. 28.

Indians.

9-10 Edw. VII.

referred to in this section, or with any moneys appropriated by Parliament for the benefit of Indians, made either by the chiefs or councillors of any band of Indians or by the members of the said band, other than and except as authorized by and for the purposes of this Part of the Act, shall be valid or of any force or effect unless and until it has been approved in writing by the Superintendent General.”

moneys and securities to be approved by Superintendent General.

3. Subsection 1 of section 105 of the said Act is repealed and the following is substituted therefor:—

“105. No presents given to Indians or non-treaty Indians, and no annuities or interest on funds, and no moneys appropriated by Parliament, held for any band of Indians, and no property purchased or acquired with or by means of any such annuities or income or moneys, and whether in the possession of any band of such Indians or of any Indian of any band or irregular band or not, shall be liable to be taken, seized, distrained, attached or in any way made the subject of judicial process for any debt, matter or cause whatsoever.”

S. 105 amended.

Presents, annuities, money and property exempt from seizure.

s. 105, c. 81, R.S.C. 1906 amended by s. 3, c. 28, S.C. 1910 and subsequently by s. 7, c. 35, S.C. 1914.

An Act to amend the Indian Act. S.C. 1911, c. 14.
(1-2 George V.)



1-2 GEORGE V.

CHAP. 14.

An Act to amend the Indian Act.

[Assented to 19th May, 1911.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subsection 1 of section 46 of *The Indian Act*, chapter 81 of the Revised Statutes, 1906, is repealed, and the following is substituted therefor:—

"46. No portion of any reserve shall be taken for the purpose of any railway, road, public work, or work designed for any public utility without the consent of the Governor in Council, but any company or municipal or local authority having statutory power, either Dominion or provincial, for taking or using lands or any interest in lands without the consent of the owner may, with the consent of the Governor in Council as aforesaid, and subject to the terms and conditions imposed by such consent, exercise such statutory power with respect to any reserve or portion of a reserve; and in any such case compensation shall be made therefor to the Indians of the band, and the exercise of such power, and the taking of the lands or interest therein and the determination and payment of the compensation shall, unless otherwise provided by the order in council evidencing the consent of the Governor in Council, be governed by the requirements applicable to the like proceedings by such company, municipal or local authority in ordinary cases."

R.S., c. 81, s. 46 amended.
Compensation for lands taken for public purposes.

2. The said Act is amended by inserting the following section immediately after section 49 thereof:—

"49A. In the case of an Indian reserve which adjoins or is situated wholly or partly within an incorporated town or city having a population of not less than eight thousand, and which reserve has not been released or surrendered by the Indians, the

Section added.

Inquiry and report by Exchequer Court as to removal of Indians.

	Chap. 14.	Indians.	1-2 GEO. V.
	<p>Governor in Council may, upon the recommendation of the Superintendent General, refer to the judge of the Exchequer Court of Canada for inquiry and report the question as to whether it is expedient, having regard to the interest of the public and of the Indians of the band for whose use the reserve is held, that the Indians should be removed from the reserve or any part of it.</p>		
Order in Council	<p>"2. The order in council made in the case shall be certified by the Clerk of the Privy Council to the Registrar of the Exchequer Court of Canada, and the judge of the court shall thereupon proceed as soon as convenient to fix a time and place, of which due notice shall be given by publication in <i>The Canada Gazette</i>, and otherwise as may be directed by the judge, for taking the evidence and hearing and investigating the matter.</p>		
Nature of inquiry.	<p>"3. The judge shall have the like powers to issue subpoenas, compel the attendance and examination of witnesses, take evidence, give directions, and generally to hear and determine the matter and regulate the procedure as in proceedings upon information by the Attorney General within the ordinary jurisdiction of the court, and shall assign counsel to represent and act for the Indians who may be opposed to the proposed removal.</p>		
Powers of Court.	<p>"4. If the judge finds that it is expedient that the band of Indians should be removed from the reserve or any part of it, he shall proceed, before making his report, to ascertain the amounts of compensation, if any, which should be paid respectively to individual Indians of the band for the special loss or damages which they will sustain in respect of the buildings or improvements to which they are entitled upon the lands of the reserve for which they are located; and the judge shall, moreover, consider and report upon any of the other facts or circumstances of the case which he may deem proper or material to be considered by the Governor in Council.</p>		
Counsel.	<p>"5. The judge shall transmit his findings, with the evidence and a report of the proceedings, to the Governor in Council, who shall lay a full report of the proceedings, the evidence and the findings before Parliament at the then current or next ensuing session thereof, and upon such findings being approved by resolution of Parliament the Governor in Council may thereupon give effect to the said findings and cause the reserve, or any part thereof from which it is found expedient to remove the Indians, to be sold or leased by public auction after three months advertisement in the public press, upon the best terms which, in the opinion of the Governor in Council, may be obtained therefor.</p>		
Compensation for special loss and damage to be ascertained.	<p>"6. The proceeds of the sale or lease, after deducting the usual percentage for management fund, shall be applied in compensating individual Indians for their buildings or improvements as found by the judge, in purchasing a new reserve for the Indians removed, in transferring the said Indians with their effects thereto, in erecting buildings upon the new reserve, and in</p>		
Transmission of proceedings.			
Sale or lease of lands.			
Disposition of proceeds.			

	1911.	Indians.	Chap. 14.
	<p>providing the Indians with such other assistance as the Superintendent General may consider advisable: and the balance of the proceeds, if any, shall be placed to the credit of the Indians: Provided that the Government shall not cause the Indians to be removed, or disturb their possession, until a suitable reserve has been obtained and set apart for them in lieu of the reserve from which the expediency of removing the Indians is so established as aforesaid.</p>		
	<p>"7. For the purpose of selecting, appropriating and acquiring the lands necessary to be taken, or which it may be deemed expedient to take, for any new reserve to be acquired for the Indians as authorized by the last preceding sub-section, whether they are Crown lands or not, the Superintendent General shall have all the powers conferred upon the Minister by <i>The Expropriation Act</i>, and such new reserve shall, for the purposes aforesaid, be deemed to be a public work within the definition of that expression in <i>The Expropriation Act</i>: and all the provisions of <i>The Expropriation Act</i>, in so far as applicable and not inconsistent with this Act, shall apply in respect of the proceedings for the selection, survey, ascertainment and acquisition of the lands required and the determination and payment of the compensation therefor: Provided, however, that the Superintendent General shall not exercise the power of expropriation unless authorized by the Governor in Council."</p>		
	<p>3. Section 171 of the said Act is repealed and the following is substituted therefor:—</p>		
	<p>"171. The annuities payable to Indians in pursuance of the conditions of any treaty expressed to have been entered into on behalf of His Majesty or His predecessors, and for the payment of which the Government of Canada is responsible, shall be a charge upon the Consolidated Revenue Fund of Canada, and be payable out of any unappropriated moneys forming part thereof."</p>		
	<p>4. Subsection 1 of section 37A of the said Act, as enacted by section 1 of chapter 28 of the statutes of 1910, is hereby repealed and the following is substituted therefor:—</p>		
	<p>"37A. If the possession of any lands reserved or claimed to be reserved for the Indians, or of any lands of which the Indians or any Indian or any band or tribe of Indians claim the possession or any right of possession, is withheld, or if any such lands are adversely occupied or claimed by any person, or if any trespass is committed thereon, the possession may be recovered for the Indians or Indian or band or tribe of Indians, or the conflicting claims may be adjudged and determined or damages may be recovered in an action at the suit of His Majesty on behalf of the Indians or Indian or of the band or tribe of Indians entitled to or claiming the possession or right of possession or entitled to or claiming the declaration, relief or damages."</p>		

Proviso

New reserve.

Expropriation of lands for new reserve

R.S., c. 143

New s. 171

Payment of Indian annuities

Section 37, amended

Recovery of possession of reserves withheld or adversely occupied.

Damages

An Act to amend the Indian Act. S.C. 1914, c. 35.

(4-5 George V.)



4-5 GEORGE V.

CHAP. 35.

An Act to amend the Indian Act.

[Assented to 12th June, 1914.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section 10 of the *Indian Act*, chapter 81 of the Revised Statutes of Canada, 1906, is repealed and the following is substituted therefor:—
- "10. The Governor in Council may establish an industrial school or a boarding school for Indians, or may declare any school or institution where children are provided with board and lodging as well as instruction, and with the managing authorities of which the Superintendent General has made an agreement for the admission of an Indian child or children, and for the inspection of the school or institution, to be an industrial school or boarding school for the purposes of this and the next following section."
2. The following section is inserted in the said Act immediately after section 11:—
- "11A. The Governor in Council may take the land of an Indian held under location ticket or otherwise, for school purposes, upon payment to such Indian of the compensation agreed upon, or in case of disagreement such compensation as may be determined in such manner as the Superintendent General may direct."
3. Subsection 3 of section 16 of the said Act is amended by striking out the words "Indian Commissioner or in his absence the Assistant Indian Commissioner" in the second and third lines thereof and substituting therefor the words "Superintendent General."

R.S., c. 81,
1910, c. 28;
1911, c. 14.

S. 10, c. 81,
R.S.C. 1906
amended by
S. 1, c. 35,
S.C. 1914
and
subsequently
repealed and
replaced by
S. 1, c. 50,
S.C. 1919-20.

Section
added.

Taking land
for schools.

S. 16, s. 3
amended.

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B. 16, ss. 4
amended.

4. Subsection 4 of section 16 of the said Act is amended by inserting the words "wife and" after the word "the" in the first line thereof.

Section
added.

5. The following section is inserted in the said Act immediately after section 27:—

"27A. The Superintendent General may appoint a person or persons to administer the estate of any deceased Indian and may make such general regulations and such orders in particular cases as he deems necessary to secure the satisfactory administration of such estates."

B. 92
amended.

6. Section 92 of the said Act is amended by adding thereto the following:—

"(e) Make such regulations as he deems necessary for the prevention or mitigation of disease; the frequent and effectual cleansing of streets, yards and premises; the removal of nuisances and unsanitary conditions; the cleansing, purifying, ventilating and disinfecting of premises by the owners and occupiers or other persons having the care or ordering thereof; the supplying of such medical aid, medicine and other articles and accommodation as the Superintendent General may deem necessary for preventing or mitigating an outbreak of any communicable disease; entering and inspecting any premises used for human habitation in any locality in which conditions exist which in the opinion of the Superintendent General are unsanitary, or such as to render the inhabitants specially liable to disease, and for directing the alteration or destruction of any such building which is, in the opinion of the Superintendent General, unfit for human habitation; preventing the overcrowding of premises used for human habitation by limiting the number of dwellers in such premises; preventing and regulating the departure of persons from, and the access of persons to, infected localities; preventing persons or conveyances from passing from one locality to another; detaining persons or conveyances who or which have been exposed to infection for inspection or disinfection until the danger of infection is past; the removal or keeping under surveillance of persons living in infected localities; and any other matter which, in the opinion of the Superintendent General, the general health of the Indians of any locality may require.

In conflict of
authority,
rule to
prevail.

"2. In the event of any conflict between any regulation made by the Superintendent General and any rule or regulation made by any band, the regulations made by the Superintendent General shall prevail."

B. 105
amended.

7. Section 105 of the said Act is amended by adding the following subsection thereto:—

s. 27, c. 81,
R.S.C. 1906
amended by
s. 5, c. 35,
S.C. 1914
and
subsequently
repealed and
replaced by
s. 2, c. 47,
S.C. 1924.

s. 92, c. 81,
R.S.C. 1906
amended by
s. 6, c. 35,
S.C. 1914
and
subsequently
amended by
s. 5, c. 26,
S.C. 1918
and by
s. 2, c. 32,
S.C. 1926-27.

The Indian Act. Chap. 35.

"5. No Indian or non-treaty Indian in the provinces of Manitoba, British Columbia, Saskatchewan or Alberta, or in the Territories, shall without the written consent of the Indian Agent sell, barter, exchange or give to any person or Indian other than an Indian of such band, or kill or destroy any animal or the progeny thereof given to him or to the band under treaty stipulations, or loaned or conditionally given to him or to the band by the Government. Any Indian who violates any of the provisions of this subsection shall be liable on summary conviction to a penalty, not exceeding twenty-five dollars with costs of prosecution or to imprisonment not exceeding two months, or to both fine and imprisonment."

Selling, &c.,
live stock.

8. Section 149 of the said Act is amended by adding the following subsection thereto:—

"2. Any Indian in the province of Manitoba, Saskatchewan, Alberta, British Columbia, or the Territories who participates in any Indian dance outside the bounds of his own reserve, or who participates in any show, exhibition, performance, stampede or pageant in aboriginal costume without the consent of the Superintendent General of Indian Affairs or his authorized Agent, and any person who induces or employs any Indian to take part in such dance, show, exhibition, performance, stampede or pageant, or induces any Indian to leave his reserve or employs any Indian for such a purpose, whether the dance, show, exhibition, stampede or pageant has taken place or not, shall on summary conviction be liable to a penalty not exceeding twenty-five dollars, or to imprisonment for one month, or to both penalty and imprisonment."

s. 149
amended.

s. 149, c. 81
R.S.C. 1906

Restriction
Indian
dances, &c.

amended by
s. 8, c. 35,
S.C. 1914

and
subsequently
amended by
s. 7, c. 26,
S.C. 1918
and by
s. 6, c. 32,
S.C. 1926-27.

9. Paragraph (a) of section 135 of the French version of the said Act is amended by inserting after the words "dans les traités" in the second line thereof the following words:—

French
version of
s. 135
corrected.

"ou à quelque personne, du sexe masculin ou féminin, qui est réputée appartenir à la bande particulière, ou qui vit à la mode des sauvages, ou à quelque enfant de cette personne."

An Act to amend the Indian Act. S.C. 1918, c. 26.
(8-9 George V.)



8-9 GEORGE V.

CHAP. 26.

An Act to amend the Indian Act.

[Assented to 24th May, 1918.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

R.S., c. 81:
1910, c. 28:
1911, c. 14:
1914, c. 35.

1. (1) Section twenty-five of the *Indian Act*, chapter eighty-one of the Revised Statutes of Canada, 1906, is amended by striking out the words "no devise or bequest of land in a reserve or of any interest therein unless to the daughter, sister or grandchildren of the testator, shall be made to any one not entitled to reside on such reserve, and that."

Will of
Indian
devising
property to be
approved.

(2) Section twenty-five of the said Act is further amended by adding thereto the following subsection:—

"(2) No one who is not entitled to reside on the reserve shall by reason of any devise or bequest or by reason of any intestacy be entitled to hold land in a reserve, but any land in a reserve devised by will or devolving on an intestacy, to some one not entitled to reside on the reserve, shall be sold by the Superintendent General to some member of the band and the proceeds thereof shall be paid to such devisee or heir."

Land
devised or be-
queathed to
non-resident,
to be sold.

2. Subsection three of section forty-nine of the said Act is amended by striking out all of the subsection after the word "before" in the sixth line thereof and substituting therefor the words "any person having authority to take affidavits and having jurisdiction within the place where the oath is administered."

Proof of
assent to
release or
surrender.

3. (1) Section sixty-seven of the said Act is amended by inserting the words "or Indian" immediately after the word "person" in the third line thereof.

Indian may
be
summoned
as witness.

(2) Subsection two of section sixty-seven is amended by adding the words "or Indian" immediately after the word "person" in the first and sixth lines thereof.

S.C. 1918, c. 26, cont'd.

Chap. 26.

Indians.

8-9 GEO. V.

s. 90, c. 81,
R.S.C. 1906
amended by
s. 4, c. 26,
S.C. 1918
and
subsequently
repealed and
replaced by
s. 5, c. 47,
S.C. 1924.

Direction of
expenditure of
capital of
band,
without
consent.

Lease of
lands in a
reserve if
band or
individual
neglects
cultivation.

4. Section ninety of the said Act is amended by adding thereto the following subsections:—

"(2) In the event of a band refusing to consent to the expenditure of such capital moneys as the Superintendent General may consider advisable for any of the purposes mentioned in subsection one of this section, and it appearing to the Superintendent General that such refusal is detrimental to the progress or welfare of the band, the Governor in Council may, without the consent of the band, authorize and direct the expenditure of such capital for such of the said purposes as may be considered reasonable and proper.

"(3) Whenever any land in a reserve whether held in common or by an individual Indian is uncultivated and the band or individual is unable or neglects to cultivate the same, the Superintendent General, notwithstanding anything in this Act to the contrary, may, without a surrender, grant a lease of such lands for agricultural or grazing purposes for the benefit of the band or individual, or may employ such persons as may be considered necessary to improve or cultivate such lands during the pleasure of the Superintendent General, and may authorize and direct the expenditure of so much of the capital funds of the band as may be considered necessary for the improvements of such land, or for the purchase of such stock, machinery, material or labour as may be considered necessary for the cultivation or grazing of the same, and in such case all the proceeds derived from such lands, except a reasonable rent to be paid for any individual holding, shall be placed to the credit of the band: Provided that in the event of improvements being made on the lands of an individual the Superintendent General may deduct the value of such improvements from the rental payable for such lands."

s. 92, c. 81
R.S.C. 1906,
amended by
s. 5, c. 26,
S.C. 1918
and
subsequently
by s. 2, c. 32,
S.C. 1926-27.

Regulations.

Taxation of
dogs, and
protection of
sheep.

Penalties.

5. (1) Section ninety-two of the said Act, as amended by section six of chapter thirty-five of the statutes of 1914, is amended by adding thereto the following paragraph:—

"(f) May make by-laws for the taxation, control and destruction of dogs and for the protection of sheep, and such by-laws may be applied to such reserves or parts thereof from time to time as the Superintendent General may direct."

(2) The said section is further amended by adding thereto the following subsection:—

"(3) In any regulations or by-laws made under the provisions of this section, the Superintendent General may provide for the imposition of a fine not exceeding thirty dollars or imprisonment not exceeding thirty days, for the violation of any of the provisions thereof."

6. The following section is inserted immediately after section one hundred and twenty-two:—

S.C. 1918, c. 26, cont'd.

1918.

Indians.

Chap. 26.

"122A. (1) If an Indian who holds no land in a reserve, does not reside on a reserve and does not follow the Indian mode of life, makes application to be enfranchised, and satisfies the Superintendent General that he is self-supporting and fit to be enfranchised, and surrenders all claims whatsoever to any interest in the lands of the band to which he belongs, and accepts his share of the funds at the credit of the band including the principal of the annuities of the band, to which share he would have been entitled had he been enfranchised under the foregoing sections of the Act, in full of all claims to the property of the band, or in case the band to which he belongs has no funds or principal of annuities, surrenders all claim whatsoever to any property of the band, the Governor in Council may order that such Indian be enfranchised and paid his said share if any, and from the date of such order such Indian, together with his wife and unmarried minor children, shall be held to be enfranchised.

"(2) Any unmarried Indian woman of the age of twenty-one years, and any Indian widow and her minor unmarried children, may be enfranchised in the like manner in every respect as a male Indian and his said children.

"(3) This section shall apply to the Indians in any part of Canada."

7. Section one hundred and forty-nine of the said Act is amended by striking out the word "indictable" in the tenth line thereof, and by inserting after the word "liable" in the eleventh line the words "on summary conviction."

Enfranchise-
ment of
Indians.
s. 122, c. 81,
R.S.C. 1906
amended by
s. 6, c. 26,
S.C. 1918
and repealed
and replaced
by s. 3,
c. 50,
S.C. 1919-20.

Also, see
s. 7, c. 47,
S.C. 1924.

Indian
women.

Application.

Illegal
celebrations.
s. 149, c. 81,
R.S.C. 1906
amended by
s. 7, c. 26,
S.C. 1918 and
subsequently
amended by
s. 6, c. 32,
S.C. 1926-27.



9-10 GEORGE V.

CHAP. 56.

An Act to amend the Indian Act.

[Assented to 7th July, 1919.]

R.S. c. 81;
1910, c. 28;
1911, c. 14;
1914, c. 35.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section forty-eight of the *Indian Act*, chapter eighty-one of the Revised Statutes of Canada, 1906, is amended by adding thereto the following clause immediately after the last word thereof:—

Leases of surface rights may be granted in connection with mining for precious metals.

“Provided also that the Governor in Council may make regulations enabling the Superintendent General without surrender to issue leases for surface rights on Indian reserve, upon such terms and conditions as may be considered proper in the interest of the Indians covering such area only as may be necessary for the mining of the precious metals by any one otherwise authorized to mine such metals, said terms to include provision of compensating any occupant of land for any damage that may be caused thereon as determined by the Superintendent General.”

Minimum with respect to amount to be paid to members of band struck out.

2. Subsection one of section eighty-nine is amended by striking out the words “and not exceeding ten per centum of the proceeds of any” in the second and third lines thereof.

3. The said Act is further amended by adding thereto as Part Three thereof the following provisions:—

“PART THREE.

“SOLDIER SETTLEMENT.

Application of Soldiers Settlement Act, 1919.

“196. (1) *The Soldier Settlement Act, 1919*, (excepting sections three, four, eight, nine, ten, eleven, fourteen, twenty-nine, subsection two of fifty-one, and sixty thereof, and excepting the whole of Part Three thereof) with such amendments as may from time to time be made to said

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Indians.

9-10 GEO. V.

Act shall, with respect to any ‘settler’ as defined by said Act who is an ‘Indian’ as defined by this Act, be administered by the Superintendent General of Indian Affairs.

(2) For the purpose of such administration, the Deputy Superintendent General of Indian Affairs shall have the same powers as the Soldier Settlement Board has under *The Soldier Settlement Act, 1919*, the words ‘Deputy Superintendent General of Indian Affairs’ being, for such purpose, read in the said Act as substituted for the words ‘The Soldier Settlement Board’ and for the words ‘The Board.’

(3) Said Act, with such exceptions as aforesaid, shall for such purpose, be read as one with this Part of this Act.

“197. (1) The Deputy Superintendent General may acquire for a settler who is an Indian, land as well without as within an Indian reserve, and shall have authority to grant to such settler a location ticket for common lands of the band without the consent of the Council of the band, and, in the event of land being acquired or provided for such settler in an Indian reserve, the Deputy Superintendent General shall have power to take security as provided by *The Soldier Settlement Act, 1919*, and to exercise all otherwise lawful rights and powers with respect to such lands, notwithstanding any provisions of the *Indian Act* to the contrary.

(2) Every such grant shall be in accordance with the provisions of said *Soldier Settlement Act, 1919*, and of this Part.

“198. The Soldier Settlement Board and its officers and employees shall, upon request of the Deputy Superintendent General of Indian Affairs, aid and assist him, to the extent requested, in the execution of the purposes of this Act, and the said Board may sell, convey and transfer to the said Deputy, for the execution of any such purposes, at such prices as may be agreed, any property held for disposition by such Board.

“199. (1) In the event of any doubt or difficulty arising with respect to the administration by the Superintendent General of Indian Affairs of the provisions of *The Soldier Settlement Act, 1919*, or as to the powers of the Deputy Superintendent General of Indian Affairs, as by this Act authorized or granted, the Governor in Council may, by order, resolve such doubt or difficulty and may define powers and procedure.

(2) Such order shall not extend the powers which are by *The Soldier Settlement Act, 1919*, provided.”

Location tickets for common lands of band may be granted.

s. 197, c. 81,
R.S.C. 1906

as enacted by

s. 3, c. 56,

S.C. 1919

and

subsequently repealed and

replaced by s. 2,

c. 26,

S.C. 1922.

Soldier Settlement Board to assist Deputy Supt. General.

Power of Governor in Council to settle doubts and define powers.



10-11 GEORGE V.

CHAP. 50.

An Act to amend the Indian Act.

[Assented to 1st July, 1920.]

R.S., c. 81;
1910, c. 28;
1911, c. 14;
1914, c. 35;
1918, c. 26;
1919, c. 64.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Sections nine and eleven of the *Indian Act*, Revised Statutes of Canada, 1906, chapter eighty-one, and section ten of the said Act as enacted by chapter thirty-five of the statutes of 1914, are repealed and the following are substituted therefor:—

Power to establish day schools and industrial or boarding schools.

“9. (1) The Governor in Council may establish,—
“(a) day schools in any Indian reserve for the children of such reserve;

Or to declare any school to be industrial or boarding school.

“(b) industrial or boarding schools for the Indian children of any reserve or reserves or any district or territory designated by the Superintendent General.

“(2) Any school or institution the managing authorities of which have entered into a written agreement with the Superintendent General to admit Indian children and provide them with board, lodging and instruction may be declared by the Governor in Council to be an industrial school or a boarding school for the purposes of this Act.

Transport of children to schools.

“(3) The Superintendent General may provide for the transport of Indian children to and from the boarding or industrial schools to which they are assigned, including transportation to and from such schools for the annual vacations.

Regulations to prescribe standards.

“(4) The Superintendent General shall have power to make regulations prescribing a standard for the buildings, equipment, teaching and discipline of and in all schools, and for the inspection of such schools.

Inspection of schools by chief and council.

“(5) The chief and council of any band that has children in a school shall have the right to inspect such school at such reasonable times as may be agreed upon by the Indian agent and the principal of the school.

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Indians.

10-11 GEO. V.

“(6) The Superintendent General may apply the whole or any part of the annuities and interest moneys of Indian children attending an industrial or boarding school to the maintenance of such school or to the maintenance of the children themselves.

Annuities and interest applied to maintenance.

“10. (1) Every Indian child between the ages of seven and fifteen years who is physically able shall attend such day, industrial or boarding school as may be designated by the Superintendent General for the full periods during which such school is open each year. Provided, however, that such school shall be the nearest available school of the kind required, and that no Protestant child shall be assigned to a Roman Catholic school or a school conducted under Roman Catholic auspices, and no Roman Catholic child shall be assigned to a Protestant school or a school conducted under Protestant auspices.

Children from 7 to 15 to attend school.

Proviso as to religions.

“(2) The Superintendent General may appoint any officer or person to be a truant officer to enforce the attendance of Indian children at school, and for such purpose a truant officer shall be vested with the powers of a peace officer, and shall have authority to enter any place where he has reason to believe there are Indian children between the ages of seven and fifteen years, and when requested by the Indian agent, a school teacher or the chief of a band shall examine into any case of truancy, shall warn the truants, their parents or guardians or the person with whom any Indian child resides, of the consequences of truancy, and notify the parent, guardian or such person in writing to cause the child to attend school.

Truant officers and compulsory attendance.

Power to investigate cases of truancy.

Notice to parents, guardians, etc.

“(3) Any parent, guardian or person with whom an Indian child is residing who fails to cause such child, being between the ages aforesaid, to attend school as required by this section after having received three days' notice so to do by a truant officer shall, on the complaint of the truant officer, be liable on summary conviction before a justice of the peace or Indian agent to a fine of not more than two dollars and costs, or imprisonment for a period not exceeding ten days or both, and such child may be arrested without a warrant and conveyed to school by the truant officer: Provided that no parent or other person shall be liable to such penalties if such child, (a) is unable to attend school by reason of sickness or other unavoidable cause; (b) has passed the entrance examination for high schools; or, (c) has been excused in writing by the Indian agent or teacher for temporary absence to assist in busbandry or urgent and necessary household duties.”

Penalty for guardian, parent or others failing to cause child to attend school, after notice.

Exemptions from penalties.

2. Section fourteen of the said Act is repealed and the following is substituted therefor:—

“14. Any Indian woman who marries any person other than an Indian, or a non-treaty Indian, shall cease to be

Effect of marriage of Indian woman.

S.C. 1919-20, c. 50, cont'd.

S.C. 1919-20, c. 50, cont'd

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an Indian in every respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and rents: Provided that such income may be commuted to her at any time at ten years' purchase, with the approval of the Superintendent General."

Superintendent may commute income.

Enfranchisement of Indians.

3. Paragraph (h) of section two, and sections one hundred and seven to one hundred and twenty-three, both inclusive, of the said Act are repealed and the following are substituted therefor:—

"107. (1) The Superintendent General may appoint a Board to consist of two officers of the Department of Indian Affairs and a member of the Band to which the Indian or Indians under investigation belongs, to make enquiry and report as to the fitness of any Indian or Indians to be enfranchised. The Indian member of the Board shall be nominated by the council of the Band, within thirty days after the date of notice having been given to the council, and in default of such nomination, the appointment shall be made by the Superintendent General. In the course of such enquiry it shall be the duty of the Board to take into consideration and report upon the attitude of any such Indian towards his enfranchisement, which attitude shall be a factor in determining the question of fitness. Such report shall contain a description of the land occupied by each Indian, the amount thereof and the improvements thereon, the names, ages and sex of every Indian whose interests it is anticipated will be affected, and such other information as the Superintendent General may direct such Board to obtain.

"(2) On the report of the Superintendent General that any Indian, male or female, over the age of twenty-one years is fit for enfranchisement, the Governor in Council may by order direct that such Indians shall be and become enfranchised at the expiration of two years from the date of such order or earlier if requested by such Indian, and from the date of such enfranchisement the provisions of the *Indian Act* and of any other Act or law making any distinction between the legal rights, privileges, disabilities and liabilities of Indians and those of His Majesty's other subjects, shall cease to apply to such Indian or to his or her minor unmarried children, or, in the case of a married male Indian, to the wife of such Indian, and every such Indian and child and wife shall thereafter have, possess and enjoy all the legal powers, rights and privileges of His Majesty's other subjects, and shall no longer be deemed to be Indians within the meaning of any laws relating to Indians.

Enquiry and report as to fitness of Indians to be enfranchised.

s. 107,
c. 81,
R.S.C. 1906
as enacted by
s. 3, c. 50,
S.C. 1919-20
and
subsequently
repealed and
replaced by
s. 1, c. 26,
S.C. 1922
and
amended by
s. 6, c. 47,
S.C. 1924 and
by s. 7,
c. 47,
S.C. 1924.

Governor in Council may enfranchise Indians, on approval of report of Superintendent.

Effect of enfranchisement.

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"(3) An Indian over the age of twenty-one years shall have the right to choose the christian name and surname by which he or she wishes to be enfranchised and thereafter known, and from the date of the order of enfranchisement such Indian shall thereafter be known by such names, and if no such choice is made such Indian shall be enfranchised by and bear the name or names by which he or she has been theretofore commonly known.

Right of Indian to choose name, and to be known by same.

"(4) Upon the issue of an order of enfranchisement the Superintendent General shall, if any Indian enfranchised holds any land on a reserve, cause letters patent to be issued to such Indian for such land: Provided that such Indian shall pay to the funds of the band such amount per acre for the land he holds as the Superintendent General considers to be the value of the common interest of the band in such land, and such payment shall be a charge against the share of such Indian in the funds of the band. The Superintendent General shall also pay to each Indian upon enfranchisement his or her share of the funds to the credit of the band, including such amount as the Superintendent General determines to be his or her share of the value of the common interest of the band in the lands of the reserve or reserves, or share of the principal of the annuities of the band capitalized at five per centum, out of such moneys as are provided by Parliament for the purpose or which may be otherwise available for such purpose. The land and money of any minor, unmarried children may be held for the benefit of such minor or may be granted or paid in whole or in part to the father, or, if the father is dead, to the mother, or in either case to such person as the Superintendent General may select for such purpose for the maintenance of such minor, and the land and money of the wife shall be granted and paid to the husband, unless in any case the Superintendent General shall direct that the whole or any part thereof be granted or paid to the wife herself, in which case the same shall be granted or paid to the wife.

Letters patent for his land to be issued to Indian upon enfranchisement.

Receives his share of funds.

Land and money of children and wife.

"(5) If such Indian holds no land in a reserve he or she shall be paid from the funds of the band such amount as the Superintendent General determines to be his or her share of the value of the common interest of the band in the lands of the reserve or reserves, and shall also be paid his or her share of the funds or annuities of the band capitalized as aforesaid.

Payments from funds of band, if no land.

"(6) Every Indian who is not a member of the band and every non-treaty Indian who, with the acquiescence of the band and approval of the Superintendent General, has been permitted to reside on the reserve or to obtain a holding or location thereon, may be enfranchised and given letters patent for such land as a member of the band, provided that such Indian or non-treaty Indian shall pay to the

Indians not members of band, and non-treaty Indians, enfranchised, and granted letters patent.

1920. Indians. Chap. 50.

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credit of the band the value of the common interest of the band in the land for which he receives a patent.

Claims on funds of band cease on issue of letters patent. "(7) On the issue of the letters patent to any enfranchised Indian for any land he may be entitled to, or the payment from the capital funds or annuities of the band, as above provided, such Indian and his or her minor unmarried children and, in the case of a male married Indian, the wife of such Indian shall cease to have any further claims whatsoever against any common property or funds of the band.

Enfranchisement of Indian on probation. "108. Where an Indian is undergoing a period of probation in accordance with the provisions of sections one hundred and seven to one hundred and twenty-two, inclusive, heretofore in force, such Indian may on the recommendation of the Superintendent General be enfranchised by order of the Governor in Council, and given letters patent for the lands held by such Indian under location ticket issued to him or her in respect of such enfranchisement, and paid his or her share of the capital funds at the credit of the band or share of the principal of the annuities of the band capitalized at five per centum as aforesaid, out of such moneys as are provided for the purpose by Parliament or which may be otherwise available for such purpose.

Receives letters patent and payment of share of land. "109. When a majority of the members of a band is enfranchised, the common land or other public property of the band shall be equitably allotted to members of the band, and thereafter the residue, if any, of such land or public property may be sold by the Superintendent General and the proceeds of such sale placed to the credit of the funds of the band to be divided as provided in section one hundred and seven: Provided, however, that the Governor in Council may reserve and set apart from the funds of the band such sum as the Superintendent General may consider necessary for the perpetual care and protection of any Indian cemetery or burial plot belonging to such Indians, and any other common property which in the opinion of the Superintendent General should be preserved as such. And provided also that no part of such land or other property shall be sold to any person other than a member of the band except by public auction after three months' advertisement in the public press.

Disposal of common lands or public property. "110. The Governor in Council shall have power to make regulations for the carrying out of the provisions of the three sections immediately preceding this section, and subject to the provisions of this Act for determining how the land, capital moneys and other property of a band, or any part thereof, shall be divided, granted and paid, upon the enfranchisement of any Indian or Indians belonging to such band or having any interest in any of the property of such

Care of Indian cemeteries, and common property which should be preserved.

Sales at public auction.

Regulations to enforce these provisions.

band, and to decide any questions arising under the said sections, and the decision of the Governor in Council thereon shall be final and conclusive.

"111. The Minister shall, within fifteen days after the opening of each session of Parliament, submit to both Houses of Parliament a list of the Indians enfranchised under this Act during the previous fiscal year, and the amount of land and money granted and paid to each Indian so enfranchised."

4. Section one hundred and thirty-nine of the said Act is amended by adding thereto the following subsection:—

"(2) Any person or Indian who has been gambling or has been drunk on an Indian reserve, or has had liquor in his possession on an Indian reserve, shall be liable on summary conviction to imprisonment for any term not exceeding three months, or to a penalty not exceeding fifty dollars and not less than ten dollars, with costs of prosecution, half of which pecuniary penalty shall belong to the informer."

5. Subsection two of section one hundred and ninety-four of the said Act is amended by inserting the following paragraph immediately after paragraph (g) thereof:—

"(gg) the construction, maintenance and improvement of water, sewerage and lighting works and systems."

Final decision of Governor in Council.

Report to Parliament.

Offences.

Gambling, drinking or possession of liquor on Indian reserve. Penalty.

Powers of Council to make by-laws.

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CHAP. 26.

An Act to amend the Indian Act.

[Assented to 28th June, 1922.]

R.S., c. 81;
1910, c. 28;
1911, c. 14;
1914, c. 35;
1918, c. 26;
1919, c. 24;
1920, c. 29.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subsection one of section one hundred and seven of the *Indian Act*, Revised Statutes of Canada, 1906, chapter eighty-one, as enacted by chapter fifty of the statutes of 1920, is repealed, and the following is substituted therefor:—

Enquiry as to fitness of Indian for enfranchisement in future to be at request of Indian or of band.

"107. (1) Upon the application of an Indian of any band, or upon the application of a band on a vote of a majority of the male members of such band of the full age of twenty-one years at a meeting or council thereof summoned for that purpose, according to the rules of the band and held in the presence of the Superintendent General or of an officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General, a Board may be appointed by the Superintendent General to consist of two officers of the Department of Indian Affairs and a member of the band to which the Indian or Indians under investigation belongs, to make enquiry and report as to the fitness of any Indian or Indians to be enfranchised. The Indian member of the Board shall be nominated by the council of the band, within thirty days after the date of notice having been given to the council, and in default of such nomination, the appointment shall be made by the Superintendent General. In the course of such enquiry it shall be the duty of the Board to take into consideration and report upon the attitude of any such Indian towards his enfranchisement, which attitude shall be a factor in determining the question of fitness. Such report shall contain a description of the land occupied by each Indian, the amount thereof and the improvements thereon, the names, ages and sex of every Indian whose interests it is anticipated will be affected, and such other

s. 107, c. 81,
R.S.C. 1906
(as enacted by
s. 3, c. 50,
S.C. 1919-20)
repealed and
replaced by
s. 1, c. 26,
S.C. 1922
and
subsequently
amended by
s. 6 and s. 7,
c. 47, S.C. 1924.

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information as the Superintendent General may direct such Board to obtain".

2. Section one hundred and ninety-seven of the said Act, as enacted by chapter fifty-six of the statutes of 1919 (first session), is repealed, and the following is substituted therefor:—

"197. The Deputy Superintendent General may acquire for a settler who is an Indian, land as well without as within an Indian reserve, and shall have authority to set apart for such settler a portion of the common lands of the band without the consent of the council of the band. In the event of land being so acquired or set apart on an Indian reserve, the Deputy Superintendent General shall have power to take the said land as security for any advances made to such settler, and the provisions of *The Soldier Settlement Act, 1919*, shall, as far as applicable, apply to such transactions. It shall, however, be only the individual Indian interest in such lands that is being acquired or given as security, and the interest of the band in such lands shall not be in any way affected by such transactions."

Title for common lands of band may be granted on land acquired for Indian settler. Such lands may be security for advances as under *Soldier Settlement Act 1919*, but only individual Indian interest is acquired.

An Act to amend the Indian Act. S.C. 1924, c. 47.
(14-15 Geo. V.)

14-15 GEORGE V.

CHAP. 47.

An Act to amend the Indian Act.

[Assented to 19th July, 1924.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

R.S., c. 81;
1910, c. 26;
1911, c. 14;
1914, c. 35;
1918, c. 28;
1919, c. 56;
1920, c. 60;
1922, c. 56.

1. Section four of the *Indian Act*, chapter eighty-one of the Revised Statutes of Canada, 1906, is amended by adding thereto the following subsection:—

"(2) The Superintendent General of Indian Affairs shall have charge of Eskimo affairs."

Superintendent General to have charge of Eskimo affairs.

2. Section twenty-seven of the said Act, as enacted by section five of chapter thirty-five of the statutes of 1914, is repealed, and the following is substituted therefor:—

"27A. The Superintendent General may appoint a person or persons to administer the estate of any deceased or insane Indian, and may make such general regulations and such orders in particular cases as he deems necessary to secure the satisfactory administration of such estates."

Administration of Indian estates.

3. Section twenty-eight of the said Act is repealed, and the following is substituted therefor:—

"28. In case any Indian dies intestate without issue, leaving a widow, all his property of whatever kind shall devolve upon her, and if he leaves no widow the same shall devolve upon the nearest of kin to the deceased: Provided that any interest which he may have had in land in a reserve shall be vested in His Majesty for the benefit of the band owning such reserve if his nearest of kin is more remote than a brother or sister."

Inheritance of Indian dying without issue.

4. Section sixty-one of the said Act is amended by adding thereto the following subsections:—

"(2) (a) In any case where the Superintendent or the Deputy Superintendent General gives or has given notice to a purchaser or lessee of Indian lands or to his

Cancellation effective from date of entry.

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assignee, agent, executor, administrator or representative, of his intention to cancel a sale or lease under the provisions of this section, and in pursuance of such notice enters or has entered in the records of the Department the formal cancellation of such sale or lease, such entry of cancellation shall be and be deemed to have been effective from the date thereof to cancel and annul the said sale or lease, and any payments made on account of such sale or lease shall be and be deemed to have been forfeited.

Signatures to notices.

(b) In any such case as described in the preceding subsection the notice of cancellation shall be deemed to be and to have been sufficient if signed by the Superintendent General, the Deputy Superintendent General, or by any officer of the Department of Indian Affairs by the direction and with the authority of the Superintendent General or the Deputy Superintendent General; and moreover the notice shall be deemed to be and to have been duly given and served upon or delivered to the purchaser or lessee, or to his assignee, agent, executor, administrator or representative as aforesaid if posted prepaid or franked to his last known address.

Service.

Proceedings to be instituted within one year.

(3) No action, suit or other proceeding, either at law or in equity, shall lie or be instituted, prosecuted or maintained against His Majesty or against the Superintendent General, or the Attorney General, or any officer of the Government of Canada, claiming any relief or declaration against or in respect of the cancellation or forfeiture of any such sale or lease, or payments on account thereof by means of any such notice as aforesaid, unless the same was or shall have been instituted within one year from the date of the giving of the said notice.

List of cancellations laid before Parliament.

(4) Within the first fifteen days of each session of Parliament, the Superintendent General shall cause to be laid before both Houses of Parliament a list of all such sales or leases, cancelled during the twelve months next preceding that session, or since the date of the beginning of the then last session.

Rights preserved.

(5) This Act shall not affect any rights under any judgment rendered before the date of the passing of this Act, or under any action, suit or other proceeding instituted before the first day of May, nineteen hundred and twenty-four."

5. Subsection one of section ninety of the said Act is repealed and the following is substituted therefor:—

Power of Governor in Council over expenditure of capital.

"90. (1) The Governor in Council may, with the consent of a band, authorize and direct the expenditure of any capital moneys standing at the credit of such band, in the purchase of land as a reserve for the band or as an addition to its reserve, or in the purchase of cattle, implements or machinery for the band, or in the construction of per-

1924. Indian. Chap. 47.

manent improvements upon the reserve of the band, or such works thereon or in connection therewith as, in his opinion, will be of permanent value to the band, or will, when completed, properly represent capital or in the making of loans to members of the band to promote progress, no such loan, however, to exceed in amount one-half of the appraised value of the interest of the borrower in the lands held by him."

6. Subsection two of section one hundred and seven of the said Act as enacted by section three of chapter fifty of the statutes of 1920 is amended by adding at the end thereof the following:—

"Provided that where a wife is living apart from her husband, the enfranchisement of the husband shall not carry with it the enfranchisement of his wife except on her own written request to be so enfranchised."

Procedure where wife living apart.

7. Section one hundred and seven of the said Act as enacted by section three of chapter fifty of the statutes of 1920, and as amended by section one of chapter twenty-six of the statutes of 1922, is further amended by adding thereto the following subsection:—

"(8) Section one hundred and twenty-two A as enacted by section six, chapter twenty-six of the statutes of 1918, was not intended to and shall be deemed not to have been repealed by section three of chapter fifty of the statutes of 1920, and any act or thing done under the provisions of said section one hundred and twenty-two A shall be and is hereby declared to be valid and effective."

Enfranchisement of Indians, section 122A revived.

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CHAP. 32.

An Act to amend the Indian Act.

[Assented to 31st March, 1927.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subsection two of section eighty-nine of the *Indian Act*, chapter eighty-one of *The Revised Statutes of Canada, 1906*, is amended by adding thereto the following proviso:—

"Provided, however, that where the capital standing to the credit of a band does not exceed the sum of two thousand dollars the Governor in Council may direct and authorize the expenditure of such capital for any purpose which may be deemed to be for the general welfare of the band."

If capital does not exceed \$2,000.

Regulations.

2. Subsection one of section ninety-two of the said Act, as amended by section six of chapter thirty-five of the statutes of 1914, and by section five of chapter twenty-six of the statutes of 1918, is further amended by adding thereto the following paragraph:—

"(g) Make regulations governing the operation of pool rooms, dance halls and other places of amusement on Indian Reserves."

Operation of pool rooms, etc.

3. Paragraph (c) of subsection one of section ninety-eight of the said Act is repealed and the following is substituted therefor:—

"(c) The prevention of disorderly conduct and nuisances."

Disorderly conduct.

4. The said Act is amended by inserting the following section immediately after section one hundred and six thereof:—

"106A. No title to any Indian grave-house, carved grave-pole, totem-pole, carved house-post or large rock embellished with paintings or carvings on an Indian reserve,

Acquisition of totem poles, etc., forbidden.

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shall be acquired by any means whatsoever by any person without the written consent of the Superintendent General of Indian Affairs, and no Indian grave-house, carved grave-pole, totem-pole, carved house-post or large rock embellished with paintings or carvings, on an Indian reserve shall be removed, taken away, mutilated, disfigured, defaced or destroyed without such written consent.

Any person violating any of the provisions of this section shall be liable on summary conviction to a penalty not exceeding two hundred dollars, with costs of prosecution, and in default of payment to imprisonment for a term not exceeding three months, and any article removed or taken away contrary to the provisions of this section may be seized on the instructions of the Superintendent General and dealt with as he may direct."

Penalty.

5. The said Act is amended by inserting the following section immediately after section one hundred and forty-nine thereof:—

"146A. In any prosecution under this Act the certificate of analysis of a provincial or dominion analyst shall be accepted as *prima facie* evidence of the fact stated therein as to the alcoholic or narcotic content of the sample analyzed."

Certificate of analyst to be accepted as *prima facie* evidence.

6. The said Act is amended by inserting the following section immediately after section one hundred and forty-nine thereof:—

"149A. Every person who, without the consent of the Superintendent General expressed in writing, receives, obtains, solicits or requests from any Indian any payment or contribution or promise of any payment or contribution for the purpose of raising a fund or providing money for the prosecution of any claim which the tribe or band of Indians to which such Indian belongs, or of which he is a member, has or is represented to have for the recovery of any claim or money for the benefit of the said tribe or band, shall be guilty of an offence and liable upon summary conviction for each such offence to a penalty not exceeding two hundred dollars and not less than fifty dollars or to imprisonment for any term not exceeding two months."

Receiving money for the prosecution of a claim.

7. Paragraph (c) of subsection two of section one hundred and ninety-four of the said Act is hereby repealed and the following is substituted therefor:—

"(c) The prevention of disorderly conduct and nuisances."

Disorderly conduct.

Indian Act. R.S.C. 1927, c. 98.



CHAPTER 98.

An Act respecting Indians.

SHORT TITLE.

1. This Act may be cited as the Indian Act. R.S., ^{Short title.} c. 98, s. 1.

s. 1, c. 98,
R.S.C. 1927,
repealed and
replaced by
subsection
123(1), c. 29
S.C. 1951.

INTERPRETATION.

2. In this Act, unless the context otherwise requires, ^{Definition.}
- (a) "agent" or "Indian agent" means and includes a ^{"Agent."} commissioner, assistant commissioner, superintendent, ^{"Indian agent."} agent or other officer acting under the instructions of the Superintendent General;
- (b) "band" means any tribe, band or body of Indians ^{"Band."} who own or are interested in a reserve or in Indian lands in common, of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities or interest moneys for which the Government of Canada is responsible; and, when action is being taken by the band as such, means the band in council;
- (c) "Department" means the Department of Indian ^{"Depart- ment."} Affairs;
- (d) "Indian" means ^{"Indian."}
- (i) any male person of Indian blood reputed to belong to a particular band,
- (ii) any child of such person,
- (iii) any woman who is or was lawfully married to such person;
- (e) "Indian lands" means any reserve or portion of a ^{"Indian lands."} reserve which has been surrendered to the Crown;
- (f) "intoxicants" means and includes all spirits, strong ^{"Intoxi- cants."} waters, spirituous liquors, wines, or fermented or compounded liquors, or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, and opium, and any preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impreg-

s. 2, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

R.S., 1927.

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nated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them are liquid or solid;

"Irregular band." (g) "irregular band" means any tribe, band or body of persons of Indian blood who own no interest in any reserve or lands of which the legal title is vested in the Crown, who possess no common fund managed by the Government of Canada, and who have not had any treaty relations with the Crown;

"Non-treaty Indian." (h) "non-treaty Indian" means any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even if such person is only a temporary resident in Canada;

"Person." (i) "person" means an individual other than an Indian;

"Reserve." (j) "reserve" means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, and which remains as set apart and has not been surrendered to the Crown, and includes all the trees, wood, timber, soil, stone, minerals, metals and other valuables thereon or therein;

"Special reserve." (k) "special reserve" means any tract or tracts of land, and everything belonging thereto, set apart for the use or benefit of and held in trust for any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued, or in a person or persons of European descent;

"Superintendent General," and "Deputy." (l) "Superintendent General" means the Superintendent General of Indian Affairs, and "Deputy Superintendent General" means the Deputy Superintendent General of Indian Affairs;

"Territories." (m) "Territories" means the Northwest Territories and the Yukon Territory. R.S., c. 81, s. 2; 1920, c. 50, s. 3.

s. 3, c. 98, R.S.C. 1927, repealed by subsection 123(2), c. 29 S.C. 1951.

Governor in Council may exempt from operation of this Part, and remove such exemption.

3. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this Part, or from the operation of any one or more of the sections of this Part, Indians or non-treaty Indians, or any of them, or any band or irregular band of them, or the reserves or special reserves, or Indian lands, or any portions of them, in any province or in the territories, or in any of them; and may again, by proclamation, from time to time, remove such exemption. R.S., c. 81, s. 3.

PART I.

INDIANS.

Application.

R.S., 1927:

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Department of Indian Affairs.

4. The Minister of the Interior, or the head of any other department appointed for that purpose by the Governor in Council, shall be the Superintendent General of Indian Affairs, and shall, as such, have the control and management of the lands and property of the Indians in Canada. Any minister may be appointed Superintendent of Indian Affairs.

2. The Superintendent General of Indian Affairs shall have charge of Eskimo affairs. R.S., c. 81, s. 4; 1924, c. 47, s. 1.

5. There shall be a department of the government of Canada which shall be called the Department of Indian Affairs, over which the Superintendent General shall preside. R.S., c. 81, s. 5. Department of Indian Affairs.

6. The Department of Indian Affairs shall have the management, charge and direction of Indian affairs. R.S., c. 81, s. 6. Duties.

7. The Governor in Council may appoint Appointment of officers.
 (a) an officer who shall be called the Deputy of the Superintendent General of Indian Affairs;
 (b) a deputy governor.

2. Such other officers, clerks and servants as are requisite for the proper conduct of the business of the Department may be appointed in the manner authorized by law. R.S., c. 81, s. 7; 1918, c. 12.

8. The Deputy Governor shall have the power, in the absence of or under instructions of the Governor General, to sign letters patent for Indian lands. Deputy Governor.

2. The signature of the Deputy Governor to such patents shall have the same force and virtue as if such patents were signed by the Governor General. R.S., c. 81, s. 8. May sign letters patent.

Schools.

9. The Governor in Council may establish Power to establish day schools and industrial or boarding schools.
 (a) day schools in any Indian reserve for the children of such reserve;
 (b) industrial or boarding schools for the Indian children of any reserve or reserves or any district or territory designated by the Superintendent General.

2. Any school or institution the managing authorities of which have entered into a written agreement with the Superintendent General to admit Indian children and provide them with board, lodging and instruction may be declared by the Governor in Council to be an industrial school or a boarding school for the purposes of this Act. Or to declare any school to be industrial or boarding school.

subsection 4(2), c. 98 R.S.C. 1927, repealed by s. 1, c. 25, S.C. 1930 and s. 4, c. 98 R.S.C. 1927, subsequently repealed by subsection 123(2), c. 29, S.C. 1951.

s. 5, c. 98 R.S.C. 1927, repealed by subsection 11(2), c. 33, S.C. 1936.

Paragraph 7(1)(a) and subsection 7(2), c. 98, R.S.C. 1927 repealed by subsection 11(2), c. 33, S.C. 1936 and s. 7, c. 98, R.S.C. subsequently repealed by subsection 123(2), c. 29, S.C. 1951.

s. 8, c. 98, R.S.C. 1927, repealed by subsection 123(2), c. 29, S.C. 1951.

R.S., 1927.

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3. The Superintendent General may provide for the transport of Indian children to and from the boarding or industrial schools to which they are assigned, including transportation to and from such schools for the annual vacations.

4. The Superintendent General shall have power to make regulations prescribing a standard for the buildings, equipment, teaching and discipline of and in all schools, and for the inspection of such schools.

5. The chief and council of any band that has children in a school shall have the right to inspect such school at such reasonable times as may be agreed upon by the Indian agent and the principal of the school.

6. The Superintendent General may apply the whole or any part of the annuities and interest moneys of Indian children attending an industrial or boarding school to the maintenance of such school or to the maintenance of the children themselves. 1920, c. 50, s. 1.

10. Every Indian child between the ages of seven and fifteen years who is physically able shall attend such day, industrial or boarding school as may be designated by the Superintendent General for the full periods during which such school is open each year.

2. Such school shall be the nearest available school of the kind required, and no Protestant child shall be assigned to a Roman Catholic school or a school conducted under Roman Catholic auspices, and no Roman Catholic child shall be assigned to a Protestant school or a school conducted under Protestant auspices.

3. The Superintendent General may appoint any officer or person to be a truant officer to enforce the attendance of Indian children at school, and for such purpose a truant officer shall be vested with the powers of a peace officer, and shall have authority to enter any place where he has reason to believe there are Indian children between the ages of seven and fifteen years, and when requested by the Indian agent, a school teacher or the chief of a band shall examine into any case of truancy, shall warn the truants, their parents or guardians or the person with whom any Indian child resides, of the consequences of truancy, and notify the parent, guardian or such person in writing to cause the child to attend school.

4. Any parent, guardian or person with whom an Indian child is residing who fails to cause such child, being between the ages aforesaid, to attend school as required by this section after having received three days' notice so to do by a truant officer shall, on the complaint of the truant officer, be liable on summary conviction before a justice

Transport of children to schools.

Regulations to prescribe standards.

Inspection of schools by chief and council.

Annuities and interest applied to maintenance.

Children from 7 to 15 to attend school.

As to religions.

Truant officers and compulsory attendance.

Power to investigate cases of truancy.

Notice to parents, guardians, etc.

Penalty for guardian, parent or others failing to cause child to attend school, after notice.

subsection 9(6), c. 98, R.S.C. 1927, repealed and replaced by s. 2, c.25, S.C. 1930 and s. 9, subsequently repealed by subsection 123(2), c.29 S.C. 1951.

subsection 10(1), c.98 R.S.C. 1927 repealed and replaced by s. 3, c.25, S.C. 1930.

section 10, c. 98, R.S.C. amended by s. 1, c. 42, S.C. 1932-33 and subsequently repealed by subsection 123(2), c.29, S.C. 1951.

R.S., 1927.

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of the peace or Indian agent to a fine of not more than two dollars and costs, or imprisonment for a period not exceeding ten days or both, and such child may be arrested without a warrant and conveyed to school by the truant officer.

5. No parent or other person shall be liable to such penalties if such child

- (a) is unable to attend school by reason of sickness or other unavoidable cause;
- (b) has passed the entrance examination for high schools; or
- (c) has been excused in writing by the Indian agent or teacher for temporary absence to assist in husbandry or urgent and necessary household duties. 1920, c. 50, s. 1.

Exemptions from penalties.

11. The Governor in Council may take the land of an Indian held under location ticket or otherwise, for school purposes, upon payment to such Indian of the compensation agreed upon, or in case of disagreement such compensation as may be determined in such manner as the Superintendent General may direct. 1914, c. 35, s. 2.

Taking land for schools.

s. 11, c.98, R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

Membership of Band.

12. Any illegitimate child may, unless he has, with the consent of the band whereof the father or mother of such child is a member, shared in the distribution moneys of such band for a period exceeding two years, be, at any time, excluded from the membership thereof by the Superintendent General. R.S., c. 81, s. 12.

Exclusion of natural children from band.

s. 12, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

13. Any Indian who has for five years continuously resided in a foreign country without the consent, in writing, of the Superintendent General or his agent, shall cease to be a member of the band of which he was formerly a member and he shall not again become a member of that band, or of any other band, unless the consent of such band, with the approval of the Superintendent General or his agent, is first obtained. R.S., c. 81, s. 13.

Loss of membership, through residence in a foreign country without leave.

s. 13, c.98, R.S.C. 1927 repealed by subsection 123(2), c.29 S.C. 1951.

14. Any Indian woman who marries any person other than an Indian, or a non-treaty Indian, shall cease to be an Indian in every respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and rents; but such income may be commuted to her at any time at ten years' purchase, with the approval of the Superintendent General. 1920, c. 50, s. 2.

Effect of marriage of Indian woman.

s. 14, c.98 R.S.C. 1927 repealed by subsection 123(2), c.29, S.C. 1951.

R.S., 1927.

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g. 15, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

g. 15, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

15. Any Indian woman who marries an Indian of any other band, or a non-treaty Indian, shall cease to be a member of the band to which she formerly belonged, and shall become a member of the band or irregular band of which her husband is a member.

2. If she marries a non-treaty Indian, while becoming a member of the irregular band of which her husband is a member, she shall be entitled to share equally with the members of the band of which she was formerly a member, in the distribution of their moneys; but such income may be commuted to her at any time at ten years' purchase, with the consent of the band. R.S., c. 81, s. 15.

g. 16, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

g. 16, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

16. No half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian.

2. No half-breed head of a family, except the widow of an Indian or a half-breed who has already been admitted into a treaty, shall, unless under very special circumstances, which shall be determined by the Superintendent General or his agent, be accounted an Indian or entitled to be admitted into any Indian treaty.

3. Any half-breed who has been admitted into a treaty shall, on obtaining the consent in writing of the Superintendent General, be allowed to withdraw therefrom on signifying his desire so to do in writing, signed by him in the presence of two witnesses, who shall attest his signature on oath before some person authorized by law to administer such oath.

4. Such withdrawal shall include the wife and minor unmarried children of such half-breed. R.S., c. 81, s. 16; 1914, c. 35, ss. 3 and 4.

g. 17, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

g. 17, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

17. When, by a majority vote of a band, or the council of a band, an Indian of one band is admitted into membership in another band, and his admission thereinto is assented to by the Superintendent General, such Indian shall cease to have any interest in the lands or moneys of the band of which he was formerly a member, and shall be entitled to share in the lands and moneys of the band to which he is so admitted.

2. The Superintendent General may cause to be deducted from the capital of the band of which such Indian was formerly a member his *per capita* share of such capital and place the same to the credit of the capital of the band into membership in which he has been admitted in the manner aforesaid. R.S., c. 81, s. 17.

R.S., 1927.

18. The Superintendent General may, from time to time, upon the report of an officer, or other person specially appointed by him to make an inquiry, determine who is or who is not a member of any band of Indians entitled to share in the property and annuities of the band.

2. The decision of the Superintendent General in any such matter shall be final and conclusive, subject to an appeal to the Governor in Council. R.S., c. 81, s. 18.

Reserves.

19. All reserves for Indians, or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as they were held heretofore, but shall be subject to the provisions of this Part. R.S., c. 81, s. 19.

20. The Superintendent General may authorize surveys, plans and reports to be made of any reserve for Indians, showing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as is required; and may authorize the whole or any portion of a reserve to be subdivided into lots. R.S., c. 81, s. 20.

21. No Indian shall be deemed to be lawfully in possession of any land in a reserve, unless he has been or is located for the same by the band, or council of the band, with the approval of the Superintendent General; but no Indian shall be disposed of any land on which he has improvements, without receiving compensation for such improvements, at a valuation approved by the Superintendent General, from the Indian who obtains the land, or from the funds of the band, as is determined by the Superintendent General.

2. Prior to the location of an Indian under this section, in the province of Manitoba, Saskatchewan or Alberta, or the Territories, the Indian commissioner may issue a certificate of occupancy to any Indian belonging to a band residing upon a reserve in the aforesaid provinces or territories, of so much land, not exceeding in any case one hundred and sixty acres, as the Indian, with the approval of the commissioner, selects.

3. Such certificate may be cancelled at any time by the Indian commissioner, but shall, while it remains in force, entitle the holder thereof, as against all others, to lawful possession of the lands described therein. R.S., c. 81, s. 21.

22. When the Superintendent General approves of any location as aforesaid, he shall issue, in triplicate, a ticket in triplicate, a location title to such Indian, one triplicate of

R.S., 1927.
S.C. 1951.

g. 22, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

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s. 15, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

Marriage of Indian woman with Indian of another band or non-treaty Indian.
If she marries non-treaty Indian.

15. Any Indian woman who marries an Indian of any other band, or a non-treaty Indian, shall cease to be a member of the band to which she formerly belonged, and shall become a member of the band or irregular band of which her husband is a member.

2. If she marries a non-treaty Indian, while becoming a member of the irregular band of which her husband is a member, she shall be entitled to share equally with the members of the band of which she was formerly a member, in the distribution of their moneys; but such income may be commuted to her at any time at ten years' purchase, with the consent of the band. R.S., c. 81, s. 15.

s. 16, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

As to half-breeds in Manitoba.
Half-breed heads of families.

16. No half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian.

2. No half-breed head of a family, except the widow of an Indian or a half-breed who has already been admitted into a treaty, shall, unless under very special circumstances, which shall be determined by the Superintendent General or his agent, be accounted an Indian or entitled to be admitted into any Indian treaty.

Withdrawal from treaty.

3. Any half-breed who has been admitted into a treaty shall, on obtaining the consent in writing of the Superintendent General, be allowed to withdraw therefrom on signifying his desire so to do in writing, signed by him in the presence of two witnesses, who shall attest his signature on oath before some person authorized by law to administer such oath.

Wife and minor children.

4. Such withdrawal shall include the wife and minor unmarried children of such half-breed. R.S., c. 81, s. 16; 1914, c. 35, ss. 3 and 4.

s. 17, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

Transfer of Indian from one band to another.

17. When, by a majority vote of a band, or the council of a band, an Indian of one band is admitted into membership in another band, and his admission thereto is assented to by the Superintendent General, such Indian shall cease to have any interest in the lands or moneys of the band of which he was formerly a member, and shall be entitled to share in the lands and moneys of the band to which he is so admitted.

Share of capital.

2. The Superintendent General may cause to be deducted from the capital of the band of which such Indian was formerly a member his *per capita* share of such capital and place the same to the credit of the capital of the band into membership in which he has been admitted in the manner aforesaid. R.S., c. 81, s. 17.

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18. The Superintendent General may, from time to time, upon the report of an officer, or other person specially appointed by him to make an inquiry, determine who is or who is not a member of any band of Indians entitled to share in the property and annuities of the band.

2. The decision of the Superintendent General in any such matter shall be final and conclusive, subject to an appeal to the Governor in Council. R.S., c. 81, s. 18.

Reserves.

19. All reserves for Indians, or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as they were held heretofore, but shall be subject to the provisions of this Part. R.S., c. 81, s. 19.

20. The Superintendent General may authorize surveys, plans and reports to be made of any reserve for Indians, showing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as is required; and may authorize the whole or any portion of a reserve to be subdivided into lots. R.S., c. 81, s. 20.

21. No Indian shall be deemed to be lawfully in possession of any land in a reserve, unless he has been or is located for the same by the band, or council of the band, with the approval of the Superintendent General; but no Indian shall be dispossessed of any land on which he has improvements, without receiving compensation for such improvements, at a valuation approved by the Superintendent General, from the Indian who obtains the land, or from the funds of the band, as is determined by the Superintendent General.

2. Prior to the location of an Indian under this section, in the province of Manitoba, Saskatchewan or Alberta, or the Territories, the Indian commissioner may issue a certificate of occupancy to any Indian belonging to a band residing upon a reserve in the aforesaid provinces or territories, of so much land, not exceeding in any case one hundred and sixty acres, as the Indian, with the approval of the commissioner, selects.

3. Such certificate may be cancelled at any time by the Indian commissioner, but shall, while it remains in force, entitle the holder thereof, as against all others, to lawful possession of the lands described therein. R.S., c. 81, s. 21.

22. When the Superintendent General approves of any location as aforesaid, he shall issue, in triplicate, a ticket granting a location title to such Indian, one triplicate of

s. 18, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

Determination of membership of band.

Decision of Supt. Geo.

s. 19, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

Reserves to be subject to this Part.

s. 20, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Surveys, plans, reports and subdivision into lots of reserves may be authorized.

s. 21, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

Possession of land in reserve.

Improvements.

s. 22, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

Certificate of Indian Commissioner.

s. 22, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

Cancellation of certificate by the Indian Commissioner.

Location ticket in triplicate.

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which he shall retain in a book to be kept for the purpose; and the other two of which he shall forward to the local agent.

Delivery of ticket to Indian.

2. The local agent shall deliver to the Indian in whose favour it is issued one of such duplicates so forwarded, and shall cause the other to be copied into a register of the band, provided for the purpose, and shall file the same. R.S., c. 81, s. 22.

s. 23, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

Effect of such ticket limited.

23. The conferring of any such location title shall not have the effect of rendering the land covered thereby subject to seizure under legal process, and such title shall be transferable only to an Indian of the same band, and then only with the consent and approval of the Superintendent General, whose consent and approval shall be given only by the issue of a ticket, in the manner prescribed in the last preceding section. R.S., c. 81, s. 23.

s. 24, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

Privileges of Indians having improved lands included in certain provinces.

24. Every Indian and every non-treaty Indian, in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or the Territories, who had, previously to the selection of a reserve, possession of and who has made permanent improvements on a plot of land which upon such selection becomes included in, or surrounded by, a reserve, shall have the same privileges, in respect of such plot, as an Indian enjoys who holds under a location title. R.S., c. 81, s. 24.

Descent of Property.

s. 25, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

Indians may devise property by will.

25. Indians may devise or bequeath property of any kind in the same manner as other persons.

2. No will purporting to dispose of land in a reserve or any interest therein shall be of any force or effect unless or until the will has been approved by the Superintendent General, and if a will be disapproved by the Superintendent General the Indian making the will shall be deemed to have died intestate; and the Superintendent General may approve of a will generally and disallow any disposition thereby made of land in a reserve or of any interest in such land, in which case the will so approved shall have force and effect except so far as such disallowed disposition is concerned, and the Indian making the will shall be deemed to have died intestate as to the land or interest the disposition of which is so disallowed.

subsection 25(3), c. 98 R.S.C. 1927 repealed and replaced by s. 1, c. 20 S.C. 1936.

Land devised or bequeathed to non-resident, to be sold.

3. No one who is not entitled to reside on the reserve shall by reason of any devise or bequest or by reason of any intestacy be entitled to hold land in a reserve, but any land in a reserve devised by will or devolving on an

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intestacy, to some one not entitled to reside on the reserve, shall be sold by the Superintendent General to some member of the band and the proceeds thereof shall be paid to such devisee or heir. R.S., c. 81, s. 25; 1918, c. 26, s. 1.

26. Upon the death of an Indian intestate his property of all kinds, real and personal, movable and immovable, including any recognized interest he may have in land in a reserve, shall descend as follows:

Distribution of estate in case of intestacy.

s. 26, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

(a) One-third of the inheritance shall devolve upon his widow, if she is a woman of good moral character, and the remainder upon his children, if all are living, or, if any who are dead have died without issue;

One-third to widow.

(b) If there is no widow, or if the widow is not of good moral character, the whole inheritance shall devolve upon his children in equal shares, if all are living, or, if any who are dead have died without issue;

Otherwise children inherit the whole.

(c) If one or more of the children are living, and one or more are dead, having had lawful issue, the inheritance so far as the same does not descend to the widow, shall devolve upon the children who are living, and the descendants of such children as have died, so that each child who is living shall receive such share as would have descended to him if all the children of the intestate who have died leaving issue had been living, and so that the descendants of each child who is dead shall inherit in equal shares the share which their parent would have received if living;

Representation of defunct heir.

(d) If the descendants of the intestate entitled to share in the inheritance are of unequal degrees of consanguinity to the intestate, the inheritance shall devolve so that those who are in the nearest degree of consanguinity shall take the shares which would have descended to them, had all the descendants in the same degree of consanguinity who have died leaving issue, been living, and so that the issue of the descendants who have died shall respectively take the shares which their parents, if living, would have received; but the Superintendent General may, in his discretion direct that the widow, if she is of good moral character, shall have the right, during her widowhood, to occupy any land in the reserve of the band to which the deceased belonged of which he was the recognized owner, and to have the use of any property of the deceased for which, under the provisions of this Part, he was not liable to taxation.

Inheritance per stirpes.

Provision for widow.

2. The Superintendent General shall be the sole and final judge as to the moral character of the widow of any intestate Indian. R.S., c. 81, s. 26.

Superintendent General, sole judge of character of widow.

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Administration of property of minors.

27. During the minority of the children of an Indian who dies intestate, the administration and charge of the property to which they are entitled as aforesaid shall devolve upon the widow, if any, of the intestate, if she is of good moral character; and, in such case, as each male child attains the age of twenty-one years, and as each female child attains that age, or with the consent of the widow, marries before that age, the share of such child shall, subject to the approval of the Superintendent General, be conveyed or delivered to him or her.

Removal of widow from administration.

2. The Superintendent General may, at any time, remove the widow from such administration and charge and confer the same upon some other person, and, in like manner, may remove such other person and appoint another, and so, from time to time, as occasion requires.

Appointment of guardians to minors.

3. The Superintendent General may, whenever there are minor children, appoint a fit and proper person to take charge of such children and their property, and may remove such person and appoint another, and so, from time to time, as occasion requires. R.S., c. 81, s. 27.

a. 27, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

s. 128, c. 98 R.S.C. 1927 amended by s. 2, c. 42, S.C. 1932-33 and

Administration of Indian estates.

28. The Superintendent General may appoint a person or persons to administer the estate of any deceased or insane Indian, and may make such general regulations and such orders in particular cases as he deems necessary to secure the satisfactory administration of such estates. 1924, c. 47, s. 2.

subsequently repealed by subsection 123(2), c. 29 S.C. 1951.

Inheritance of Indian dying without issue.

29. In case any Indian dies intestate without issue, leaving a widow, all his property of whatever kind shall devolve upon her, and if he leaves no widow the same shall devolve upon the nearest of kin to the deceased: Provided that any interest which he may have had in land in a reserve shall be vested in His Majesty for the benefit of the band owning such reserve if his nearest of kin is more remote than a brother or sister. 1924, c. 47, s. 3.

s. 29, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

Property of married Indian woman.

30. The property of a married Indian woman who dies intestate shall descend in the same manner and be distributed in the same proportions as that of a male Indian who dies intestate, her widower, if any, taking the share which the widow of such male Indian would take.

a. 30, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

Idem.

2. The other provisions of this Part respecting the descent of property shall in like manner apply to the case of an intestate married woman, the word widower being substituted for the word widow in each case.

Idem.

3. The property of an unmarried Indian woman who dies intestate shall descend in the same manner as if she had been a male. R.S., c. 81, s. 29.

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31. A claimant of land in a reserve or of any interest therein as devisee or legatee or heir of a deceased Indian shall not be held to be lawfully in possession thereof or to be the recognized owner thereof until he shall have obtained a location ticket therefor from the Superintendent General. R.S., c. 81, s. 30.

In any case location ticket requisite for possession by heir. S. 31, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

32. The Superintendent General may decide all questions which arise under this Part, respecting the distribution among those entitled thereto of the property of a deceased Indian, and he shall be the sole and final judge as to who the persons so entitled are.

Superintendent general to decide disputes. S. 32, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

2. The Superintendent General may do whatsoever in his judgment will best give to each claimant his share according to the true intent and meaning of this Part, and to that end, if he thinks fit, may direct the sale, lease or other disposition of such property or any part thereof; and the distribution or application of the proceeds or income thereof, regard being always had in any such disposition to the restriction upon the disposition of property in a reserve. R.S., c. 81, s. 31.

His powers.

33. Notwithstanding anything in this Part, the courts having jurisdiction in the case of persons other than Indians, with but not without the consent of the Superintendent General, may grant probate of the wills of Indians and letters of administration of the estate and effects of intestate Indians, in which case such courts and the executors and administrators obtaining such probate, or thereby appointed, shall have the like jurisdiction and powers as in other cases, except that no disposition shall, without the consent of the Superintendent General, be made of or dealing had with regard to any right or interest in land in a reserve or any property for which, under the provisions of this Part, an Indian is not liable to taxation. R.S., c. 81, s. 32.

Probate and letters of administration. S. 33, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

Trespassing on Reserves.

34. No person, or Indian other than an Indian of the band, shall without the authority of the Superintendent General, reside or hunt upon, occupy or use any land or marsh, or reside upon or occupy any road, or allowance for road, running through any reserve belonging to or occupied by such band.

Only Indians of the band to reside on or use the reserve. S. 34, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

2. All deeds, leases, contracts, agreements or instruments of whatsoever kind made, entered into, or consented to by any Indian, purporting to permit persons or Indians other than Indians of the band to reside or hunt upon such reserve, or to occupy or use any portion thereof, shall be void. R.S., c. 81, s. 33.

Certain contracts, etc., to be void.

R.S.C. 1927, c. 98, cont'd.

R.S.C. 1927, c. 98, cont'd.

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Removal of trespassers and their cattle, etc.

35. If any Indian is illegally in possession of any land on a reserve, or if any person, or Indian other than an Indian of the band, without the license of the Superintendent General,

- (a) settles, resides or hunts upon, occupies, uses, or causes or permits any cattle or other animals owned by him, or in his charge, to trespass on any such land or marsh;
- (b) fishes in any marsh, river, stream or creek on or running through a reserve; or
- (c) settles, resides upon or occupies any road, or allowance for road, on such reserve;

the Superintendent General or such other officer or person as he thereunto deposes and authorizes, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith as the case may be,

Warrant.

- (a) to remove from the said land, marsh or road, or allowance for road, every such person or Indian and his family, so settled, or who is residing or hunting upon, or occupying, or is illegally in possession of the same;
- (b) to remove such cattle or other animals from such land or marsh;
- (c) to cause such person or Indian to cease fishing in any marsh, river, stream or creek, as aforesaid; or
- (d) to notify such person or Indian to cease using, as aforesaid, the said land, river, stream, creek or marsh, road or allowances for road.

Execution.

2. The person to whom such warrant is directed, shall execute the same, and, for that purpose, shall have the same powers as in the execution of criminal process.

Costs.

3. The expenses incurred in any such removal or notification, or causing to cease fishing, shall be borne, as the case may be, by the person removed or notified, or caused to cease fishing, or who owns the cattle or other animals removed, or who has them in charge, and may be recovered from him as the costs in any ordinary action or suit, or if the trespasser is an Indian, such expenses may be deducted from his share of annuity and interest money, if any such are due to him.

4. Any such person or Indian other than an Indian of the band may be required orally or in writing by an Indian agent, a chief of the band occupying the reserve, or a constable, as the case may be,

- (a) to remove with his family, if any, from the land, marsh or road, or allowance for road, upon which he is or has so settled, or is residing or hunting, or which he so occupies;

s. 35, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

Paragraph
35(4)(b), c. 98,
R.S.C. 1927
repealed by
s. 4, c. 25,
S.C. 1930.

R.S., 1927.

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- (b) to remove his cattle from such land or marsh;
 - (c) to cease fishing in any such marsh, river, stream or creek as aforesaid; or
 - (d) to cease using as aforesaid any such land, river, stream, creek, marsh, road or allowance for road.
- R.S., c. 81, s. 34.

36. If any person or Indian, after he has been removed or notified as aforesaid, or after any cattle or other animals owned by him or in his charge have been removed as aforesaid,

- (a) returns to, settles, resides or hunts upon or occupies or uses as aforesaid any of the said land or marsh;
 - (b) causes or permits any cattle or other animals owned by him or in his charge to return to any of the said land or marsh;
 - (c) returns to any marsh, river, stream or creek on or running through a reserve, for the purpose of fishing therein; or
 - (d) returns to, settles or resides upon or occupies any of the said roads or allowances for roads;
- the Superintendent General, or any officer or person deputed or authorized, as aforesaid, upon view, or upon proof on oath before him, to his satisfaction, that the person or Indian has,
- (a) returned to, settled, resided or hunted upon or occupied or used as aforesaid any of the said lands or marshes;
 - (b) caused or permitted any cattle or other animals owned by him, or in his charge, to return to any of the said land or marsh;
 - (c) returned to any marsh, river, stream or creek on or running through a reserve for the purpose of fishing therein; or
 - (d) returned to, settled or resided upon or occupied any of the said roads or allowances for roads;

Removal and punishment of persons returning after having been removed.

s. 36, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

shall direct and send his warrant, signed and sealed, to the sheriff of the proper county or district, or to any literate person therein, commanding him forthwith to arrest such person or Indian, and bring him before any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, who may, on summary conviction, commit him to the common gaol of the said county or district, or if there is no gaol in the said county or district, or if the reserve is not situated within any county or district, then the gaol nearest to the said reserve in the province, there to remain for the time ordered in the warrant of commitment.

Warrant to sheriff to arrest and commit to gaol.

R.S., 1927.

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Limit of imprisonment. 2. The length of imprisonment aforesaid shall not exceed thirty days for the first offence, and thirty days additional for each subsequent offence.

Direction of warrant. 3. If the said reserve is not situated within any county or district, such warrant shall be directed and sent to some literate person within such reserve. R.S., c. 81, s. 35.

Arrest and imprisonment. 37. Such sheriff or other person shall accordingly arrest the said person or Indian, and deliver him to the keeper of the proper gaol, who shall receive such person or Indian, and imprison him in the said gaol for the term aforesaid. R.S., c. 81, s. 36.

Judgment to be drawn up and filed. 38. The Superintendent General, or such officer or person aforesaid, shall cause the judgment or order against the offender to be drawn up and filed in his office.

Final. 2. Such judgment shall not be appealed from, or removed by *certiorari* or otherwise, but shall be final. R.S., c. 81, s. 37.

Recovery of Possession of Reserves.

Recovery of possession of reserves withheld or adversely occupied. 39. If the possession of any lands reserved or claimed to be reserved for the Indians, or of any lands of which the Indians or any Indian or any band or tribe of Indians claim the possession or any right of possession, is withheld, or if any such lands are adversely occupied or claimed by any person, or if any trespass is committed thereon, the possession may be recovered for the Indians or Indian or band or tribe of Indians, or the conflicting claims may be adjudged and determined or damages may be recovered in an action at the suit of His Majesty on behalf of the Indians or Indian or of the band or tribe of Indians entitled to or claiming the possession or right of possession or entitled to or claiming the declaration, relief or damages.

Damages. 2. The Exchequer Court of Canada shall have jurisdiction to hear and determine any such action.

Exchequer Court jurisdiction. 3. Any such action may be instituted by information of the Attorney General of Canada upon the instructions of the Superintendent General of Indian Affairs.

Attorney General may institute action. 4. Nothing in this section shall impair, abridge or in anywise affect any existing remedy or mode of procedure provided for cases, or any of them, to which this section applies. 1910, c. 28, s. 1; 1911, c. 14, s. 4.

Existing remedies preserved. 2. The Exchequer Court of Canada shall have jurisdiction to hear and determine any such action.

Attorney General may institute action. 3. Any such action may be instituted by information of the Attorney General of Canada upon the instructions of the Superintendent General of Indian Affairs.

Existing remedies preserved. 4. Nothing in this section shall impair, abridge or in anywise affect any existing remedy or mode of procedure provided for cases, or any of them, to which this section applies. 1910, c. 28, s. 1; 1911, c. 14, s. 4.

Attorney General may institute action. 40. The Governor in Council may make regulations for prohibiting or regulating the sale, barter, exchange or gift by any band or irregular band of Indians, or by any Indian of any band or irregular band, in the province of Manitoba, Saskatchewan or Alberta, or the Territories, of any grain

Attorney General may institute action. 40. The Governor in Council may make regulations for prohibiting or regulating the sale, barter, exchange or gift by any band or irregular band of Indians, or by any Indian of any band or irregular band, in the province of Manitoba, Saskatchewan or Alberta, or the Territories, of any grain

s. 37, c. 93
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

s. 38, c. 93
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

s. 39, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

s. 40, c. 93
R.S.C. 1927
repealed
and replaced
by s. 5,
c. 25, S.C.
1930 and
subsequently
R.S., 1927,
by s. 3, c. 42,
S.C. 1932-33.

Governor in Council may make regulations as to sale or barter of produce by Indians.

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or root crops, or other produce grown upon any reserve, and may further provide that such sale, barter, exchange or gift shall be null and void, unless the same are made in accordance with such regulations. R.S., c. 81, s. 38.

41. No person shall buy or otherwise acquire from any band or irregular band of Indians, or from any Indian, any grain, root crops, or other produce from upon any reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories. R.S., c. 81, s. 39.

42. If any such grain or root crops, or other produce as aforesaid, are unlawfully in the possession of any person within the intent and meaning of this Part, or of any regulations made by the Governor in Council under this Part, any person acting under the authority, either general or special, of the Superintendent General, may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same; and he shall deal therewith as the Superintendent General, or any officer or person thereunto by him authorized, directs. R.S., c. 81, s. 40.

43. The Governor in Council may make regulations for prohibiting the cutting, carrying away or removing from any reserve or special reserve, of any hard or sugar-maple tree or sapling. R.S., c. 81, s. 41.

44. No official or employee connected with the inside or outside service of the Department, and no missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians, and no school teacher on an Indian reserve, shall, without the special license in writing of the Superintendent General, trade with any Indian, or sell to him directly or indirectly, any goods or supplies, cattle or other animals.

2. The Superintendent General may at any time revoke the license so given by him. R.S., c. 81, s. 42.

45. No person shall barter directly or indirectly with any Indian on a reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories, or sell to any such Indian any goods or supplies, cattle or other animals, without the special license in writing of the Superintendent General.

2. The Superintendent General may, at any time, revoke the license by him given.

3. Upon prosecution of any offender against the provisions of this and the last preceding section, the evidence of the Indian to whom the sale was made, and the production to or view by, the magistrate or Indian agent of the article or animal sold, shall be sufficient evidence on which to convict. R.S., c. 81, s. 43.

Buying of produce prohibited.

Superintendent General may order seizure of produce unlawfully possessed by any person.

Governor in Council may prohibit cutting of trees on reserve.

Trading with Indians prohibited without license of Superintendent General.

Revocation of license.

Bartering with Indians without a license prohibited.

Revocation of license.

Evidence.

s. 40, c. 98,
R.S.C. 1927,
repealed by
subsection
123(2), c. 29,
S.C. 1951.

s. 41, c. 98,
R.S.C. 1927,
repealed and
replaced by
s. 6, c. 25,
S.C. 1930 and
by s. 4, c. 42
S.C. 1932-33
and subsequent-
ly repealed
by subsection
123(2), c. 29,
S.C. 1951.

s. 42, c. 98,
R.S.C. 1927
repealed and
replaced by
s. 7, c. 25,
S.C. 1930 and
amended by
s. 1, c. 29,
S.C. 1940-41
and subsequent-
ly repealed by
subsection
123(2), c. 29,
S.C. 1951.

s. 43, c. 98,
R.S.C. 1927,
repealed by
subsection
123(2), c. 29,
S.C. 1951.

s. 44, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

R.S., 1927,

R.S.C. 1927, c. 98, cont'd.

R.S.C. 1927, c. 98, cont'd.

INDIANS.

Part I.

Roads and Bridges.

s. 45 and
s. 46, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

Indians
liable to
work on
public roads
on reserves,
and to what
extent.

Powers of
Superin-
tendent
General.

46. Indians residing upon any reserve shall be liable, if so directed by the Superintendent General, or any officer or person by him thereunto authorized, to perform labour upon the public roads laid out or used in or through, or abutting upon such reserve, which labour shall be performed under the sole control of the Superintendent General, or officer or person aforesaid, who may direct when, where and how and in what manner such labour shall be applied, and to what extent the same shall be imposed upon any Indian who is a resident upon the reserve.

2. The Superintendent General, or person or officer aforesaid shall have the like power to enforce the performance of such labour by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the province or territory in which such reserve is situate, for the non-performance of statute labour; but the labour to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same province, territory, county or other local division, under the laws requiring and regulating such labour and the performance thereof. R.S., c. 81, s. 44.

s. 47, c. 98
R.S.C. 1927
amended by
s. 5, c. 42
S.C. 1932-33
and subsequently
repealed by
subsection
123(2), c. 29
S.C. 1951.

Band to
cause roads
to be kept
in order.
Work may
be done at
cost of band.

47. Every band of Indians shall cause the roads, bridges, ditches and fences within its reserve to be put and maintained in proper order, in accordance with the instructions received, from time to time, from the Superintendent General, or from the agent of the Superintendent General.

2. Whenever in the opinion of the Superintendent General, such roads, bridges, ditches and fences are not so put or maintained in order, he may cause the work to be performed at the cost of the band, or of the particular Indian in default, as the case may be, either out of its or his annual allowances or otherwise. R.S., c. 81, s. 45.

Lands taken for Public Purposes.

s. 48, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

Lands
taken for
public
purposes.

48. No portion of any reserve shall be taken for the purpose of any railway, road, public work, or work designed for any public utility without the consent of the Governor in Council, but any company or municipal or local authority having statutory power, either Dominion or provincial, for taking or using lands or any interest in lands without the consent of the owner may, with the consent of the Governor in Council as aforesaid, and subject to the terms and conditions imposed by such consent, exercise such statutory power with respect to any reserve or portion of a reserve.

R.S., 1927.

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Indians.

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2. In any such case compensation shall be made therefor to the Indians of the band, and the exercise of such power, and the taking of the lands or interest therein and the determination and payment of the compensation shall, unless otherwise provided by the order in council evidencing the consent of the Governor in Council, be governed by the requirements applicable to the like proceedings by such company, municipal or local authority in ordinary cases.

3. The Superintendent General shall, in any case in which an arbitration is had, name the arbitrator on behalf of the Indians, and shall act for them in any matter relating to the settlement of such compensation.

4. The amount awarded in any case shall be paid to the Minister of Finance for the use of the band of Indians for whose benefit the reserve is held, and for the benefit of any Indian who has improvements taken or injured. R.S., c. 81, s. 46; 1911, c. 14, s. 1.

Surrender and Forfeiture of Lands in Reserve.

49. If, by the violation of the conditions of any trust respecting any special reserve, or by the breaking up of any society, corporation or community, or, if by the death of any person or persons without a legal succession or trusteeship, in whom the title to a special reserve is held in trust, the said title lapses or becomes void in law, the legal title shall become vested in His Majesty in trust, and the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve.

2. The trustees of any special reserve may, at any time, surrender the same to His Majesty in trust, whereupon the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve. R.S., c. 81, s. 47.

50. Except as in this Part otherwise provided, no reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Part; but the Superintendent General may lease, for the benefit of any Indian, upon his application for that purpose, the land to which he is entitled without such land being released or surrendered, and may, without surrender, dispose to the best advantage, in the interests of the Indians, of wild grass and dead or fallen timber.

2. The Governor in Council may make regulations enabling the Superintendent General without surrender to issue leases for surface rights on Indian reserve, upon such terms and conditions as may be considered proper in the interest of the Indians covering such area only as may be

Compensa-
tion.

Arbitra-
tion.

Payment.

Title to
vest in His
Majesty, if
title of
reserve held
in trust lapses.

Surrender
of certain
reserves to
His
Majesty
in trust.

Sale or
release of
reserves.

Proviso.

Leases of
surface
rights may
be granted
in connection
with mining
for precious
metals.

s. 49, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

subsection
50(2), c. 98
R.S.C. 1927
repealed and
replaced by
s. 1, c. 31,
S.C. 1938
and s. 50
c. 98, R.S.C.
subsequently
repealed by
subsection
123(2), c. 29
S.C. 1951.

R.S., 1927.

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necessary for the mining of the precious metals by any one otherwise authorized to mine such metals, said terms to include provision of compensating any occupant of land for any damage that may be caused thereon as determined by the Superintendent General. R.S., c. 81, s. 48; 1919, c. 56, s. 1.

s. 51, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

Release or surrender of a reserve, when valid.

Assent of band.

Who may vote.

Proof of assent.

Approval of Governor in Council.

s. 52, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29 S.C. 1951.

Inquiry and report by Exchequer Court as to removal of Indians.

Order in Council.

51. Except as in this Part otherwise provided, no release or surrender of a reserve, or a portion of a reserve, held for the use of the Indians of any band, or of any individual Indian, shall be valid or binding, unless the release or surrender shall be assented to by a majority of the male members of the band of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose, according to the rules of the band, and held in the presence of the Superintendent General, or of any officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General.

2. No Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near, and is interested in the reserve in question.

3. The fact that such release or surrender has been assented to by the band at such council or meeting shall be certified on oath by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some of the chiefs or principal men present thereat and entitled to vote, before any person having authority to take affidavits and having jurisdiction within the place where the oath is administered.

4. When such assent has been so certified, as aforesaid, such release or surrender shall be submitted to the Governor in Council for acceptance or refusal. R.S., c. 81, s. 49; 1918, c. 26, e. 2.

52. In the case of an Indian reserve which adjoins or is situated wholly or partly within an incorporated town or city having a population of not less than eight thousand, and which reserve has not been released or surrendered by the Indians, the Governor in Council may, upon the recommendation of the Superintendent General, refer to the judge of the Exchequer Court of Canada for inquiry and report the question as to whether it is expedient, having regard to the interest of the public and of the Indians of the band for whose use the reserve is held, that the Indians should be removed from the reserve or any part of it.

2. The order in council made in the case shall be certified by the Clerk of the Privy Council to the Registrar of the Exchequer Court of Canada, and the judge of the

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court shall thereupon proceed as soon as convenient to fix a time and place, of which due notice shall be given by publication in the *Canada Gazette*, and otherwise as may be directed by the judge, for taking the evidence and hearing and investigating the matter.

Notice of inquiry.

3. The judge shall have the like powers to issue subpoenas, compel the attendance and examination of witnesses, take evidence, give directions, and generally to hear and determine the matter and regulate the procedure as in proceedings upon information by the Attorney General within the ordinary jurisdiction of the court, and shall assign counsel to represent and act for the Indians who may be opposed to the proposed removal.

Powers of Court.

Counsel.

4. If the judge finds that it is expedient that the band of Indians should be removed from the reserve or any part of it, he shall proceed, before making his report, to ascertain the amounts of compensation, if any, which should be paid respectively to individual Indians of the band for the special loss or damages which they will sustain in respect of the buildings or improvements to which they are entitled upon the lands of the reserve for which they are located, and the judge shall, moreover, consider and report upon any of the other facts or circumstances of the case which he may deem proper or material to be considered by the Governor in Council.

Compensation for special loss and damages to be ascertained.

5. The judge shall transmit his findings, with the evidence and a report of the proceedings, to the Governor in Council, who shall lay a full report of the proceedings, the evidence and the findings before Parliament at the then current or next ensuing session thereof, and upon such findings being approved by resolution of Parliament the Governor in Council may thereupon give effect to the said findings and cause the reserve, or any part thereof from which it is found expedient to remove the Indians, to be sold or leased by public auction after three months advertisement in the public press, upon the best terms which, in the opinion of the Governor in Council, may be obtained therefor.

Transmission of proceedings.

Sale or lease of lands.

6. The proceeds of the sale or lease, after deducting the usual percentage for management fund, shall be applied in compensating individual Indians for their buildings or improvements as found by the judge, in purchasing a new reserve for the Indians removed, in transferring the said Indians with their effects thereto, in erecting buildings upon the new reserve, and in providing the Indians with such other assistance as the Superintendent General may consider advisable; and the balance of the proceeds, if any, shall be placed to the credit of the Indians; but the Governor in Council shall not cause the Indians to be removed, or disturb their possession, until a suitable reserve has

Disposition of proceeds.

Exception.

R.S.C. 1927, c. 98, cont'd.

R.S.C. 1927, c. 98, cont'd.

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New reserve. been obtained and set apart for them in lieu of the reserve from which the expediency of removing the Indians is so established as aforesaid.

Expropriation of lands for new reserve. 7. For the purpose of selecting, appropriating and acquiring the lands necessary to be taken, or which it may be deemed expedient to take, for any new reserve to be acquired for the Indians as authorized by the last preceding subsection, whether they are Crown lands or not, the Superintendent General shall have all the powers conferred upon the Minister by the Expropriation Act, and such new reserve shall, for the purposes aforesaid, be deemed to be a public work within the definition of that expression in the Expropriation Act; and all the provisions of the Expropriation Act, in so far as applicable and not inconsistent with this Act, shall apply in respect of the proceedings for the selection, survey, ascertainment and acquisition of the lands required and the determination and payment of the compensation therefor.

Condition. 8. The Superintendent General shall not exercise the power of expropriation unless authorized by the Governor in Council. 1911, c. 14, s. 2.

s. 53, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951. **Act not to confirm invalid releases or surrenders.** 53. Nothing in this Part shall confirm any release or surrender which, but for this Part, would have been invalid; and no release or surrender of any reserve, or portion of a reserve, to any person other than His Majesty, shall be valid. R.S., c. 81, s. 50.

s. 54, c. 98, R.S.C. 1927 repealed by subsection 123(2), e. 29, S. C. 1951. **Indian lands to be held for the same purpose as heretofore.** 54. All Indian lands which are reserves or portions of reserves surrendered, or to be surrendered, to His Majesty, shall be deemed to be held for the same purpose as heretofore; and shall be managed, leased and sold as the Governor in Council directs, subject to the conditions of surrender and the provisions of this Part. R.S., c. 81, s. 51.

Sale and Transfer of Indian Lands.

s. 55, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951. **Effect of former certificate of sale or receipt.** 55. Every certificate of sale or receipt for money received on the sale of Indian lands granted or made by the Superintendent General or any agent of his, so long as the sale to which such certificate or receipt relates is in force and not rescinded, shall entitle the person to whom the same is granted, or his assignee, by instrument registered under this or any former Act providing for registration in such cases, to take possession of and occupy the land therein comprised, subject to the conditions of such sale, and unless the same has been revoked or cancelled, to maintain thereunder actions and suits against any wrongdoer or trespasser, as effectually as he could do under

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a patent from the Crown; but the same shall have no force against a license to cut timber existing at the time of the granting or making thereof.

2. Such certificate or receipt shall be *prima facie* evidence of possession by such person, or the assignee, under an instrument registered as aforesaid in any such action or suit. R.S., c. 81, s. 52. **Evidence of Possession.**

56. The Superintendent General shall keep a book for registering, at the option of the persons interested, the particulars of any assignment made, as well by the original purchaser or lessee of Indian lands, or his heirs or legal representatives, as by any subsequent assignee of any such lands, or the heirs or legal representatives of such assignee. R.S., c. 81, s. 53. **Register of assignments to be kept.** s. 56, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

57. Upon any such assignment being produced to the Superintendent General, and, except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the place of such execution, and the names, residences and occupations of the witnesses, or, as to lands in the province of Quebec, upon the production of any such assignment executed in notarial form, or of a notarial copy thereof, the Superintendent General shall cause the material parts of the assignment to be registered in the said book, and shall cause to be endorsed on the assignment a certificate of such registration signed by himself or by the Deputy Superintendent General, or any other officer of the Department by him authorized to sign such certificates. R.S., c. 81, s. 54. **Registration of assignments.** s. 57, c. 98, R.S.C. 1927 repealed by subsection 123(2), e. 29, S.C. 1951.

58. Every such assignment so registered shall be valid against any assignment previously executed, which is subsequently registered or is unregistered. 2. No such registration shall be made until all the conditions of the sale, grant or location are complied with or dispensed with by the Superintendent General. 3. Every assignment registered as aforesaid shall be unconditional in its terms. R.S., c. 81, s. 55. **Effect of assignment and registration. Requirements.** s. 58, e. 98, R.S.C. 1927 repealed by subsection 123(2), e. 29, S.C. 1951.

59. If any subscribing witness to any such assignment is dead, or is absent from Canada, the Superintendent General may register such assignment upon the production of an affidavit proving the death or absence of such witness, and his handwriting, or the handwriting of the person making such assignment. R.S., c. 81, s. 56. **Proof of registration.** s. 59, e. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

R.S., 1927.

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Agents not to be interested in or owners of Indian lands.

s. 60, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

60. No agent for the sale of Indian lands shall, within his division, directly or indirectly, except under an order of the Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency; and every such purchase or interest shall be void. R.S., c. 81, s. 57.

Tax Sales.

Conveyance of lands sold for taxes.

s. 61, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

61. Whenever the proper municipal officer having, by the law of the province in which the land affected is situate, authority to make or execute deeds or conveyances of lands sold for taxes, makes or executes any deed or conveyance purporting to grant or convey Indian lands which have been sold or located, but not patented, or the interest therein of the locatee or purchaser from the Crown, and such deed or conveyance recites or purports to be based upon a sale of such lands or such interest for taxes, the Superintendent General may approve of such deed or conveyance, and act upon and treat it as a valid transfer of all the right and interest of the original locatee or purchaser from the Crown, and of every person claiming under him in or to such land to the grantee named in such deed or conveyance.

Superintendent General may approve.

Effect of such approval.

2. When the Superintendent General has signified his approval of such deed or conveyance by endorsement thereon, the grantee shall be substituted in all respects, in relation to the land so conveyed, for the original locatee or purchaser from the Crown, but no such deed or conveyance shall be deemed to confer upon the grantee any greater right or interest in the land than that possessed by the original locatee or purchaser from the Crown. R.S., c. 81, s. 58.

s. 62, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

Issue of patent.

62. The Superintendent General may cause a patent to be issued to the grantee named in such deed or conveyance on the completion of the original conditions of the location or sale, unless such deed or conveyance is declared invalid by a court of competent jurisdiction in a suit or action instituted by some person interested in such land within two years after the date of the sale for taxes, and unless within such delay notice of such contestation has been given to the Superintendent General. R.S., c. 81, s. 59.

s. 63, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
S.C. 1951.

Time for registration.

63. Every such deed or conveyance shall be registered in the office of the Superintendent General within two years from the date of the sale for taxes; and unless the same is so registered, it shall not be deemed to have preserved its priority, as against a purchaser in good faith from the

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original locatee or purchaser from the Crown, in virtue of an assignment registered prior to the date of the registration of the deed or conveyance based upon a sale for taxes as aforesaid. R.S., c. 81, s. 60.

Cancellation.

64. If the Superintendent General is satisfied that any purchaser or lessee of any Indian lands, or any person claiming under or through him, has been guilty of any fraud or imposition, or has violated any of the conditions of the sale or lease, or if any such sale or lease has been made or issued in error or mistake, he may cancel such sale or lease and resume the land therein mentioned, or dispose of it as if no sale or lease thereof had ever been made.

s. 64, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29
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2. In any case where the Superintendent or the Deputy Superintendent General gives or has given notice to a purchaser or lessee of Indian lands or to his assignee, agent, executor, administrator or representative, of his intention to cancel a sale or lease under the provisions of this section, and in pursuance of such notice enters or has entered in the records of the Department the formal cancellation of such sale or lease, such entry of cancellation shall be and be deemed to have been effective from the date thereof to cancel and annul the said sale or lease, and any payments made on account of such sale or lease shall be and be deemed to have been forfeited.

Cancellation effective from date of entry.

3. In any such case as described in the preceding subsection the notice of cancellation shall be deemed to be and to have been sufficient if signed by the Superintendent General, the Deputy Superintendent General, or by any officer of the Department by the direction and with the authority of the Superintendent General or the Deputy Superintendent General; and moreover the notice shall be deemed to be and to have been duly given and served upon or delivered to the purchaser or lessee, or to his assignee, agent, executor, administrator or representative as aforesaid if posted prepaid or franked to his last known address.

Signatures to notices.

Service.

4. No action, suit or other proceeding, either at law or in equity, shall lie or be instituted, prosecuted or maintained against His Majesty or against the Superintendent General, or the Attorney General, or any officer of the Government of Canada, claiming any relief or declaration against or in respect of the cancellation or forfeiture of any such sale or lease, or payments on account thereof by means of any such notice as aforesaid, unless the same was or shall have been instituted within one year from the date of the giving of the said notice.

Proceedings to be instituted within one year.

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List of cancellations laid before Parliament.

5. Within the first fifteen days of each session of Parliament, the Superintendent General shall cause to be laid before both Houses of Parliament a list of all such sales or leases, cancelled during the twelve months next preceding that session, or since the date of the beginning of the then last session. R.S., c. 81, s. 61; 1924, c. 47, s. 4.

Ejectment.

Obtaining possession after such cancellation, in case of resistance.
s. 65, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

65. Whenever any purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale or lease thereof, as aforesaid, or whenever any person is wrongfully in possession of any Indian lands and refuses to vacate or abandon possession of the same, the Superintendent General may apply to the judge of the county court of the county or district in which the land lies, or to any judge of a superior court, or in the Northwest Territories to any stipendiary magistrate, for an order in the nature of a writ of *habere facias possessionem*, or writ of possession.

Order as to writ of possession.

2. The said judge or magistrate, upon proof to his satisfaction that the right or title of the person to hold such land has been revoked or cancelled, as aforesaid, or that such person is wrongfully in possession of Indian lands, shall grant an order requiring the purchaser, lessee or person in possession to deliver up the same to the Superintendent General, or person by him authorized to receive such possession.

Effect.

3. The order shall have the same force as a writ of *habere facias possessionem*, or writ of possession.

Execution of order.

4. The sheriff, or any bailiff or person to whom it has been entrusted for execution by the Superintendent General, shall execute the same in like manner as he would execute such writ in an action of ejectment or a possessory action.

Costs.

5. The costs of and incident to any proceedings under this section or any part thereof shall be paid by any party to such proceedings or by the Superintendent General, as the judge or magistrate orders. R.S., c. 81, s. 62.

Rent.

Enforcing payment of rent due to the Crown.
s. 66, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

66. Whenever any rent payable to the Crown on any lease of Indian lands is in arrear, the same may be recovered

(a) by warrant of distress issued by the Superintendent General or any agent or officer appointed under this Part and authorized by the Superintendent General to act in such cases, and with like proceedings thereon as in ordinary cases of landlord and tenant directed to any person or persons by him named therein;

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(b) by warrant of distress, and with like proceedings thereon as in case of a distress warrant by a justice of the peace for non-payment of a pecuniary penalty issued by him and directed as aforesaid; or
(c) by action of debt, as in ordinary cases of rent in arrear, brought therefor in the name of the Superintendent General.

2. Demand of rent shall not be necessary in any case. No demand required.
R.S., c. 81, s. 63.

Powers of Superintendent General.

67. When by law or by any deed, lease or agreement relating to Indian lands, any notice is required to be given, or any act to be done by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Superintendent General. R.S., c. 81, s. 64. To act and give notice for the Crown.

s. 67, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

68. Whenever it is found that, by reason of false survey or error in the books or plans in the Department or in the late Indian branch of the Department of the Interior, any grant, sale or appropriation of land is deficient, or whenever any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Superintendent General may order the purchase money of so much land as is deficient with the interest thereon from the time of the application therefor to be paid to the original purchaser in land or money as the Superintendent General directs. Cases of deficiency of land.

s. 68, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

2. If the land has passed from the original purchaser, and the claimant was ignorant of a deficiency at the time of his purchase, the Superintendent General may order payment as aforesaid of the purchase money for so much of the land as is deficient which the claimant has paid. Compensation.

3. No such claim shall be entertained unless application is made within five years from the date of the patent, and unless the deficiency is equal to one-tenth of the whole quantity described as contained in the particular lot or parcel of land granted. R.S., c. 81, s. 65. Limitation of time for claim.

s. 69, c. 98, R.S.C. 1927 repealed and replaced by s. 2, c. 20, S.C. 1936 and subsequently repealed by subsection 123(2), c. 29, S.C. 1951.

69. The Superintendent General may, from time to time, by public notice, declare that, on and after a day therein named, the laws respecting game in force in the province of Manitoba, Saskatchewan or Alberta, or the Territories, or respecting such game as is specified in such notice, shall apply to Indians within the said province or Territories, as the case may be, or to Indians in such parts thereof as to him seems expedient. R.S., c. 81, s. 66. Game laws.

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s. 70, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Witnesses may be summoned and examined under oath.

Failure of witness to appear.

70. The Superintendent General, his deputy, or other person specially authorized by the Governor in Council, may, by subpoena issued by him, require any person or Indian to appear before him, and to bring with him any papers or writings relating to any matter affecting Indians, and examine such person under oath in respect to any such matter.

2. If any person or Indian duly summoned by subpoena as aforesaid neglects or refuses to appear at the time and place specified in the subpoena, or refuses to give evidence or to produce the papers or writings demanded of him, the Superintendent General, his deputy or such other person may, by warrant under his hand and seal, cause such person or Indian so refusing or neglecting to be taken into custody and to be imprisoned in the nearest common gaol as for contempt of court, for a period not exceeding fourteen days. R.S., c. 81, s. 67; 1918, c. 26, s. 3.

Patents.

s. 71, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Patents, how to be prepared, assigned and registered.

71. Every patent for Indian lands shall be prepared in the Department, and shall be signed by the Superintendent General or his deputy or by some other person thereunto specially authorized by order of the Governor in Council, and, when so signed, shall be registered by an officer specially appointed for that purpose by the Registrar General, and then transmitted to the Secretary of State of Canada, by whom, or by the Under Secretary of State, the same shall be countersigned and the Great Seal thereto caused to be affixed.

2. Every such patent for land shall be signed by the Governor or by the Deputy Governor appointed under this Part for that purpose. R.S., c. 81, s. 68.

s. 72, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Patent to issue to heir, assignee or devisee after proof of right thereto.

72. On any application for a patent by the heir, assignee or devisee of the original purchaser from the Crown, the Superintendent General may receive proof, in such manner as he directs and requires, in support of any claim for a patent, when the original purchaser is dead; and upon being satisfied that the claim has been equitably and justly established, may allow the same, and cause a patent to issue accordingly.

Exception.

2. Nothing in this section shall limit the right of a person claiming a patent to land in the province of Ontario to make application at any time to the Commissioner, under the Act respecting claims to lands in Upper Canada for which no patents have been issued, being chapter eighty of the Consolidated Statutes of Upper Canada. R.S., c. 81, s. 69.

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73. Whenever letters patent have been issued to or in the name of the wrong person, through mistake, or contain any clerical error or misnomer, or wrong description of any material fact therein, or of the land thereby intended to be granted, the Superintendent General, if there is no adverse claim, may direct the defective letters patent to be cancelled, and a minute of such cancellation to be entered in the margin of the registry of the original letters patent, and correct letters patent to be issued in their stead.

Cancellation of erroneous letters patent.

s. 73, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

2. Such correct letters patent shall relate back to the date of those so cancelled, and have the same effect as if issued at the date of such cancelled letters patent. R.S., c. 81, s. 70.

Issue of correct ones in their stead.

74. In all cases, in which grants or letters patent have been issued for the same land, inconsistent with each other, through error, and in all cases of sales or appropriations of the same land, inconsistent with each other, the Superintendent General may, in cases of sale, cause a repayment of the purchase money, with interest.

Inconsistent patents of the same land.

s. 74, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

2. When the land has passed from the original purchaser, or has been improved before a discovery of the error, the Superintendent General may, in substitution, assign land or grant a certificate entitling the person to purchase Indian lands of such value, and to such extent as he deems just and equitable under the circumstances; but no such claim shall be entertained unless it is preferred within five years from the discovery of the error. R.S., c. 81, s. 71.

Compensation in certain cases.

Exception.

75. Whenever patents for Indian lands have been issued through fraud or in error or improvidence, the Exchequer Court of Canada or a superior court in any province may, in respect of lands situate within its jurisdiction, upon information, action, bill or plaint, respecting such lands, and upon hearing the parties interested, or upon default of the said parties after such notice of proceeding as the said courts shall respectively order, decree such patents to be void; and, upon a registry of such decree in the Department, such patents shall be void to all intents.

Certain courts may void patents issued in error, etc.

s. 75, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

2. The practice in such cases shall be regulated by orders, from time to time, made by the said courts respectively. R.S., c. 81, s. 72.

Effect of registry of decree. Practice in such cases.

Timber Lands.

76. The Superintendent General, or any officer or agent authorized by him to that effect, may grant licenses to cut trees on ungranted Indian lands, or on reserves at such rates and subject to such conditions, regulations and restrictions, as are, from time to time, established by the Governor

Licenses to cut trees, by whom and how to be granted.

s. 76, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

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in Council, and such conditions, regulations and restrictions shall be adapted to the locality in which such reserves or lands are situated. R.S., c. 81, s. 73.

s. 77, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

For what time.
As to error in description, etc.

77. No license shall be so granted for a longer period than twelve months from the date thereof; and if, in consequence of any incorrectness of survey or other error or cause whatsoever, a license is found to comprise land included in a license of a prior date, or land not being reserve, or ungranted Indian lands, the license granted shall be void in so far as it comprises such land, and the holder or proprietor of the license so rendered void shall have no claim upon the Crown for indemnity or compensation by reason of such avoidance. R.S., c. 81, s. 74.

s. 78, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Licenses must describe lands and kind of trees to be cut.
To vest property in trees cut.

78. Every license shall describe the lands upon which the trees may be cut, and the kind of trees which may be cut, and shall confer, for the time being, on the licensee the right to take and keep possession of the land so described, subject to such regulations as are made.

2. Every license shall vest in the holder thereof all rights of property in all trees of the kind specified, cut within the limits of the license during the term thereof, whether such trees are cut by the authority of the holder of such license or by any other person, with or without his consent.

Rights of licensee as to trespassers.

3. Every license shall entitle the holder thereof to seize, in revendication or otherwise, such trees and the logs, timber or other product thereof, if found in the possession of any unauthorized person, and also to institute any action or suit against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any.

Continuing proceedings.

4. All proceedings pending at the expiration of any license may be continued to final termination, as if the license had not expired. R.S., c. 81, s. 75.

s. 79, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Return to be made by licensee.

79. Every person who obtains a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Superintendent General, a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square or other timber, manufactured and carried away under such license, which return shall be sworn to by the holder of the license or his agent, or by his foreman.

Effect of neglect to make such return.

2. Every person who refuses or neglects to make such return, or who evades, or attempts to evade, any regulation made by the Governor in Council in that behalf, shall be held to have cut without authority, and the timber or other product made shall be dealt with accordingly. R.S., c. 81, s. 76.

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80. All trees cut, and the logs, timber or other product thereof, shall be liable for the payment of the dues thereon, so long as and wheresoever the same, or any part thereof, are found, whether in the original logs or manufactured into deals, boards or other stuff.

Trees cut and their product liable for payment of dues.

s. 80, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

2. All officers or agents entrusted with the collection of such dues may follow and seize and detain the same wherever they are found until the dues are paid or secured. R.S., c. 81, s. 77.

May be seized and detained.

81. No instrument or security taken for dues, either before or after the cutting of the trees, as collateral security, or to facilitate collection, shall in any way affect the lien for such dues, but the lien shall subsist until the said dues are actually discharged. R.S., c. 81, s. 78.

Security taken for dues not to affect lien.

s. 81, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

82. If any timber so seized and detained for non-payment of dues remains more than twelve months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid, the Superintendent General may order a sale of the said timber to be made after sufficient notice.

Sale of seized timber after certain delay.

s. 82, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

2. The net proceeds of such sale, after deducting the amount of dues, expenses, and costs incurred, shall be handed over to the owner or claimant of such timber, upon his applying therefor and proving his right thereto. R.S., c. 81, s. 79.

Proceeds.

83. Any officer or agent acting under the Superintendent General may seize or cause to be seized in His Majesty's name any logs, timber, wood or other products of trees, or any trees themselves, cut without authority on Indian lands or on a reserve, wherever they are found, and place the same under proper custody until a decision can be had in the matter from competent authority. R.S., c. 81, s. 80.

Seizure of trees cut without authority.

s. 83, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

84. When the logs, timber, wood, or other products of trees, or the trees themselves cut without authority on Indian lands or on a reserve, have been made up or intermingled with other trees, wood, timber, logs, or other products of trees into a crib, dram or raft, or in any other manner, so that it is difficult to distinguish the timber cut on Indian lands or on a reserve without license, from the other timber with which it is made up or intermingled, the whole of the timber so made up or intermingled shall be held to have been cut without authority on Indian lands or on a reserve, and shall be seized and forfeited and sold by the Superintendent General or any officer or agent acting under him, unless evidence satisfactory to him is adduced showing the probable quantity not cut on Indian lands or on a reserve. R.S., c. 81, s. 81.

Preemption of law in case of mixture of timber cut on Indian lands or reserves, with timber cut elsewhere.

s. 84, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

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s. 85, c. 98. Every officer or person seizing trees, logs, timber or other products of trees in the discharge of his duty under this Part may, in the name of the Crown, call in any assistance necessary for securing and protecting the same. R.S., c. 81, s. 82.

s. 86, c. 98. Whenever any trees, logs, timber or other product of trees are seized for non-payment of Crown dues, or for any other cause of forfeiture, or whenever any prosecution is brought in respect of any penalty or forfeiture under this Part, and any question arises whether said dues have been paid or whether the trees, logs, timber or other product were cut on lands other than any of the lands aforesaid, the burden of proving payment, or on what land the same were cut, as the case may be, shall lie on the owner or claimant and not on the officer who seizes the same, or the person who brings such prosecution. R.S., c. 81, s. 83.

s. 87, c. 98. All trees, logs, timber or other product of trees seized under this Part shall be deemed to be condemned unless the person from whom they are seized, or the owner thereof within one month from the day of the seizure, gives notice to the seizing officer, or nearest officer or agent of the Superintendent General that he claims, or intends to claim them, and unless within one month from the day of giving such notice he initiates, in some court of competent jurisdiction, proceedings for the purpose of establishing his claim.

s. 88, c. 98. In default of such notice and initiation of proceedings, the officer or agent seizing shall report the circumstances to the Superintendent General, who may order the sale by the said officer or agent of such trees, logs, timber or other products. R.S., c. 81, s. 84.

s. 89, c. 98. Any judge of any superior, county or district court, or any stipendiary magistrate, police magistrate or Indian agent, may, in a summary way, under the provisions of the Criminal Code relating to summary convictions, try and determine such seizures; and may, pending the trial, order the delivery of the trees, or the logs, timber or other product to the alleged owner, on receiving security by bond, with two good and sufficient sureties, first approved by the said agent, to pay double the value of such trees, logs, timber or other product, in case of their condemnation.

s. 90, c. 98. Such bond shall be taken in the name of the Superintendent General, for His Majesty, and shall be delivered up to and kept by the Superintendent General.

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3. If such seized trees, logs, timber or other product are value of condemned, the value thereof shall be paid forthwith to the Superintendent General or agent, and the bond can be called, otherwise the penalty of such bond shall be enforced and recovered. R.S., c. 81, s. 85.

s. 89. Every one who avails himself of any false statement or false oath to evade the payment of dues under this Part, shall forfeit the timber in respect of which the dues are attempted to be evaded. R.S., c. 81, s. 86.

Management of Indian Moneys.

s. 90. All moneys or securities of any kind applicable to the support or benefit of Indians, or any band of Indians, and all moneys accrued or hereafter to accrue from the sale of any Indian lands or the proceeds of any timber on any Indian lands or a reserve shall, subject to the provisions of this Part, be applicable to the same purposes, and be dealt with in the same manner as they might have been applied to or dealt with but for the passing of this Part.

s. 91. The Governor in Council may reduce the purchase money due or to become due on sales of Indian lands, or reduce or remit the interest on such purchase money, or reduce the rent at which Indian lands have been leased, when he considers the same excessive.

s. 92. A return setting forth all the reductions and remissions made under this section during the fiscal year shall be submitted to both Houses of Parliament within twenty days after the expiration of such year, if Parliament is then sitting, and if Parliament is not then sitting, within twenty days after the opening of the next ensuing session of Parliament. R.S., c. 81, s. 88.

s. 93. With the exception of such sum not exceeding fifty per centum of the proceeds of any land, timber or other property, as is agreed at the time of the surrender to be paid to the members of the band interested therein, the Governor in Council may, subject to the provisions of this

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s. 89, c. 98. Every one who avails himself of any false statement or false oath to evade the payment of dues under this Part, shall forfeit the timber in respect of which the dues are attempted to be evaded. R.S., c. 81, s. 86.

s. 90, c. 98. All moneys or securities of any kind applicable to the support or benefit of Indians, or any band of Indians, and all moneys accrued or hereafter to accrue from the sale of any Indian lands or the proceeds of any timber on any Indian lands or a reserve shall, subject to the provisions of this Part, be applicable to the same purposes, and be dealt with in the same manner as they might have been applied to or dealt with but for the passing of this Part.

s. 91, c. 98. In default of such notice and initiation of proceedings, the officer or agent seizing shall report the circumstances to the Superintendent General, who may order the sale by the said officer or agent of such trees, logs, timber or other products. R.S., c. 81, s. 84.

s. 92, c. 98. Any judge of any superior, county or district court, or any stipendiary magistrate, police magistrate or Indian agent, may, in a summary way, under the provisions of the Criminal Code relating to summary convictions, try and determine such seizures; and may, pending the trial, order the delivery of the trees, or the logs, timber or other product to the alleged owner, on receiving security by bond, with two good and sufficient sureties, first approved by the said agent, to pay double the value of such trees, logs, timber or other product, in case of their condemnation.

s. 93. Such bond shall be taken in the name of the Superintendent General, for His Majesty, and shall be delivered up to and kept by the Superintendent General.

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s. 85, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951. Seizing officer may command assistance in name of Crowe. 85. Every officer or person seizing trees, logs, timber or other products of trees in the discharge of his duty under this Part may, in the name of the Crown, call in any assistance necessary for securing and protecting the same. R.S., c. 81, s. 82.

s. 86, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951. Burden of proof, in certain cases, to be on claimant. 86. Whenever any trees, logs, timber or other product of trees are seized for non-payment of Crown dues, or for any other cause of forfeiture, or whenever any prosecution is brought in respect of any penalty or forfeiture under this Part, and any question arises whether said dues have been paid or whether the trees, logs, timber or other product were cut on lands other than any of the lands aforesaid, the burden of proving payment, or on what land the same were cut, as the case may be, shall lie on the owner or claimant and not on the officer who seizes the same, or the person who brings such prosecution. R.S., c. 81, s. 83.

s. 87, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951. Condemnation in default of notice of claim. 87. All trees, logs, timber or other product of trees seized under this Part shall be deemed to be condemned unless the person from whom they are seized, or the owner thereof within one month from the day of the seizure, gives notice to the seizing officer, or nearest officer or agent of the Superintendent General that he claims, or intends to claim them, and unless within one month from the day of giving such notice he initiates, in some court of competent jurisdiction, proceedings for the purpose of establishing his claim.

Sale. 2. In default of such notice and initiation of proceedings, the officer or agent seizing shall report the circumstances to the Superintendent General, who may order the sale by the said officer or agent of such trees, logs, timber or other products. R.S., c. 81, s. 84.

s. 88, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951. Proceedings for trial of validity of seizure. 88. Any judge of any superior, county or district court, or any stipendiary magistrate, police magistrate or Indian agent, may, in a summary way, under the provisions of the Criminal Code relating to summary convictions, try and determine such seizures; and may, pending the trial, order the delivery of the trees, or the logs, timber or other product to the alleged owner, on receiving security by bond, with two good and sufficient sureties, first approved by the said agent, to pay double the value of such trees, logs, timber or other product, in case of their condemnation.

Bond to be given. 2. Such bond shall be taken in the name of the Superintendent General, for His Majesty, and shall be delivered up to and kept by the Superintendent General.

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3. If such seized trees, logs, timber or other product are condemned, the value thereof shall be paid forthwith to the Superintendent General or agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered. R.S., c. 81, s. 85. Value of condemned trees to be paid to the Superintendent General.

89. Every one who avails himself of any false statement or false oath to evade the payment of dues under this Part, shall forfeit the timber in respect of which the dues are attempted to be evaded. R.S., c. 81, s. 86. Forfeiture of timber for attempt to evade payment.

Management of Indian Moneys.

90. All moneys or securities of any kind applicable to the support or benefit of Indians, or any band of Indians, and all moneys accrued or hereafter to accrue from the sale of any Indian lands or the proceeds of any timber on any Indian lands or a reserve shall, subject to the provisions of this Part, be applicable to the same purposes, and be dealt with in the same manner as they might have been applied to or dealt with but for the passing of this Part. Indian moneys to be dealt with as heretofore.

2. No contract or agreement binding or purporting to bind, or in any way dealing with the moneys or securities referred to in this section, or with any moneys appropriated by Parliament for the benefit of Indians, made either by the chiefs or councillors of any band of Indians or by the members of the said band, other than and except as authorized by and for the purposes of this part shall be valid or of any force or effect unless and until it has been approved in writing by the Superintendent General. R.S., c. 81, s. 87; 1910, c. 28, s. 2. Contracts affecting Indian moneys and securities to be approved by Superintendent General.

91. The Governor in Council may reduce the purchase money due or to become due on sales of Indian lands, or reduce or remit the interest on such purchase money, or reduce the rent at which Indian lands have been leased, when he considers the same excessive. Reduction of purchase money due on sales of Indian lands.

2. A return setting forth all the reductions and remissions made under this section during the fiscal year shall be submitted to both Houses of Parliament within twenty days after the expiration of such year, if Parliament is then sitting, and if Parliament is not then sitting, within twenty days after the opening of the next ensuing session of Parliament. R.S., c. 81, s. 88. Returns of reductions to Parliament.

92. With the exception of such sum not exceeding fifty per centum of the proceeds of any land, timber or other property, as is agreed at the time of the surrender to be paid to the members of the band interested therein, the Governor in Council may, subject to the provisions of this Investment and management of Indian funds may be

s. 89, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

s. 90, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

s. 91, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

s. 92, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

R.S., 1927.

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regulated by Governor in Council.

Part, direct how and in what manner, and by whom, the moneys arising from the disposal of Indian lands, or of property held or to be held in trust for Indians, or timber on Indian lands or reserves, or from any other source for the benefit of Indians, shall be invested from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given.

In what particulars.

2. The Governor in Council may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Part, and may authorize and direct the expenditure of such moneys for surveys, for compensation to Indians for improvements or any interest they had in lands taken from them, for the construction or repair of roads, bridges, ditches and watercourses on such reserves or lands, for the construction and repair of school buildings and charitable institutions, and by way of contribution to schools attended by such Indians: Provided that where the capital standing to the credit of a band does not exceed the sum of two thousand dollars the Governor in Council may direct and authorize the expenditure of such capital for any purpose which may be deemed to be for the general welfare of the band. R.S., c. 81, s. 89; 1919, c. 56, s. 2; 1927, c. 32, s. 1.

If capital does not exceed \$2,000.

Power of Governor in Council over expenditure of capital.

subsection 93(1), c. 98, R.S.C. 1927 repealed and replaced by s. 3, c. 20, S.C. 1936 and subsequently repealed by subsection 123(2), c. 29, S.C. 1951.

93. The Governor in Council may, with the consent of a band, authorize and direct the expenditure of any capital moneys standing at the credit of such band, in the purchase of land as a reserve for the band or as an addition to its reserve, or in the purchase of cattle, implements or machinery for the band, or in the construction of permanent improvements upon the reserve of the band, or such works thereon or in connection therewith as, in his opinion, will be of permanent value to the band, or will, when completed, properly represent capital or in the making of loans to members of the band to promote progress, no such loan, however, to exceed in amount one-half of the appraised value of the interest of the borrower in the lands held by him.

Direction of expenditure of capital of band, without consent.

2. In the event of a band refusing to consent to the expenditure of such capital moneys as the Superintendent General may consider advisable for any of the purposes mentioned in subsection one of this section, and it appearing to the Superintendent General that such refusal is detrimental to the progress or welfare of the band, the Governor in Council may, without the consent of the band, authorize and direct the expenditure of such capital for such of the said purposes as may be considered reasonable and proper.

R.S., 1927.

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3. Whenever any land in a reserve whether held in common or by an individual Indian is uncultivated and the band or individual is unable or neglects to cultivate the same, the Superintendent General, notwithstanding anything in this Act to the contrary, may, without a surrender, grant a lease of such lands for agricultural or grazing purposes for the benefit of the band or individual, or may employ such persons as may be considered necessary to improve or cultivate such lands during the pleasure of the Superintendent General, and may authorize and direct the expenditure of so much of the capital funds of the band as may be considered necessary for the improvements of such land, or for the purchase of such stock, machinery, material or labour as may be considered necessary for the cultivation or grazing of the same, and in such case all the proceeds derived from such lands, except a reasonable rent to be paid for any individual holding, shall be placed to the credit of the band.

Lease of lands in a reserve if band or individual neglects cultivation.

4. In the event of improvements being made on the lands of an individual the Superintendent General may deduct the value of such improvements from the rental payable for such lands. 1918, c. 26, s. 4; 1924, c. 47, s. 5.

Improvements.

94. The proceeds arising from the sale or lease of any Indian lands, or from the timber, hay, stone, minerals or other valuables thereon, or on a reserve, shall be paid to the Minister of Finance to the credit of the Indian fund. R.S., c. 81, s. 91.

Proceeds of sale to be paid to Minister of Finance.

s. 94, c. 98, R.S.C. 1927 amended by s. 8, c. 25, S.C. 1930, and by

95. The Superintendent General may
 (a) stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the Superintendent General, guilty of deserting his family, or of conduct justifying his wife or family in separating from him, or who is separated from his family by imprisonment, and apply the same towards the support of the wife or family of such Indian;
 (b) stop the payment of the annuity and interest money of any Indian parent of an illegitimate child, and apply the same to the support of such child;
 (c) stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any woman who deserts her husband or family and lives immorally with another man, and apply the same to the support of the family so deserted;

Powers of Superintendent General.

s. 2, c. 31, S.C. 1938 and subsequently repealed by subsection 123(2), c. 29, S.C. 1951.

s. 95, c. 98, R.S.C. 1927, repealed by subsection 123(2), c. 29, S.C. 1951.

R.S., 1927.

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(d) whenever sick or disabled, or aged or destitute Indians are not provided for by the band of which they are members, furnish sufficient and from the funds of the band for the relief of such sick, disabled, aged or destitute Indians;

Sanitary regulations.

(c) make such regulations as he deems necessary for the prevention or mitigation of disease the frequent and effectual cleansing of streets, yards and premises; the removal of nuisances and unsanitary conditions; the cleansing, purifying, ventilating and disinfecting of premises by the owners and occupiers or other persons having the care or ordering thereof; the supplying of such medical aid, medicine and other articles and accommodation as the Superintendent General may deem necessary for preventing or mitigating an outbreak of any communicable disease; entering and inspecting any premises used for human habitation in any locality in which conditions exist which in the opinion of the Superintendent General are unsanitary, or such as to render the inhabitants specially liable to disease, and for directing the alteration or destruction of any such building which is, in the opinion of the Superintendent General, unfit for human habitation; preventing the overcrowding of premises used for human habitation by limiting the number of dwellers in such premises; preventing and regulating the departure of persons from, and the access of persons to, infected localities; preventing persons or conveyances from passing from one locality to another; detaining persons or conveyances who or which have been exposed to infection for inspection or disinfection until the danger of infection is past; the removal or keeping under surveillance of persons living in infected localities; and any other matter which, in the opinion of the Superintendent General, the general health of the Indians of any locality may require; (f) make by-laws for the taxation, control and destruction of dogs and for the protection of sheep, and such by-laws may be applied to such reserves or parts thereof from time to time as the Superintendent General may direct; (g) make regulations governing the operation of pool rooms, dance halls and other places of amusement on Indian Reserves.

In conflict of authority, rule or regulation made by any band, the regulations made by the Superintendent General shall prevail.

R.S., 1927.

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3. In any regulations or by-laws made under the provisions of this section, the Superintendent General may provide for the imposition of a fine not exceeding thirty dollars or imprisonment not exceeding thirty days, for the violation of any of the provisions thereof. R.S., c. 91, s. 92; 1914, c. 35, s. 6; 1915, c. 26, s. 5; 1927, c. 32, s. 2.

Election of Chiefs.

96. Whenever the Governor in Council deems it advisable for the good government of a band, to introduce the elective system of chiefs and councillors or headmen, he may provide that the chief and councillors or headmen of any band shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall in such case be elected for a term of three years.

2. The councillors or headmen may be in the proportion of two for every two hundred Indians.

3. No band shall have more than one chief and fifteen councillors or headmen.

4. Any band composed of at least thirty members may have a chief. R.S., c. 81, s. 93.

97. Life chiefs and councillors or headmen now living may continue to hold rank until death or resignation, or until their removal by the Governor in Council for dishonesty, intemperance, immorality or incompetency.

2. In the event of the Governor in Council providing that the chief and councillors or headmen of a band shall be elected, the life chiefs and councillors or headmen shall not exercise powers as such unless elected under the provision aforesaid. R.S., c. 81, s. 94.

98. An election may be set aside by the Governor in Council, on a report of the Superintendent General, if it is proved by two witnesses before the Indian agent for the locality, or such other person as is deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election.

2. Every Indian who is proved guilty of such fraud or irregularity, or connivance therewith, may be declared ineligible for re-election for a period not exceeding six years, if the Governor in Council, on the report of the Superintendent General, so directs. R.S., c. 81, s. 95.

99. Any elected or life chief and any councillor or headman, or any chief or councillor or headman chosen according to the custom of any band, may, on the ground of dishonesty, intemperance, immorality or incompetency, be de-

96, c. 98, R.S.C. 1927 amended by s. 4, c. 20, S.C. 1936, and subsequently repealed by subsection 123(2), c. 29, S.C. 1951.

97, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

98, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

99, c. 98, R.S.C. 1927 amended by s. 5, c. 20, S.C. 1936.

R.S., 1927.

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(d) whenever sick or disabled, or aged or destitute Indians are not provided for by the band of which they are members, furnish sufficient aid from the funds of the band for the relief of such sick, disabled, aged or destitute Indians;

Sanitary regulations.

(e) make such regulations as he deems necessary for the prevention or mitigation of disease the frequent and effectual cleansing of streets, yards and premises; the removal of nuisances and unsanitary conditions; the cleansing, purifying, ventilating and disinfecting of premises by the owners and occupiers or other persons having the care or ordering thereof; the supplying of such medical aid, medicine and other articles and accommodation as the Superintendent General may deem necessary for preventing or mitigating an outbreak of any communicable disease; entering and inspecting any premises used for human habitation in any locality in which conditions exist which in the opinion of the Superintendent General are unsanitary, or such as to render the inhabitants specially liable to disease, and for directing the alteration or destruction of any such building which is, in the opinion of the Superintendent General, unfit for human habitation; preventing the overcrowding of premises used for human habitation by limiting the number of dwellers in such premises; preventing and regulating the departure of persons from, and the access of persons to, infected localities; preventing persons or conveyances from passing from one locality to another; detaining persons or conveyances who or which have been exposed to infection for inspection or disinfection until the danger of infection is past; the removal or keeping under surveillance of persons living in infected localities; and any other matter which, in the opinion of the Superintendent General, the general health of the Indians of any locality may require;

Taxation of dogs, and protection of sheep.

(f) make by-laws for the taxation, control and destruction of dogs and for the protection of sheep, and such by-laws may be applied to such reserves or parts thereof from time to time as the Superintendent General may direct;

Operation of pool rooms, etc.

(g) make regulations governing the operation of pool rooms, dance halls and other places of amusement on Indian Reserves.

In conflict of authority, rule to prevail.

2. In the event of any conflict between any regulation made by the Superintendent General and any rule or regulation made by any band, the regulations made by the Superintendent General shall prevail.

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3. In any regulations or by-laws made under the provisions of this section, the Superintendent General may provide for the imposition of a fine not exceeding thirty dollars or imprisonment not exceeding thirty days, for the violation of any of the provisions thereof. R.S., c. 81, s. 92; 1914, c. 35, s. 6; 1918, c. 26, s. 5; 1927, c. 32, s. 2.

Election of Chiefs.

96. Whenever the Governor in Council deems it advisable for the good government of a band, to introduce the elective system of chiefs and councillors or headmen, he may provide that the chief and councillors or headmen of any band shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall in such case be elected for a term of three years.

Governor in Council may provide for election of chiefs.

s. 96, c. 98, R.S.C. 1927 amended by s. 4, c. 20, S.C. 1936, and subsequently repealed by subsection 123(2), c. 29, S.C. 1951.

2. The councillors or headmen may be in the proportion of two for every two hundred Indians.

Councillors or headmen.

3. No band shall have more than one chief and fifteen councillors or headmen.

Numbers.

4. Any band composed of at least thirty members may have a chief. R.S., c. 81, s. 93.

Band of 30.

97. Life chiefs and councillors or headmen now living may continue to hold rank until death or resignation, or until their removal by the Governor in Council for dishonesty, intemperance, immorality or incompetency.

As to present life chiefs.

s. 97, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

2. In the event of the Governor in Council providing that the chief and councillors or headmen of a band shall be elected, the life chiefs and councillors or headmen shall not exercise powers as such unless elected under the provision aforesaid. R.S., c. 81, s. 94.

Election required for exercise of powers.

98. An election may be set aside by the Governor in Council, on a report of the Superintendent General, if it is proved by two witnesses before the Indian agent for the locality, or such other person as is deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election.

Reason for which an election may be set aside.

s. 98, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

2. Every Indian who is proved guilty of such fraud or irregularity, or connivance thereat, may be declared ineligible for re-election for a period not exceeding six years, if the Governor in Council, on the report of the Superintendent General, so directs. R.S., c. 81, s. 95.

Punishment of fraud at election.

99. Any elected or life chief and any councillor or headman, or any chief or councillor or headman chosen according to the custom of any band, may, on the ground of dishonesty, intemperance, immorality or incompetency, be de-

Grounds on which chief, etc., may be deposed.

s. 99, c. 98, R.S.C. 1927 amended by s. 5, c. 20, S.C. 1936.

R.S.C. 1927, c. 98, cont'd.

R.S.C. 1927, c. 98, cont'd.

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s. 99, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951. Chiefs to make regulations as to schools.

s. 100, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951. Denominations. Minority.

subsection 101(1), c. 98, R.S.C. 1927 amended by s. 9, c. 25, S.C. 1930 and by s. 6, c. 42, S.C. 1932-33 and s. 101 subsequently repealed by subsection 123(2), c. 29, S.C. 1951. Other cases. Health. Order. Disorderly conduct. Trespass. Roads, etc. School houses. Pounds. Locating of band. Weeds. Governor in Council may provide for punishment for violation. Limit of penalty. Criminal Code to apply.

posed by the Governor in Council and declared ineligible to hold the office of chief or councillor or headman for a period not exceeding three years. R.S., c. 81, s. 96.

Regulations to be made by Chiefs.

100. The chief or chiefs of any band in council may, subject to confirmation by the Governor in Council, make rules and regulations as to the religious denomination to which the teacher of the school established on the reserve shall belong.

2. If the majority of the band belongs to any one religious denomination, the teacher of the school established on the reserve shall belong to the same denomination.

3. The Protestant or Catholic minority of any band may, with the approval of and under regulations made by the Governor in Council, have a separate school established on the reserve. R.S., c. 81, s. 97.

101. The chief or chiefs of any band in council may likewise and subject to such confirmation, make rules and regulations as to

- (a) the care of the public health;
- (b) the observance of order and decorum at assemblies of the Indians in general council, or on other occasions;
- (c) the prevention of disorderly conduct and nuisances;
- (d) the prevention of trespass by cattle, and the protection of sheep, horses, mules and cattle;
- (e) the construction and maintenance of watercourses, roads, bridges, ditches and fences;
- (f) the construction and repair of school houses, council houses and other Indian public buildings, and the attendance at school of children between the ages of six and fifteen years;
- (g) the establishment of pounds and the appointment of pound-keepers;
- (h) the locating of the band in their reserves, and the establishment of a register of such locations;
- (i) the repression of noxious weeds.

2. The Governor in Council may by the rules and regulations aforesaid provide for the imposition of punishment by fine, penalty or imprisonment, or both for violation of any of such rules or regulations.

3. The fine or penalty shall in no case exceed thirty dollars, and the imprisonment shall in no case exceed thirty days.

4. The proceedings for the imposition of such punishment shall be taken under the provisions of the Criminal Code relating to summary convictions. R.S., c. 81, s. 98; 1927, c. 32, s. 3.

R.S., 1927.

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Taxation.

102. No Indian or non-treaty Indian shall be liable to be taxed for any real or personal property, unless he holds, in his individual right, real estate under a lease or in fee simple, or personal property outside of the reserve or special reserve, in which case he shall be liable to be taxed for such real or personal property at the same rate as other persons in the locality in which it is situate. R.S., c. 81, s. 99. Liability of Indians to taxation.

103. No taxes shall be levied on the real property of any Indian, acquired under the enfranchisement clauses of this Part, until the same has been declared liable to taxation by proclamation of the Governor in Council, published in the *Canada Gazette*. R.S., c. 81, s. 100. As to taxes on property of an enfranchised Indian.

104. All land vested in the Crown or in any person in trust or for the use of any Indian or non-treaty Indian or any band or irregular band of Indians or non-treaty Indians shall be exempt from taxation, except those lands which, having been surrendered by the bands owning them, though unpatented, have been located by or sold or agreed to be sold to any person; and, except as against the Crown and any Indian located on the land, the same shall be liable to taxation in like manner as other lands in the same locality. Exemption from taxation.

2. Nothing herein contained shall interfere with the right of the Superintendent General to cancel the original sale or location of any land, or shall render such land liable to taxation until it is again sold or located. R.S., c. 81, s. 101. Exception.

Legal Rights of Indians.

105. No person shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgment or otherwise, upon real or personal property of any Indian or non-treaty Indian, except on real or personal property subject to taxation under the last three preceding sections: Provided that any person selling any article to an Indian or non-treaty Indian may take security on such article for any part of the price thereof which is unpaid. R.S., c. 81, s. 102. No lien or charge to be taken on property of Indians. Provision.

106. Indians and non-treaty Indians shall have the right to sue for debts due to them, or in respect of any tort or wrong inflicted upon them, or to compel the performance of obligations contracted with them. As to rights of action by Indians.

2. In any suit or action between Indians, or in any case of assault in which the offender is an Indian, no appeal shall lie from any judgment, order or conviction by any No appeal.

s. 102, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

s. 103, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

s. 104, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

s. 105, c. 98, R.S.C. 1927 repealed and replaced by s. 10, c. 25, S.C. 1930 and subsequently repealed by subsection 123(2), c. 29, S.C. 1951.

s. 106, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

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police magistrate, stipendiary magistrate, or two justices of the peace or an Indian agent, when the sum adjudged or the penalty imposed does not exceed ten dollars. R.S., c. 81, s. 103.

s. 107, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Things pawned by Indians for intoxicants not to be retained.

107. No pawn taken from any Indian or non-treaty Indian for any intoxicant shall be retained by the person to whom such pawn is delivered; but the thing so pawned may be sued for and shall be recoverable, with costs of suit, in any court of competent jurisdiction by the Indian or non-treaty Indian who pawned the same. R.S., c. 81, s. 104.

s. 108, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Presents, annuities, money and property exempt from seizure.

108. No presents given to Indians or non-treaty Indians, and no annuities or interest on funds, and no moneys appropriated by Parliament, held for any band of Indians, and no property purchased or acquired with or by means of any such annuities or income or moneys, and whether in the possession of any band of such Indians or of any Indian of any band or irregular band or not, shall be liable to be taken, seized, distrained, attached or in any way made the subject of judicial process for any debt, matter or cause whatsoever.

Traffic in presents and property restricted.

2. No such presents or property shall, in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or in the Territories be sold, bartered, exchanged, or given by any band or irregular band of Indians, or any Indian of any such band to any person or Indian other than an Indian of such band.

Animals, farming implements, etc., deemed presents.

3. Animals given to Indians under treaty stipulations, and the progeny thereof, and farming implements, tools and any other articles given to Indians under treaty stipulations shall be held to be presents within the meaning of this section.

Sale, etc., null and void.

4. Every such sale, barter, exchange or gift shall be null and void unless such sale, barter, exchange or gift is made with the written assent of the Superintendent General or his agent.

Selling, etc., live stock.

5. No Indian or non-treaty Indian in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or in the Territories, shall without the written consent of the Indian Agent sell, barter, exchange or give to any person or Indian other than an Indian of such band, or kill or destroy any animal or the progeny thereof given to him or to the band under treaty stipulations, or loaned or conditionally given to him or to the band by the Government.

Penalty.

6. Any Indian who violates any of the provisions of the last preceding subsection shall be liable on summary conviction to a penalty, not exceeding twenty-five dollars with costs of prosecution or to imprisonment not exceeding two months, or to both fine and imprisonment. R.S., c. 81, s. 105; 1910, c. 28, s. 3; 1914, c. 35, s. 7.

R.S., 1927.

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109. If any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians, are or is unlawfully in the possession of any person, within the true intent and meaning of the last preceding section, any person acting under the authority of the Superintendent General may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same, and shall deal therewith as the Superintendent General directs.

s. 109, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Presents, unlawfully in possession of any person, may be seized.

2. No title to any Indian grave-house, carved grave-pole, totem-pole, carved house-post or large rock embellished with paintings or carvings on an Indian reserve, shall be acquired by any means whatsoever by any person without the written consent of the Superintendent General, and no Indian grave-house, carved grave-pole, totem-pole, carved house-post or large rock embellished with paintings or carvings, on an Indian reserve shall be removed, taken away, mutilated, disfigured, defaced or destroyed without such written consent.

Acquisition of totem poles, etc., forbidden.

3. Any person violating any of the provisions of subsection two hereof shall be liable on summary conviction to a penalty not exceeding two hundred dollars, with costs of prosecution, and in default of payment to imprisonment for a term not exceeding three months, and any article removed or taken away contrary to the provisions of the said subsection may be seized on the instructions of the Superintendent General and dealt with as be may direct. R.S., c. 81, s. 106; 1927, c. 32, s. 4.

Penalty.

110. Upon the application of an Indian of any band, or upon the application of a band on a vote of a majority of the male members of such band of the full age of twenty-one years at a meeting or council thereof summoned for that purpose, according to the rules of the band and held in the presence of the Superintendent General or of an officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General, a Board may be appointed by the Superintendent General to consist of two officers of the Department and a member of the band to which the Indian or Indians under investigation belongs, to make enquiry and report as to the fitness of any Indian or Indians to be enfranchised.

s. 110, c. 98,
R.S.C. 1927
amended by
s. 7, c. 42,
S.C. 1932-33
and
subsequently
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Enquiry as to fitness of Indian for enfranchisement.

2. The Indian member of the Board shall be nominated by the council of the band, within thirty days after the date of notice having been given to the council, and in default of such nomination, the appointment shall be made by the Superintendent General.

Indian member of Board.

3. In the course of such enquiry it shall be the duty of the Board to take into consideration and report upon the attitude of any such Indian towards his enfranchisement.

Attitude of Indian towards his enfranchisement.

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which attitude shall be a factor in determining the question of fitness.

What report shall contain.

4. Such report shall contain a description of the land occupied by each Indian, the amount thereof and the improvements thereon, the names, ages and sex of every Indian whose interests it is anticipated will be affected, and such other information as the Superintendent General may direct such Board to obtain.

Governor in Council may enfranchise Indians, on approval of report of Superintendent.

5. On the report of the Superintendent General that any Indian, male or female, over the age of twenty-one years is fit for enfranchisement, the Governor in Council may by order direct that such Indian shall be and become enfranchised at the expiration of two years from the date of such order or earlier if requested by such Indian, and from the date of such enfranchisement the provisions of this and of any other Act or law making any distinction between the legal rights, privileges, disabilities and liabilities of Indians and those of His Majesty's other subjects, shall cease to apply to such Indian or to his or her minor unmarried children, or, in the case of a married male Indian, to the wife of such Indian, and every such Indian and child and wife shall thereafter have, possess and enjoy all the legal powers, rights and privileges of His Majesty's other subjects, and shall no longer be deemed to be Indians within the meaning of any laws relating to Indians.

Effect of enfranchisement.

Procedure where wife living apart.

6. Where a wife is living apart from her husband, the enfranchisement of the husband shall not carry with it the enfranchisement of his wife except on her own written request to be so enfranchised.

Right of Indian to choose name, and to be known by same.

7. An Indian over the age of twenty-one years shall have the right to choose the christian name and surname by which he or she wishes to be enfranchised and thereafter known, and from the date of the order of enfranchisement such Indian shall thereafter be known by such names, and if no such choice is made such Indian shall be enfranchised by and bear the name or names by which he or she has been theretofore commonly known.

Letters patent for his land to be issued to Indian upon enfranchisement.

8. Upon the issue of an order of enfranchisement the Superintendent General shall, if any Indian enfranchised holds any land on a reserve, cause letters patent to be issued to such Indian for such land; and such Indian shall pay to the funds of the band such amount per acre for the land he holds as the Superintendent General considers to be the value of the common interest of the band in such land, and such payment shall be a charge against the share of such Indian in the funds of the band.

Receives his share of funds.

9. The Superintendent General shall also pay to each Indian upon enfranchisement his or her share of the funds to the credit of the band, including such amount as the Superintendent General determines to be his or her share

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of the value of the common interest of the band in the lands of the reserve or reserves, or share of the principal of the annuities of the band capitalized at five per centum, out of such moneys as are provided by Parliament for the purpose or which may be otherwise available for such purpose.

10. The land and money of any minor, unmarried children may be held for the benefit of such minor or may be granted or paid in whole or in part to the father, or, if the father is dead, to the mother, or in either case to such person as the Superintendent General may select for such purpose for the maintenance of such minor, and the land and money of the wife shall be granted and paid to the husband, unless in any case the Superintendent General shall direct that the whole or any part thereof be granted or paid to the wife herself, in which case the same shall be granted or paid to the wife.

Land and money of children and wife.

11. If such Indian holds no land in a reserve he or she shall be paid from the funds of the band such amount as the Superintendent General determines to be his or her share of the value of the common interest of the band in the lands of the reserve or reserves, and shall also be paid his or her share of the funds or annuities of the band capitalized as aforesaid.

Payments from funds of band, if no land.

12. Every Indian who is not a member of the band and every non-treaty Indian who, with the acquiescence of the band and approval of the Superintendent General, has been permitted to reside on the reserve or to obtain a holding or location thereon, may be enfranchised and given letters patent for such land as a member of the band, provided that such Indian or non-treaty Indian shall pay to the credit of the band the value of the common interest of the band in the land for which he receives a patent.

Indians not members of band and non-treaty Indians, enfranchised, and granted letters patent.

13. On the issue of the letters patent to any enfranchised Indian for any land he may be entitled to, or the payment from the capital funds or annuities of the band, as above provided, such Indian and his or her minor unmarried children and, in the case of a male married Indian, the wife of such Indian shall cease to have any further claims whatsoever against any common property or funds of the band. 1920, c. 50, s. 3; 1922, c. 26, s. 1; 1924, c. 47, s. 6.

Claims on funds of band cease on issue of letters patent.

111. When a majority of the members of a band is enfranchised, the common land or other public property of the band shall be equitably allotted to members of the band, and thereafter the residue, if any, of such land or public property may be sold by the Superintendent General and the proceeds of such sale placed to the credit of the funds of the band to be divided as provided in the

Disposal of common lands or public property.

s. 111, c.98, R.S.C. 1927 repealed by subsection 123(2), c.29, S.C. 1951.

Case of Indian cemeteries, and common property which should be preserved.

Sales at public auction.

last preceding section, but the Governor in Council may reserve and set apart from the funds of the band such sum as the Superintendent General may consider necessary for the perpetual care and protection of any Indian cemetery or burial plot belonging to such Indians, and any other common property which in the opinion of the Superintendent General should be preserved as such.

2. No part of such land or other property shall be sold to any person other than a member of the band except by public auction after three months' advertisement in the public press. 1920, c. 50, s. 3.

s. 112, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Regulations to enforce these provisions.

112. The Governor in Council may make regulations for the carrying out of the provisions of the two sections immediately preceding this section, and subject to the provisions of this Act for determining how the land, capital moneys and other property of a band, or any part thereof, shall be divided, granted and paid, upon the enfranchisement of any Indian or Indians belonging to such band or having any interest in any of the property of such band, and decide any questions arising under the said sections, and the decision of the Governor in Council thereon shall be final and conclusive. 1920, c. 50, s. 3.

Final decision of Governor in Council.

s. 113, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Report to Parliament.

113. The Superintendent General shall, within fifteen days after the opening of each session of Parliament, submit to both Houses of Parliament a list of the Indians enfranchised under this Act during the previous fiscal year, and the amount of land and money granted and paid to each Indian so enfranchised. 1920, c. 50, s. 3.

s. 114, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Enfranchisement of Indians.

114. If an Indian who holds no land in a reserve, does not reside on a reserve and does not follow the Indian mode of life, makes application to be enfranchised, and satisfies the Superintendent General that he is self-supporting and fit to be enfranchised, and surrenders all claims whatsoever to any interest in the lands of the band to which he belongs, and accepts his share of the funds at the credit of the band including the principal of the annuities of the band, to which share he would have been entitled had he been enfranchised under the foregoing sections of the Act, in full of all claims to the property of the band, or in case the band to which he belongs has no funds or principal of annuities, surrenders all claims whatsoever to any property of the band, the Governor in Council may order that such Indian be enfranchised and paid his said share if any, and from the date of such order such Indian, together with his wife and unmarried minor children, shall be held to be enfranchised.

2. Any unmarried Indian woman of the age of twenty-one years, and any Indian widow and her minor children, may be enfranchised in the like manner in every respect as a male Indian and his said children.

3. This section shall apply to the Indians in any part of Canada. 1918, c. 26, s. 6.

Offences and Penalties.

115. Every person, or Indian other than an Indian of the band, who, without the authority of the Superintendent General, resides or hunts upon, occupies or uses any land or marsh, or who resides upon or occupies any road, or allowance for road, running through any reserve belonging to or occupied by such band shall be liable, upon summary conviction, to imprisonment for a term not exceeding one month or to a penalty not exceeding ten dollars and not less than five dollars, with costs of prosecution, half of which penalty shall belong to the informer. R.S., c. 81, s. 124.

Residing, etc. upon any reserve without authority.

Penalty.

s. 115, c. 98, R.S.C. 1927 repealed and replaced by s. 8, c. 42, S.C. 1932-33, and subsequently repealed by subsection 123(2), c. 29, S.C. 1951.

116. Any person or Indian who, being lawfully required by an Indian agent, a chief of the band occupying a reserve, or a constable,

Refusing to remove from reserve on demand of chief.

- (a) to remove with his family, if any, from the land, marsh, road, or allowance for road upon which he is or has settled or is residing or hunting, or which he occupies;
(b) to remove his cattle from such land or marsh;
(c) to cease fishing in any marsh, river, stream or creek on or running through a reserve; or
(d) to cease using, occupying, settling or residing upon any land, river, stream, creek, marsh, road or allowance for a road in a reserve;

s. 116, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

fails to comply with such requirement, shall, upon summary conviction, be liable to a penalty of not less than five dollars and not more than ten dollars for every day during which such failure continues, and, in default of payment, to be imprisoned for a term not exceeding three months. R.S., c. 81, s. 125.

Penalty.

paragraph 116(b), c. 98, R.S.C. 1927 repealed and replaced by s. 11, c. 25, S.C. 1930.

117. Every Indian, not being an Indian of the band, who, in the case where shooting privileges over a reserve or part of a reserve, or fishing privileges in any marsh, pond, river, stream or creek upon or running through a reserve, have with the consent of the Indians of the band, been leased or granted to any person, and, in such case, every person not, under such lease or grant, entitled so to do, who hunts, shoots, kills or destroys any game animals or birds, or who fishes for, takes, catches or kills any fish

Shooting or fishing on reserved territory.

s. 117, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

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to which such exclusive privilege extends, upon the reserve or part of a reserve, or in any marsh, pond, river, stream or creek covered by such lease or grant, shall, in addition to any other penalty or liability thereby incurred, be liable, on summary conviction, for every such offence to a penalty not exceeding ten dollars and not less than five dollars, and, in default of payment, to imprisonment for any term not exceeding one month: R.S., c. 81, s. 126.

Penalty.

s. 118, c. 98, ^{Trespassing on reserves and cutting or removing.}
R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

118. Every person, or Indian, other than an Indian of the band to which the reserve belongs, who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away or removes from any of the lands, roads or allowances for roads in a reserve, any of the trees, saplings, shrubs, underwood, timber, cordwood or part of a tree, or hay, or removes any of the stone, soil, minerals, metals or other valuables from the said lands, roads or allowances for roads, shall, on summary conviction thereof before any stipendiary magistrate, police magistrate or any two justices of the peace or an Indian agent, incur in each case the costs of prosecution and

Trees.

(a) for every tree he cuts, carries away or removes, a penalty of twenty dollars;

Timber.

(b) for cutting, carrying away or removing any of the saplings, shrubs, underwood, timber, cordwood or part of a tree or hay, if under the value of one dollar, a penalty of four dollars; and, if over the value of one dollar, a penalty of twenty dollars;

Stone, soil, minerals.

(c) for removing any of the stone, soil, minerals, metals, or other valuables aforesaid, a penalty of twenty dollars.

Punishment in case of default of payment.

2. In default of immediate payment of the said penalties and costs, such magistrate, justices of the peace, or Indian agent may issue a warrant directed to any person or persons by him or them named therein, to levy the amount of the said penalties and costs by distress and sale of the goods and chattels of the person or Indian liable to pay the same, or may, without proceeding by distress and sale, upon non-payment of such penalties and costs, order the person or Indian liable therefor to be imprisoned in the common gaol of the county or district in which the said reserve or any part thereof lies for a term not exceeding thirty days, if the penalty does not exceed twenty dollars, or for a term not exceeding three months, if the penalty exceeds twenty dollars.

Issue of warrant, etc.

3. The Superintendent General, or such other officer or person as he shall authorize in that behalf may issue the warrant on any such conviction; or may, without proceed-

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ing by distress and sale, make such order upon such conviction as such magistrate, justices of the peace or Indian agent could make; and similar proceedings may be had upon the warrant so issued as if it had been issued by the magistrate, justices of the peace or Indian agent before whom the person was convicted.

4. If upon the return of any warrant for distress and sale, the amount thereof has not been made, or if any part of it remains unpaid, such magistrate, or justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as aforesaid, may commit the person in default to the common gaol, as aforesaid, for a term not exceeding thirty days, if the sum claimed upon the said warrant does not exceed twenty dollars, or for a term not exceeding three months if the sum exceeds twenty dollars.

Committal in default of distress.

5. All such penalties shall be paid to the Minister of Finance, and shall be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council directs. R.S., c. 81, s. 127.

Application of penalties.

119. Every Indian of the band who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose,

Indians without a license, tree passing on reserves.

s. 119, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

(a) cuts, carries away or removes from land in a reserve held by another Indian under a location title or by an Indian otherwise recognized by the Department as the occupant thereof any of the trees, cordwood, or part of a tree, saplings, shrubs, underwood, timber or hay thereon, or removes from such land any of the stone, soil, minerals, metals or other valuables;

(b) cuts, carries away or removes from any portion of the reserve of his band, for sale and not for the immediate use of himself and his family any trees, timber, cordwood or part of a tree, saplings, shrubs, underwood or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables therefrom, for sale, as aforesaid; or

(c) unless with the consent of the band and the approval of the Superintendent General, cuts or uses any pine or large timber for any purpose other than for building on his own location or farm;

shall incur the penalties providing in the last preceding section in respect to Indians of other bands and other persons.

2. The same proceedings may be had for the recovery thereof as are provided for in the said section. R.S., c. 81, s. 128.

Proceedings for recovery.

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s. 120, c. 98 R.S.C. 1927 repealed and replaced by **s. 12, c. 25**, S.C. 1930 and by **s. 9, c. 42**, S.C. 1932-33 and subsequently repealed by subsection 123(2), c. 29, S.C. 1951.

Buying from Indians contrary to regulations of Governor in Council.

120. Every person who buys or otherwise acquires from any Indian or band or irregular band of Indians in the province of Manitoba, Saskatchewan or Alberta, or the Territories, any grain, root crops or other produce contrary to regulations made by the Governor in Council in that behalf, shall, on summary conviction before a stipendiary magistrate, police magistrate or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. R.S., c. 81, s. 129.

s. 121, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Cutting and improving trees from reserve contrary to regulations of Governor in Council.

121. Every person who cuts, carries away or removes from any reserve or special reserve, any hard or sugar-maple tree or sapling, or buys or otherwise acquires from any Indian or non-treaty Indian, or other person, any hard or sugar-maple tree or sapling so cut, carried away or removed from any reserve or special reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories, contrary to regulations made in that behalf by the Governor in Council, shall, on summary conviction before a stipendiary magistrate, police magistrate, or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both. R.S., c. 81, s. 130.

s. 122, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Trading without license.

122. Every person being
 (a) an official or employee connected with the Department;
 (b) a missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians; or
 (c) a school teacher on an Indian reserve; and
 (d) in the province of Manitoba, Saskatchewan or Alberta, or the Territories;
 who, on a reserve, without the special license in writing of the Superintendent General, trades with any Indian or directly or indirectly sells to him any goods or supplies, cattle or other animals, shall be liable to a fine equal in amount to double the sum received for the goods, supplies, cattle or other animals sold, and, in addition, to the costs of prosecution before a police magistrate, a stipendiary magistrate, a justice of the peace or the Indian agent for the locality where the offence occurs. R.S., c. 81, s. 131.

s. 123, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Penalty.

123. If any person without authority, cuts or employs, or induces any other person to cut, or assists in cutting any trees of any kind on Indian lands or on any reserve, or removes or carries away, or employs, or induces or assists any other person to remove or carry away any trees of any kind

s. 124, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Buying or acquiring presents given to Indians.

124. Every person or Indian other than an Indian of the band who, without the written consent of the Superintendent General or his agent, the burden of proof concerning which shall be on the accused, buys or otherwise acquires any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians or any part thereof, is guilty of an offence, and liable on summary conviction, to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months. R.S., c. 81, s. 133.

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so cut from any Indian lands or reserve, he shall not acquire any right to the trees so cut, or any claim to any remuneration for cutting or preparing the same for market, or conveying the same to or towards market.

Confers no property or right to remuneration.

2. When the trees or logs or timber or any products thereof have been removed, so that the same cannot, in the opinion of the Superintendent General, conveniently be seized, he shall, in addition to the loss of his labour and disbursements, incur a penalty of three dollars for each tree, rafting stuff excepted, which he is proved to have cut or caused to be cut or carried away.

If trees cannot be seized. Penalty.

3. Such penalty shall be recoverable with costs at the suit and in the name of the Superintendent General or resident agent in any court having jurisdiction in civil matters to the amount of the penalty.

Recovery of penalty.

4. In all such cases, it shall be incumbent on the person charged to prove his authority to cut.

Proof of authority.

5. The averment of the person seizing or prosecuting that he is duly employed under the authority of this Part shall be sufficient proof thereof, unless the defendant proves the contrary. R.S., c. 81, s. 132.

What shall be sufficient evidence.

s. 124, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Buying or acquiring presents given to Indians. Penalty.

124. Every person or Indian other than an Indian of the band who, without the written consent of the Superintendent General or his agent, the burden of proof concerning which shall be on the accused, buys or otherwise acquires any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians or any part thereof, is guilty of an offence, and liable on summary conviction, to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months. R.S., c. 81, s. 133.

s. 125, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Land sale agent purchasing Indian land. Penalty.

125. Every agent for the sale of Indian lands who, within his division, directly or indirectly, except under an order of the Governor in Council, purchases any land which he is appointed to sell, or becomes proprietor of or interested in any such land, during the time of his agency shall forfeit his office and incur a penalty of four hundred dollars for every such offence, recoverable in an action of debt by any person who sues for the same. R.S., c. 81, s. 134.

s. 126, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Every person. Selling intoxicants to Indians.

126. Every one who by himself, his clerk, servant or agent, and every one who in the employment or on the premises of another directly or indirectly on any pretence or by any device,
 (a) sells, barter, supplies or gives to any Indian or non-treaty Indian, or to any person, male or female, who is reputed to belong to a particular band, or who

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paragraph 126(1)(c), c. 98, R.S.C. 1927 repealed and replaced by s. 6, c. 20, S.C. 1936.

Opening and keeping a tavern on a reserve.

Having intoxicants in his possession in house of Indian.

Selling intoxicants on reserve.

Penalty.

subsection 126(2), c. 98, R.S.C. 1927 repealed and replaced by s. 13, c. 25, S.C. 1930

Application of penalty.

and subsequently repealed by s. 7, c. 20, S.C. 1936.

Commander of vessel whereon intoxicants are sold guilty of offence.

Penalty.

s. 127, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Application of penalties.

subsection 127(2), c. 93, R.S.C. 1927 repealed by s. 8, c. 20, S.C. 1936.

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follows the Indian mode of life, or any child of such person any intoxicant, or causes or procures the same to be done or attempts the same or connives thereat; (b) opens or keeps or causes to be opened or kept on any reserve or special reserve a tavern, house or building in which any intoxicant is sold, supplied or given; (c) is found in possession of any intoxicant in the house, tent, wigwam, or place of abode of any Indian or non-treaty Indian or of any person on any reserve or special reserve, or on any other part of any reserve or special reserve; or (d) sells, barter, supplies or gives to any person on any reserve or special reserve any intoxicant; shall, on summary conviction before any judge, police magistrate, stipendiary magistrate, or two justices of the peace or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding three hundred dollars and not less than fifty dollars with costs of prosecution, or to both penalty and imprisonment in the discretion of the convicting judge, magistrate, justices of the peace or Indian agent.

2. A moiety of every such penalty shall belong to the informer or prosecutor, and the other moiety thereof to His Majesty to form part of the fund for the benefit of that body of Indians or non-treaty Indians with respect to one or more members of which the offence was committed. R.S., c. 81, s. 135.

127. The commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicant has been sold, bartered, exchanged, supplied or given to any Indian or non-treaty Indian, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, be liable to a penalty not exceeding three hundred dollars and not less than fifty dollars for each such offence, with costs of prosecution, and in default of immediate payment of such penalty and costs, any person so convicted shall be committed to any common gaol, house of correction, lock-up or other place of confinement by the judge, magistrate or two justices of the peace, or Indian agent, before whom the conviction has taken place, for a term not exceeding six months and not less than one month, with or without hard labour, or until such penalty and costs are paid.

2. The penalty shall be applied as provided in the last preceding section. R.S., c. 81, s. 136.

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128. Every Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or who sells, exchanges with, barter, supplies or gives to any other Indian or non-treaty Indian, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding one hundred dollars and not less than twenty-five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. R.S., c. 81, s. 137.

Indians having intoxicants and selling the same to Indians. s. 128, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Penalty.

129. No penalty shall be incurred when the intoxicant is made use of in case of sickness under the sanction of a medical man or under the directions of a minister of religion.

Exception in case of illness. s. 129, c. 98, R.S.C. 1927, repealed by subsection 123(2), c. 29, S.C. 1951.

2. The burden of proof that the intoxicant has been so made use of shall be on the accused. R.S., c. 81, s. 138.

Proof.

130. Any constable or peace officer may arrest without warrant any person or Indian found gambling, or drunk, or with intoxicants in his possession, on any part of a reserve, and may detain him until he can be brought before a justice of the peace, and such person or Indian shall be liable upon summary conviction to imprisonment for a term not exceeding three months or to a penalty not exceeding fifty dollars and not less than ten dollars, with costs of prosecution, half of which pecuniary penalty shall belong to the informer.

Arrest without warrant of any person or Indian with intoxicants. subsection 130(1), c. 98, R.S.C. 1927 amended by s. 9, c. 20, S.C. 1936.

Penalty.

2. Any person or Indian who has been gambling or has been drunk on an Indian reserve, or has had liquor in his possession on an Indian reserve, shall be liable on summary conviction to imprisonment for any term not exceeding three months, or to a penalty not exceeding fifty dollars and not less than ten dollars, with costs of prosecution, half of which pecuniary penalty shall belong to the informer. R.S., c. 81, s. 139; 1920, c. 50, s. 4.

Gambling, drinking or possession of liquor on Indian reserve. subsection 130(2), c. 98, R.S.C. 1927 amended by s. 10, c. 20, S.C. 1936.

s. 130, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

131. The keg, barrel, case, box, package or receptacle from which any intoxicant has been sold, exchanged, bartered, supplied or given, as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified; and any intoxicant imported, manufactured or brought into and upon any reserve or special reserve, or into the house, tent, wigwam or place

Kegs, etc., in which intoxicants are carried to be forfeited. subsection 123(2), c. 29, S.C. 1951.

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Search. of abode, or on the person of any Indian or non-treaty Indian, or suspected to be upon any reserve or special reserve, may be searched for under a search warrant in that behalf granted by any judge, police magistrate, stipendiary magistrate or justice of the peace, and, if found, seized by any Indian superintendent, agent or bailiff, or other officer connected with the Department, or by any constable, wheresoever found on such land or in such place or on the person of such Indian or non-treaty Indian.

Destructive of kegs, etc. 2. On complaint before any judge, police magistrate, stipendiary magistrate, justice of the peace or Indian agent, he may, on evidence that this Act has been violated in respect of any such intoxicant or of any such keg, barrel, case, box, package, receptacle or vessel, or contents thereof, declare the same forfeited, and cause the same to be forthwith destroyed.

Indian or person found in possession to be punished. 3. Such judge, magistrate, justice of the peace or Indian agent may condemn the Indian or person in whose possession the same is found to pay a penalty not exceeding one hundred dollars and not less than fifty dollars, and the costs of prosecution; and, in default of immediate payment, the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement, with or without hard labour, for any term not exceeding six months, and not less than two months, unless such penalty and costs are sooner paid.

Penalty. 4. A moiety of such penalty shall belong to the prosecutor, and the other moiety to His Majesty for the purpose hereinbefore mentioned. R.S., c. 81, s. 140.

subsection 131(4), c. 98, R.S.C. 1927 repealed by s. 11, c. 20, S.C. 1936

and s. 131 subsequently repealed by subsection 123(2), c. 29, S.C. 1951.

s. 132, c. 98, R.S.C. 1927 repealed and

replaced by s. 14, c. 25, S.C. 1930 and subsequently repealed by subsection 123(2), c. 29, S.C. 1951.

Vessels used in carrying intoxicants for Indians, to be forfeited and sold.

Proceeds.

Articles exchanged for intoxicants to be forfeited and sold.

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s. 133, c. 98, R.S.C. 1927

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134. Every person who introduces any intoxicant at any council or meeting of Indians held for the purpose of discussing or assenting to a release or surrender of a reserve or portion thereof or for the purpose of assenting to the issuing of a license, and every agent or officer employed by the Superintendent General, or by the Governor in Council, who introduces, allows or countenances by his presence the use of such intoxicant among such Indians during the week before or at or the week after such council or meeting, shall incur a penalty of two hundred dollars recoverable by action in any court of competent jurisdiction.

2. A moiety of such penalty shall belong to the informer. R.S., c. 81, s. 143.

135. Every Indian who is found in a state of intoxication shall be liable on summary conviction thereof to imprisonment for any term not exceeding one month, or to a penalty not exceeding thirty dollars and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. R.S., c. 81, s. 144.

136. Any constable or other peace officer may, without warrant, arrest any Indian or non-treaty Indian found in a state of intoxication, and convey him to any common gaol, house of correction, lock-up, or other place of confinement, there to be kept until he is sober; and such Indian or non-treaty Indian shall, when sober, be brought for trial before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent. R.S., c. 81, s. 145.

137. If any Indian or non-treaty Indian who has been so convicted, refuses, upon examination, to state or give information of the person from whom, the place where, and the time when, he procured such intoxicant, and if from any other Indian or non-treaty Indian, then, if within his knowledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days, or to an additional penalty not exceeding fifteen dollars and not less than three dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent.

2. In any prosecution under this Act the certificate of analysis of a provincial or dominion analyst shall be accepted as prima facie evidence of the fact stated therein as to the alcoholic or narcotic content of the sample analyzed. R.S., c. 81, s. 146; 1927, c. 32, s. 5.

repealed by subsection 123(2), c. 29, S.C. 1951.

s. 134, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Penalty. subsection 134(2), c. 98, R.S.C. 1927

Application of penalty. repealed by s. 12, c. 20, S.C. 1936.

Indian intoxicated. s. 135, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Arrest without warrant of intoxicated Indian. s. 136, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Refusal to state where intoxicant was procured. s. 137, c. 98, R.S.C. 1927, repealed by subsection 123(2), c. 29, S.C. 1951.

Penalty. subsection 137(2), c. 98, R.S.C. 1927, repealed and replaced by s. 15, c. 25, S.C. 1930.

R.S., 1927.

R.S.C. 1927, c. 98, cont'd.

R.S.C. 1927, c. 98, cont'd.

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138. Every agent who knowingly and falsely informs, or causes to be informed, any person applying to him to purchase any land within his division and agency, that the same has already been purchased, or who refuses to permit the person so applying to purchase the same according to existing regulations, shall be liable therefor to the person so applying, in the sum of five dollars for each acre of land which the person so applying offered to purchase, recoverable by action of debt in any court of competent jurisdiction. R.S., c. 81, s. 147.

Agent giving false information as to lands.
s. 138, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

139. Every person who, after public notice by the Superintendent General prohibiting the sale, gift, or other disposal to Indians in any part of the province of Manitoba, Saskatchewan or Alberta, or the Territories, of any fixed ammunition or ball cartridge, without the permission in writing of the Superintendent General, sells or gives, or in any other manner conveys to any Indian, in the portion of the said provinces or Territories to which such notice applies, any fixed ammunition or ball cartridge, shall, on summary conviction before any stipendiary or police magistrate or by any two justices of the peace, or by an Indian agent, be liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months, or to both penalty and imprisonment, within the limits aforesaid, at the discretion of the court before which the conviction is had. R.S., c. 81, s. 148.

Sale, etc., of ammunition when prohibited.
s. 139, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Penalty.

140. Every Indian or other person who engages in, or assists in celebrating or encourages either directly or indirectly another to celebrate any Indian festival, dance or other ceremony of which the giving away or paying or giving back of money, goods or articles of any sort forms a part, or is a feature, whether such gift of money, goods or articles takes place before, at, or after the celebration of the same, or who engages or assists in any celebration or dance of which the wounding or mutilation of the dead or living body of any human being or animal forms a part or is a feature, is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding six months and not less than two months.

Celebrating activities, dances or ceremonies at which presents are made, or bodies mutilated.
s. 140, c. 98
R.S.C. 1927
amended by
s. 16, c. 25,
S.C. 1930
and
subsequently
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Penalty.

Exception.

2. Nothing in this section shall be construed to prevent the holding of any agricultural show or exhibition or the giving of prizes for exhibits thereat.

3. Any Indian in the province of Manitoba, Saskatchewan, Alberta, or British Columbia, or in the Territories who participates in any Indian dance outside the bounds of his own reserve, or who participates in any show, exhibition, performance, stampede or pageant in aboriginal costume without the consent of the Superintendent General or his

Restriction. Indian dances, etc.
subsection
140(3), c. 98
R.S.C. 1927
amended by
s. 10, c. 42,
S.C. 1932-33.

R.S., 1927.

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authorized agent, and any person who induces or employs any Indian to take part in such dance, show, exhibition, performance, stampede or pageant, or induces any Indian to leave his reserve or employs any Indian for such a purpose, whether the dance, show, exhibition, stampede or pageant has taken place or not, shall on summary conviction be liable to a penalty not exceeding twenty-five dollars, or to imprisonment for one month, or to both penalty and imprisonment. R.S., c. 81, s. 149; 1914, c. 35, s. 8; 1918, c. 26, s. 7.

141. Every person who, without the consent of the Superintendent General expressed in writing, receives, obtains, solicits or requests from any Indian any payment or contribution or promise of any payment or contribution for the purpose of raising a fund or providing money for the prosecution of any claim which the tribe or band of Indians to which such Indian belongs, or of which he is a member, has or is represented to have for the recovery of any claim or money for the benefit of the said tribe or band, shall be guilty of an offence and liable upon summary conviction for each such offence to a penalty not exceeding two hundred dollars and not less than fifty dollars or to imprisonment for any term not exceeding two months. 1927, c. 32, s. 6.

142. Every fine, penalty or forfeiture under this Act, except so much thereof as is payable to an informer or person suing therefor, shall belong to His Majesty for the benefit of the band of Indians 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: Provided that the Governor in Council may from time to time direct that the same be paid to any provincial, municipal or local authority which wholly or in part bears the expense of administering the law under which such fine, penalty or forfeiture is imposed, or that the same be applied in any other manner deemed best adapted to attain the objects of such law or to secure its due administration, and may in case of doubt decide what band is entitled to the benefit of any such fine, penalty or forfeiture. R.S., c. 81, s. 150.

Evidence and Procedure.

143. Upon any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever or by whomsoever committed, any court, judge, police or stipendiary magistrate, recorder, coroner, justice of the peace or Indian agent, may receive the evidence of any Indian or non-treaty Indian, who is

Penalty.

Receiving money for the prosecution of a claim.
s. 141, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Application of penalties.
s. 142, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Governor in Council may apply the same otherwise.

Evidence of unbelieving Indian may be received on his solemn affirmation.
s. 143, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

R.S., 1927.

Chap. 98. *Indians.* Part I.

destitute of the knowledge of God or of any fixed and clear belief in religion, or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian or non-treaty Indian, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth, and nothing but the truth, or in such form as is approved by such court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent, as most binding on the conscience of such Indian or non-treaty Indian. R.S., c. 81, s. 151.

s. 144, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

144. In the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian or non-treaty Indian, as aforesaid, shall be reduced to writing and signed by the Indian, by mark if necessary, giving the same, and verified by the signature or mark of the person acting as interpreter, if any, and by the signature of the judge, magistrate, recorder, coroner, justice of the peace, Indian agent or person before whom such evidence or information is given. R.S., c. 81, s. 152.

s. 145, c. 98
R.S.C. 1927,
repealed by
subsection
123(2), c. 29,
S.C. 1951.

145. The court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent shall, before taking any such evidence, information or examination, caution every such Indian or non-treaty Indian, as aforesaid, that he will be liable to incur punishment if he does not tell the truth, the whole truth and nothing but the truth.

Effect of
solemn
affirmation
of Indian.

2. Every solemn affirmation or declaration, in whatsoever form made or taken, by any Indian or non-treaty Indian, as aforesaid, shall be of the same force and effect as if such Indian or non-treaty Indian had taken an oath in the usual form. R.S., c. 81, ss. 153 and 154.

s. 146, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

146. The written declaration or examination so made, taken and verified, of any such Indian or non-treaty Indian, as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal proceeding when under the like circumstances the written affidavit, examination, deposition or confession of any person might be lawfully read and received as evidence.

Certified
copies of
records,
official
papers,
etc. to be
evidence.

2. Copies of any records, documents, books or papers belonging to or deposited in the Department, attested under the signature of the Superintendent General or of the Deputy of the Superintendent General, shall be evidence in all cases in which the original records, documents, books or papers would be evidence. R.S., c. 81, s. 155.

R.S., 1927.

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147. In any order, writ, warrant, summons and proceeding whatsoever made, issued or taken by the Superintendent General, or any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, it shall not be necessary to insert or express the name of the person or Indian summoned, arrested, distrained upon, imprisoned or otherwise proceeded against therein, except when the name of such person or Indian is truly given to or known by the Superintendent General, or such officer or person, or such stipendiary magistrate, police magistrate, justice of the peace or Indian agent.

Name of
offender
need not be
entered in
the warrant
in certain
cases.
s. 147, c. 98,
R.S.C. 1927,
repealed by
subsection
123(2), c. 29,
S.C. 1951.

2. If the name is not truly given to or known by him, he may name or describe the person or Indian by any part of the name of such person or Indian given to or known by him.

What
description
shall suffice.

3. If no part of the name is given to or known by him, he may describe the person or Indian proceeded against in any manner by which he may be identified.

Where
name
unknown.

4. All such proceedings containing or purporting to give the name or description of any such person or Indian, as aforesaid, shall *prima facie* be sufficient. R.S., c. 81, s. 156.

Prima facie
sufficient.

148. All sheriffs, gaolers or peace officers, to whom any such process is directed by the Superintendent General, or by any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, and all other persons to whom such process is directed with their consent, shall obey the same; and all other officers shall, upon reasonable requisition so to do, assist in the execution thereof. R.S., c. 81, s. 157.

Execution
of order of
Superin-
tendent
General by
sheriffs,
gaolers, etc.
s. 148, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

149. In all cases of encroachment upon, or of violation of trust respecting any special reserve, proceedings may be taken in the name of His Majesty, in any superior court, notwithstanding the legal title is not vested in His Majesty. R.S., c. 81, s. 158.

His
Majesty's
name to be
used in
certain
cases.

150. Any judge of a court, judge of sessions of the peace, recorder, police magistrate or stipendiary magistrate, shall have full power to do alone whatever is authorized by this Part to be done by a justice of the peace or by two justices of the peace. R.S., c. 81, s. 159.

Who may
act as
justice or
two justices
of the
peace.

151. Any recorder, police magistrate or stipendiary magistrate, appointed for or having jurisdiction to act in any city or town shall, with respect to offences and matters under this Part, have and exercise jurisdiction over the whole county or union of counties or judicial district in which the city or town for which he has been appointed or in which he has jurisdiction is situate. R.S., c. 81, s. 160.

Jurisdic-
tion in
city or
town to
have
jurisdiction
in sur-
rounding
county
or district.
s. 149, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

s. 150, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

R.S., 1927.

R.S.C. 1927, c. 98, cont'd.

R.S.C. 1927, c. 98, cont'd.

Chap. 98. *Indians.* Part I.

152. Every Indian agent shall for all the purposes of this Act or of any other Act respecting Indians, and with respect to

Indian agent ex officio justice of the peace.

s. 152, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

(a) any offence against the provisions of this Act or any other Act respecting Indians;

(b) any offence against the provisions of the Criminal Code respecting the inciting of Indians to commit riotous acts; or

(c) any offence by any Indian or non-treaty Indian against any of the provisions of those parts of the Criminal Code relating to vagrancy and offences against morality;

Jurisdiction. be *ex officio* a justice of the peace and have the power and authority of two justices of the peace, anywhere within the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined by the Governor in Council, whether the Indian or non-treaty Indian charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or dealt with, is or is not within his ordinary jurisdiction, charge or supervision as an Indian agent. R.S., c. 81, s. 161.

153. In the provinces of Manitoba, British Columbia, Saskatchewan and Alberta, and in the Territories, every Indian agent shall, for all such purposes and with respect to any such offence, be *ex officio* a justice of the peace and have the power and authority of two justices of the peace, whether or not the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined as aforesaid, extend to the place where he may have occasion to act as such justice or to exercise such power or authority, and whether the Indians charged with or in any way concerned in or affected by the offence, matter or thing, to be tried, investigated or otherwise dealt with, are or are not within his ordinary jurisdiction, charge or supervision as Indian agent. R.S., c. 81, s. 162.

Special jurisdiction.

s. 153, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

154. If any Indian is convicted of any crime punishable by imprisonment in a penitentiary or other place of confinement, the costs incurred in procuring such conviction, and in carrying out the various sentences recorded, may be defrayed by the Superintendent General, and paid out of any annuity or interest coming to such Indian, or to the band, as the case may be. R.S., c. 81, s. 163.

Indian imprisoned not to receive annuity while imprisoned.

s. 154, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

General.

155. No Indian or non-treaty Indian resident in the province of Manitoba, Saskatchewan or Alberta, or the Territories, shall be held capable of having acquired or of

Indian not capable of acquiring homestead.

s. 155, c. 98 R.S.C. 1927 repealed by subsection 123(2), c. 29, R.S., 1927, S.C. 1951.

Part I. *Indians.* Chap. 98.

acquiring a homestead or pre-emption right under any Act respecting Dominion lands, to a quarter-section, or any parcel of land in any surveyed or unsurveyed lands in the said provinces or territories, or the right to share in the distribution of any lands allotted to half-breeds: *Pro-Provido.*

vided that

(a) he shall not be disturbed in the occupation of any plot on which he had permanent improvements prior to his becoming a party to any treaty with the Crown; *Occupation not to be disturbed.*

(b) nothing in this section shall prevent the Superintendent General, if found desirable, from compensating any Indian for his improvements on such a plot of land, without obtaining a formal surrender thereof from the band; and *May be compensated for improvements.*

(c) nothing in this section shall apply to any person who withdrew from any Indian treaty prior to the first day of October, in the year one thousand eight hundred and seventy-four. R.S., c. 81, s. 164. *Section not to apply to certain Indians.*

156. Where shooting privileges over a reserve or part of a reserve, or fishing privileges thereon have, with the consent of the Indians of the band, been leased or granted to any person, it shall not be lawful for any person, not under such lease or grant entitled so to do, or for any Indian other than an Indian of the band, to hunt, shoot, kill or destroy any game animals or birds, or to fish for, take, catch or kill any fish to which such exclusive privilege extends, upon the reserve or part of a reserve. R.S., c. 81, s. 165. *Shooting and fishing privileges.*

s. 156, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

157. At the election of a chief or chiefs, or at the granting of any ordinary consent required of a band under this Part, those entitled to vote at the council or meeting thereof shall be the male members of the band, of the full age of twenty-one years; and the vote of a majority of such members, at a council or meeting of the band summoned according to its rules, and held in the presence of the Superintendent General, or of an agent acting under his instructions, shall be sufficient to determine such election or grant such consent. R.S., c. 81, s. 166. *How and by whom chiefs are to be elected.*

s. 157, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

158. If any band has a council of chiefs or councillors, any ordinary consent required of the band may be granted by a vote of a majority of such chiefs or councillors, at a council summoned according to its rules, and held in the presence of the Superintendent General or his agent. R.S., c. 81, s. 167. *How consent may be granted, if band has council.*

s. 158, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

R.S., 1927.

Chap. 98. *Indians.* Part II.

s. 159, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

No intoxicants to be introduced at any Indian council meeting.

159. No one shall introduce any intoxicant at any council or meeting of Indians held for the purpose of discussing or of assenting to a release or surrender of a reserve or portion thereof, or for the purpose of assenting to the issuing of a timber or other license. R.S., c. 81, s. 168.

s. 160, c. 98
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Before whom affidavits are to be made under this Act.

160. All affidavits required under this Act or intended to be used in reference to any claim, business or transaction in connection with Indian affairs, may be taken before the judge or clerk of any county or circuit court, or any justice of the peace, or any commissioner for taking affidavits in any court, or the Superintendent General, or the Deputy of the Superintendent General, or any inspector of Indian agencies, or any Indian agent, or any surveyor duly licensed and sworn, appointed by the Superintendent General to inquire into, or to take evidence, or report in any matter submitted to or pending before the Superintendent General, or if made out of Canada, before the mayor or chief magistrate of, or the British consul in, any city, town or municipality, or before any notary public. R.S., c. 81, s. 169.

s. 161, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Publication of regulations and laying before Parliament.

161. All regulations made by the Governor in Council under this Part shall be published in the *Canada Gazette*, and shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof. R.S., c. 81, s. 170.

s. 162, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Payment of Indian annuities.

162. The annuities payable to Indians in pursuance of the conditions of any treaty expressed to have been entered into on behalf of His Majesty or His predecessors, and for the payment of which the Government of Canada is responsible, shall be a charge upon the Consolidated Revenue Fund of Canada, and be payable out of any unappropriated moneys forming part thereof. 1911, c. 14, s. 3.

PART II.

INDIAN ADVANCEMENT.

Interpretation.

s. 163, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Definitions. "Electors." "Reserve" and "band."

163. In this Part, unless the context otherwise requires (a) "electors" means the male Indians of the full age of twenty-one years resident on any reserve to which this Part applies; (b) "reserve" includes two or more reserves, and "band" includes two or more bands united for the purposes of this Part by the Order in Council applying it. R.S., c. 81, s. 172.

Part II. *Indians.* Chap. 98.

Application of this Part.

164. This Part may be made applicable, as hereinafter provided, to any band of Indians in any of the provinces, or in the Territories, except in so far as it is herein otherwise provided. R.S., c. 81, s. 173.

Application of Part I.

s. 164, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

165. Whenever any band of Indians is declared by the Governor in Council to be considered fit to have this Part applied to it, this Part shall so apply from the time appointed in such Order in Council. R.S., c. 81, s. 174.

When this Part shall apply.

s. 165, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Application of Part I.

166. The provisions of Part I of this Act shall continue to apply to every band to which this Part is, from time to time, declared to apply, in so far only as they are not inconsistent with this Part.

Application of Part I.

s. 166, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

2. If it thereafter appears to the Governor in Council that this Part cannot be worked satisfactorily by any band to which it has been declared to apply, the Governor in Council may by Order in Council, declare that after a day named in the Order in Council, this Part shall no longer apply to such band, and such band shall thereafter be subject only to Part I, except that by-laws, rules and regulations theretofore made under this Part, and not *ultra vires* of the chiefs in council under Part I, shall continue in force until they are repealed by the Governor in Council. R.S., c. 81, s. 175.

As to by-laws.

Division of Reserves.

167. Every reserve to which this Part is to apply may, by the Order in Council applying it, be divided into sections, the number of which shall not exceed six, and each section shall have therein, as nearly as is found convenient, an equal number of male Indians of the full age of twenty-one years, or, should the majority of the Indians of the reserve so desire, the whole reserve may form one section, the wishes of the Indians in respect thereto being first ascertained in the manner prescribed in Part I in like matters, and certified to the Superintendent General by the Indian agent.

Division of reserves into sections.

subsection
167(1), c. 98,
R.S.C. 1927
repealed and
replaced by
s. 2, c. 29,
S.C. 1934,
and
s. 167, c. 98,
R.S.C. 1927
subsequently
repealed by
subsection
123(2), c. 29,
S.C. 1951.

2. The sections shall be distinguished by numbers from one upwards, and the reserve shall be designated in the Order in Council as *The Indian Reserve*, inserting such name as is thought proper, and the sections shall be designated by the numbers assigned to them respectively. R.S., c. 81, s. 176.

Designation of each.

R.S.C. 1927, c. 98, cont'd.

R.S.C. 1927, c. 98, cont'd.

Chap. 98. Indians. Part II.

Nominations for Election of Councillors.

168. A meeting of the electors for the purpose of nominating candidates for election as councillors shall be held between the hours of ten o'clock in the forenoon and twelve o'clock at noon, at a place to be appointed by the Indian agent, on a day being one week previous to the day on which the election of councillors is to be held on any reserve as hereinafter provided.

2. Due notice of such meeting shall be given in the manner customary in the band for calling meetings for public purposes. R.S., c. 81, s. 177.

169. The Indian agent, or in his absence such person as is appointed by the Superintendent General, or failing such appointment, a chairman to be chosen by the meeting, shall preside over such meeting and shall take and keep the minutes thereof. R.S., c. 81, s. 178.

170. Only Indians nominated at such meeting shall be recognized as, or permitted to become candidates for election as aforesaid; and each nomination to be valid must be made on the motion of an elector of the section of the reserve for the representation whereof the nominee is proposed as a candidate, and the motion must be seconded by another elector of that section. R.S., c. 81, s. 179.

171. The nominations of the candidates shall, so far as practicable, be made consecutively and previously to any speeches being made by the movers and seconders or by any other persons, but nominations may be made up to the hour of twelve o'clock noon. R.S., c. 81, s. 180.

172. If only one candidate for any councillorship is proposed, the Indian agent or chairman shall, at twelve o'clock noon, declare such candidate duly elected; and if two or more candidates are proposed for any councillorship, an election shall be held under the provisions of this Part. R.S., c. 81, s. 181.

Elections.

173. On a day and at a place, and between the hours prescribed in the Order in Council, the electors shall meet for the purpose of electing the members of the council of the reserve. R.S., c. 81, s. 182.

174. One or more members to represent each section of the reserve, as provided in such Order in Council, shall be elected by the electors resident in each section, and the Indian or Indians, as the case may be, having the votes of the greatest number of electors for each section, shall be the councillor or councillors, as the case may be therefor, provided he or they are respectively possessed of, and living in, a house in the reserve. R.S., c. 81, s. 183.

s. 174, c. 98,
R.S.C. 1927
repealed and
replaced by
s. 13, c. 20,
S.C. 1936.

Meeting
for election
of
councillors.

s. 168, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Notice of
meeting.

Chairman
to preside.

s. 169, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Candidates
and their
nomination.

s. 170, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Time of
nomination.

s. 171, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Proceedings
after
nomination.

s. 172, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

First
election
of members
of the
council.

Who shall
be deemed
elected.

Meeting for election of councillors.

Notice of meeting.

Chairman to preside.

Candidates and their nomination.

Time of nomination.

Proceedings after nomination.

First election of members of the council.

Who shall be deemed elected.

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175. The agent for the reserve shall preside at the election, or in his absence some person appointed by him as his deputy, with the consent of the Superintendent General, or some person appointed by the Superintendent General may preside at the said election, and shall take and record the votes of the electors, and may, subject to appeal to the Superintendent General by or on behalf of any Indian or Indians who deems himself or themselves aggrieved by the action of such agent or deputy, or of such agent or person appointed as aforesaid, admit or reject the claim of any Indian to be an elector, and may determine who are the councillors for the several sections, and shall report the same to the Superintendent General.

2. In any case of an equality of votes at any such election the agent or person residing thereat shall have the casting vote. R.S., c. 81, s. 184.

Who shall
preside at
the election
and his
powers.

s. 174, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

s. 175, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

Chairman
to have
casting
vote.

Meetings of Council.

176. On a day and at a place, and between the hours prescribed by the Superintendent General, if the day fixed for the same is within eight days from the date at which the councillors were elected, the said councillors shall meet and elect one of their number to act as chief councillor, and the councillor so elected shall be the chief councillor. R.S., c. 81, s. 185.

First
meeting
of
councillors.

s. 176, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

177. The council shall meet for the despatch of business, at such place on the reserve and at such times as the agent for the reserve appoints, but which shall not exceed twelve times or be less than four times in the year for which it is elected, and due notice of the time and place of each meeting shall be given to each councillor by the agent. R.S., c. 81, s. 86.

Meetings of
the council.

s. 177, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

178. At such meeting of the council the agent for the reserve, or his deputy appointed for the purpose with the consent of the Superintendent General, shall

Agent at
such
meeting,
his duties.

s. 178, c. 98,
R.S.C. 1927
repealed by
subsection
123(2), c. 29,
S.C. 1951.

- (a) preside, and record the proceedings;
- (b) control and regulate all matters of procedure and form and adjourn the meeting to a time named or *sine die*;
- (c) report and certify all by-laws and other acts and proceedings of the council to the Superintendent General;
- (d) address the council and explain and advise the members thereof upon their powers and duties.

2. No such agent or deputy shall vote on any question to be decided by the council. R.S., c. 81, s. 187.

R.S., 1927.

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s. 179, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Faith and credence given to his certificate.

179. Full faith and credence shall be given in all courts and places whatsoever to any certificate given by such agent or deputy under the provisions of paragraph (c) of the last preceding section. R.S., c. 81, s. 188.

s. 180, c. 98, R.S.C. 1951, repealed by subsection 123(2), c. 29, S.C. 1951.

Votes.

180. Each councillor present shall have a vote on every question to be decided by the council, and such question shall be decided by the majority of votes, the chief councillor voting as a councillor and having also a casting vote, in case the votes would otherwise be equal.

s. 181, c. 98, R.S.C. 1951, repealed by subsection 123(2), c. 29, S.C. 1951.

Quorum.

2. Four councillors shall be a quorum for the despatch of any business. R.S., c. 81, s. 189.

Term of Office, Vacancies, Etc.

s. 181, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Term of office.

181. The councillors shall remain in office until others are elected in their stead, and an election for that purpose shall be held in like manner, at the same place and between the like hours on the like day, in each succeeding year, if it is not a Sunday or holiday, in which case it shall be held on the next day thereafter which is not a Sunday or a holiday.

2. If there is a failure to elect on the day appointed for the election, the Superintendent General shall appoint another day on which it shall be held. R.S., c. 81, s. 190.

s. 182, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Vacancies; how filled.

182. In the event of a vacancy in the council, by the death or inability to act of any councillor, more than three months before the time for the next election, an election to fill such vacancy shall be held by the agent or his deputy, after such notice to the electors concerned as the Superintendent General directs, at which only the electors of the section represented by the councillor to be replaced shall vote, and to such election the provisions respecting other elections shall apply, so far as they are applicable.

In office of chief councillor.

2. If the councillor to be replaced is the chief councillor, then an election of a chief councillor shall be held in the manner already provided, but the day fixed for such election shall be at least one week after the date when the new councillor is elected. R.S., c. 81, s. 191.

s. 183, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Remaining councillors to constitute council.

183. During the time of any vacancy in the council the remaining councillors shall constitute the council, and they may, in the event of a vacancy in the office, appoint a chief from among themselves for the time being. R.S., c. 81, s. 192.

s. 184, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Disqualification in certain cases.

184. Every member of a council elected under the provisions of this Part, who is proved to be a habitual drunkard or to be living in immorality, or to have accepted a bribe, or to have been guilty of dishonesty or of malfeas-

R.S., 1927.

Part II. *Indians.* Chap. 98.

ance of office of any kind, shall, on proof of the fact to the satisfaction of the Superintendent General, be disqualified from acting as a member of the council, and shall, on being notified, cease forthwith so to act; and the vacancy occasioned thereby shall be filled in the manner hereinbefore provided. R.S., c. 81, s. 193.

Powers of Council.

185. The council may, by by-law, rule or regulation, approved and confirmed by the Superintendent General, provide that the religious denomination to which the teacher or teachers of the school or schools established on the reserve shall belong, shall be that of the majority of the Indians resident on the reserve; but the Protestant or Roman Catholic minority on the reserve may also have a separate school or schools, with the approval of and under regulations made by the Governor in Council.

Council may make by-laws as to religious denomination of school (teacher).

subsection 185(2), c. 98, R.S.C. 1927 amended by s. 17, c. 25, S.C. 1930 and subsequently amended by s. 11, c. 42, S.C. 1932-33 and repealed by subsection 123(2), c. 29, S.C. 1951.

2. The council may also make by-laws, rules and regulations, approved and confirmed by the Superintendent General, regulating all or any of the following subjects and purposes, that is to say:—

Also by-laws as to.

- (a) The care of the public health;
- (b) The observance of order and decorum at elections of councillors, meetings of the council, and assemblies of Indians on other occasions, or generally, on the reserve, by the appointment of constables and erection of lock-up houses, or by the adoption of other legitimate means;
- (c) The prevention of disorderly conduct and nuisances;
- (d) The subdivision of the land in the reserve, and the distribution of the same amongst the members of the band; also, the setting apart, for common use, of woodland and land for other purposes;
- (e) The protection of and the prevention of trespass by cattle, sheep, horses, mules and other domesticated animals; and the establishment of pounds, the appointment of poundkeepers and the regulation of their duties, fees and charges;
- (f) The construction and repairs of school houses, council houses and other buildings for the use of the Indians on the reserve, and the attendance at school of children between the ages of six and fifteen years;
- (g) The construction, maintenance and improvement of roads and bridges, and the contributions, in money or labour, and other duties of residents on the reserve, in respect thereof; the size and kind of sleighs to be used on the roads in the winter season, and the manner in which the horse or horses or other beasts of burden

Health. Order.

Disorderly conduct. Subdivision of reserves.

Trespass.

School houses, etc.

Roads, etc.

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shall be harnessed to such sledges; and the appointment of roadmasters and fence-viewers, and their powers and duties;

Public works. (h) The construction, maintenance and improvement of water, sewerage and lighting works and systems;

Water-courses, etc. (i) The construction and maintenance of watercourses, ditches and fences, and the obligations of vicinage, the destruction and repression of noxious weeds and the preservation of the wood on the various holdings, or elsewhere, in the reserve;

Removal of trespassers. (j) The removal and punishment of persons trespassing upon the reserve, or frequenting it for improper purposes;

Revenue. (k) The raising of money for any or all of the purposes for which the council may make by-laws as aforesaid, by assessment and taxation of the lands of Indians enfranchised, or in possession of lands by location ticket in the reserve: Provided that the valuation for assessment shall be made yearly, in such manner and at such times as are appointed by the by-law in that behalf, and be subject to revision and correction by the agent for the reserve, and shall come into force only after it has been submitted to him and corrected, if and as he thinks justice requires, and approved by him, and that the tax shall be imposed for the year in which the by-law is made, and shall not exceed one-half of one per centum on the assessed value of the land on which it is to be paid; and provided also that any Indian deeming himself aggrieved by the decision of the agent, made as hereinbefore provided, may appeal to the Superintendent General, whose decision in the matter shall be final;

Assessment.

Rates.

Payment of Indian's share on his default.

Appeal.

Appropriation of certain funds. (l) The appropriation and payment to the local agent, as treasurer, by the Superintendent General, of so much of the moneys of the band as are required for defraying expenses necessary for carrying out the by-laws made by the council, including those incurred for assistance absolutely necessary for enabling the council or the agent to perform the duties assigned to them;

Penalties and enforcement thereof. (m) The imposition of punishment by penalty or by imprisonment, or by both, for any violation of or disobedience to any law, rule or regulation made under this Part, committed by any Indian of the reserve; but such penalty shall, in no case, except for non-payment of taxes, exceed thirty dollars, and the imprisonment shall not exceed thirty days.

Taxes, how recovered. 3. If any tax authorized by any by-law, or any part thereof, is not paid at the time prescribed by the by-law, the amount unpaid, with the addition of one-half of one per centum thereof, may be paid by the Superintendent

R.S., 1927.

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General to the treasurer out of the share in any money of the band of the Indian in default; and, if such share is insufficient to pay the tax, or any portion thereof so remaining unpaid, the defaulter shall be deemed to have violated the by-law imposing the tax, and shall incur a penalty therefor equal to the amount of the tax or the balance thereof remaining unpaid, as the case may be.

4. The proceedings for the imposition of any punishment authorized by this section, or the by-laws, rules or regulations approved and confirmed thereunder, may be taken before one justice of the peace, under the provisions of the Criminal Code relating to summary convictions; and the amount of any such penalty shall be paid over to the treasurer of the band to which the Indian incurring it belongs for the use of such band.

5. The by-laws, rules and regulations by this section authorized to be made shall, when approved and confirmed by the Superintendent General, have the force of law within and with respect to the reserve, and the Indians residing thereon. R.S., c. 81, s. 194; 1920, c. 50, s. 5; 1927, e. 32, s. 7.

Evidence.

186. A copy of any by-law, rule or regulation under this Part, approved by the Superintendent General, and purporting to be certified by the agent for the band to which it relates to be a true copy thereof, shall be evidence of such by-law, rule or regulation, and of such approval, without proof of the signature of such agent; and no such by-law, rule or regulation shall be invalidated by any defect of form, if it is substantially consistent with the intent and meaning of this Part. R.S., c. 81, s. 195.

PART III.

SOLDIER SETTLEMENT.

187. The Soldier Settlement Act, excepting sections three, four, eight, nine, ten, eleven, fourteen, twenty-nine, subsection two of fifty-one, and sixty-one thereof, and excepting the whole of Part III thereof, with such amendments as may from time to time be made to said Act shall, with respect to any "settler" as defined by said Act who is an "Indian" as defined by this Act, be administered by the Superintendent General.

2. For the purpose of such administration, the Deputy Superintendent General of Indian Affairs shall have the same powers as the Soldier Settlement Board has under the Soldier Settlement Act, the words "Deputy Superintendent General of Indian Affairs" being, for such purpose,

Penalty. Provisions for the imposition of punishment.

Approval.

Proof of by-laws, etc.

Application of Soldier Settlement Act.

s. 186, c. 98, R.S.C. 1927 repealed by subsection 123(2), c. 29, S.C. 1951.

Also, see subsection 123(3), c. 29, S.C. 1951.

R.S., 1927.

R.S.C. 1927, c. 98, cont'd.

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read in the said Act as substituted for the words "The Soldier Settlement Board" and for the words "The Board".

3. Said Act, with such exceptions as aforesaid, shall for such purpose, be read as one with this Part of this Act. 1919, c. 56, s. 3.

Title for common lands of band may be granted on land acquired for Indian settler. Lands may be security for advances as under Soldier Settlement Act.

188. The Deputy Superintendent General may acquire for a settler who is an Indian, land as well without as within an Indian reserve, and shall have authority to set apart for such settler a portion of the common lands of the band without the consent of the council of the band.

2. In the event of land being so acquired or set apart on an Indian reserve, the Deputy Superintendent General shall have power to take the said land as security for any advances made to such settler, and the provisions of the Soldier Settlement Act, shall, as far as applicable, apply to such transactions.

Only individual Indian interest is acquired.

3. It shall, however, be only the individual Indian interest in such lands that is being acquired or given as security, and the interest of the band in such lands shall not be in any way affected by such transactions. 1922, c. 26, s. 2.

Soldier Settlement Board to assist Deputy Supt. General.

189. The Soldier Settlement Board and its officers and employees shall, upon request of the Deputy Superintendent General, aid and assist him, to the extent requested, in the execution of the purposes of this Act, and the said Board may sell, convey and transfer to the said Deputy, for the execution of any such purposes, at such prices as may be agreed, any property held for disposition by such Board. 1919, c. 56, s. 3.

Power of Governor in Council to settle doubts and define powers.

190. In the event of any doubt or difficulty arising with respect to the administration by the Superintendent General of the provisions of the Soldier Settlement Act, or as to the powers of the Deputy Superintendent General as by this Act authorized or granted, the Governor in Council may, by order, resolve such doubt or difficulty and may define powers and procedure.

2. Such order shall not extend the powers which are by the Soldier Settlement Act, provided. 1919, c. 56, s. 3.

Also, see s. 124, c. 29, S.C. 1951.

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CHAP. 25.

An Act to amend the Indian Act.

[Assented to 10th April, 1930.]

R.S. c. 98. HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Eskimo affairs. 1. Subsection two of section four of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, is repealed.

2. Subsection six of section nine of the said Act is repealed and the following substituted therefor:—
“(6) The Superintendent General may apply the whole or any part of the annuities and interest moneys of Indian children attending an industrial or boarding school to the maintenance of such children.”
Annuities and interest applied to maintenance.

3. Subsection one of section ten of the said Act is repealed and the following substituted therefor:—
“10. (1) Every Indian child between the full ages of seven and sixteen years who is physically able shall attend such day, industrial or boarding school as may be designated by the Superintendent General for the full periods during which such school is open each year; provided that where it has been made to appear to the satisfaction of the Superintendent General that it would be detrimental to any particular Indian child to have it discharged from school on attaining the full age of sixteen years, the Superintendent General may direct that such child be detained at school for such further period as may seem to be advisable, but not beyond the full age of eighteen years, and in such case the provisions of this section with respect to truancy shall apply to such child and its parents, guardians or persons with whom such child resides during such further period of school attendance.”
Children from seven to sixteen to attend school.

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4. Paragraph “b” of subsection four of section thirty-five of the said Act is repealed and the following substituted therefor:—

“(b) to remove any cattle or other animals owned by him or in his charge from such land or marsh.”
Removal of cattle.

5. Section forty of the said Act is repealed and the following substituted therefor:—

“40. No person shall buy or otherwise acquire from any band or irregular band of Indians or from any Indian any cattle or other animals of any kind from any reserve in the Province of Manitoba, Saskatchewan or Alberta or the Territories without the written consent of the Indian agent.”
Consent of agent required for sale or barter.
s. 40, c.98, R.S.C. 1927 as enacted by s. 5, c.25, S.C. 1930, repealed and replaced by s. 3, c. 42, S.C. 1932-33.

6. Section forty-one of the said Act is repealed and the following substituted therefor:—

“41. No person shall buy or otherwise acquire from any band or irregular band of Indians, or from any Indian, any grain, root crops, or other produce from upon any reserve in the Province of Manitoba, Saskatchewan or Alberta, or the Territories without the written consent of the Indian agent.”
Buying of produce prohibited.
s. 41, c.98 R.S.C. 1927 as enacted by s. 6, c.25, S.C. 1930, repealed and replaced by s. 4, c. 42, S.C. 1932-33.

7. Section forty-two of the said Act is repealed and the following substituted therefor:—

“42. If any such cattle or other animals or such grain, root crops, or other produce, as aforesaid, are unlawfully in the possession of any person within the intent and meaning of this part, any person acting under the authority, either general or special, of the Superintendent General, may with such assistance in that behalf as he thinks necessary, seize and take possession of the same and he shall deal therewith as the Superintendent General or any officer or person thereunto by him authorized, directs.”
Superintendent General may order seizure of produce unlawfully possessed by any person.
s. 42, c.98, R.S.C. 1927 as enacted by s. 7, c. 25, S.C. 1930, amended by s. 1, c.19, S.C. 1940-41.

8. The said Act is amended by inserting therein the following section:—

“94A. The Superintendent General may operate farms on Indian Reserves, employing such persons as may be considered necessary, for the purpose of instructing the Indians in farming and for the supply of pure seed for Indian farmers and may from time to time apply any profits arising therefrom in the extension of such operations or in making loans to Indians to enable them to engage in farming or other operations or apply such proceeds in any other way for their progress and development.”
Farms on Indian Reserves for instruction and supply of seeds.
s. 94, c.98, R.S.C. 1927 as enacted by s. 8, c. 25, S.C. 1930, amended by s. 2, c.31, S.C. 1938.

9. Subsection one of section one hundred and one of the said Act is amended by adding thereto the following paragraph:—

s. 101, c. 98, R.S.C. 1927

S.C. 1930, c. 25, cont'd.

1930. Indian. Chap. 25.

amended by s. 9, c. 25 S.C. 1930 and

Amusements on the Sabbath.

"(j) Controlling or prohibiting participation in, or attendance at, public games, sports, races, athletic contests or other such amusements on the Sabbath."

and subsequently amended by s. 6, c. 42 S.C. 1932-33

Lien or charge on property of Indians.

10. Section one hundred and five of the said Act is repealed and the following section substituted therefor:—

"105. No one other than an Indian or non-treaty Indian shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgment or otherwise, upon real or personal property of any Indian or non-treaty Indian, except on real or personal property subject to taxation under the last three preceding sections: Provided that any person selling any article to an Indian or non-treaty Indian may take security on such article for any part of the price thereof which is unpaid."

11. Paragraph (b) of section one hundred and sixteen of the said Act is repealed and the following substituted therefor:—

Removal of animals.

"(b) to remove any cattle or other animals owned by him or in his charge from such land or marsh."

s. 120, c. 98, R.S.C. 1927 as enacted by s. 12, c. 25 S.C. 1930,

Buying from Indians voluntary to this Act. Penalty.

12. Section one hundred and twenty of the said Act is repealed and the following substituted therefor:—

"120. Every person who buys or otherwise acquires from any Indian or band or irregular band of Indians in the province of Manitoba, Saskatchewan, or Alberta, or the Territories any cattle or other animals or any grain, root crops or other produce or sells to any such Indian any goods or supplies, cattle or other animals contrary to the provisions of this Act, shall, on summary conviction, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both."

repealed and replaced by s. 9, c. 42, S.C. 1932-33.

subsection 126(2)c. 98, R.S.C. 1927, as enacted by s. 13, c. 25, S.C. 1930,

Application of penalty.

13. Subsection two of section one hundred and twenty-six of the said Act is repealed and the following substituted therefor:—

"(2) A moiety of every such penalty shall belong to the informer or prosecutor."

repealed by s. 7, c. 20, S.C. 1936.

Vehicles, vessels, etc., used in carrying intoxicants for Indians, to be forfeited and sold.

14. Section one hundred and thirty-two of the said Act is repealed and the following substituted therefor:—

"132. If it is proved before any judge, police magistrate, stipendiary magistrate or two justices of the peace or Indian agent that any vehicle, motor car, automobile, vessel, boat, canoe or conveyance of any description is employed in carrying any intoxicant to be supplied to Indians or non-treaty Indians, such vehicle, motor car, automobile, vessel, boat, canoe or conveyance so employed may be seized and declared forfeited, as in the last preceding section mentioned and sold, and the proceeds thereof paid to His Majesty for the purpose hereinbefore mentioned."

S.C. 1930, c.25, cont'd.

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15. Subsection two of section one hundred and thirty-seven of the said Act is repealed and the following substituted therefor:—

"(2) In any prosecution under this Act, a certificate of analysis signed or purporting to be signed by a provincial or dominion analyst, shall be accepted as prima facie evidence of the facts stated therein, as to the analysis or the alcoholic or narcotic content of the sample or preparation therein referred to as having been analysed, and of the authority of the person signing such certificate without any proof of appointment or signature."

Certificate of analyst to be accepted as prima facie evidence.

16. The said Act is amended by inserting therein section 140A as follows:—

"140A. Where it is made to appear in open court that any Indian, summoned before such court, by inordinate frequenting of a poolroom either on or off an Indian reserve, mispends or wastes his time or means to the detriment of himself, his family or household, of which he is a member, the police magistrate, stipendiary magistrate, Indian agent, or two justices of the peace holding such court, shall, by writing under his or their hand or hands forbid the owner or person in charge of a poolroom which such Indian is in the habit of frequenting to allow such Indian to enter such poolroom for the space of one year from the date of such notice.

Indian wasting his time in poolroom.

s. 140, c.98, R.S.C. 1927 amended by s. 16, c. 25, S.C. 1930 and subsequently amended by s. 10, c. 42, S.C. 1932-33.

Any owner or person in charge of a poolroom who allows an Indian to enter a poolroom in violation of such notice, and any Indian who enters a poolroom where his admission has been so forbidden, shall be liable on summary conviction to a penalty not exceeding twenty-five dollars and costs or to imprisonment for a term not exceeding thirty days."

Allowing certain Indians to enter a poolroom.

17. Subsection two of section one hundred and eighty-five of the said Act is amended by adding thereto after paragraph (j) thereof the following paragraph:—

"(jj) Controlling or prohibiting participation in, or attendance at, public games, sports, races, athletic contests or other such amusements on the Sabbath."

Control of public games on the Sabbath.

s. 185, c.98, R.S.C. 1927 amended by s. 17, c.25, S.C. 1930 and by s. 11, c. 42, S.C. 1932-33.

An Act to amend the Indian Act. S.C. 1932-33, c. 42
(23-24 Geo. V.)

23-24 GEORGE V.

CHAP. 42.

An Act to amend the Indian Act.

[Assented to 23rd May, 1933.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

R.S., c. 96,
1930, c. 25.

1. Section ten of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, is amended by adding thereto the following subsection:—

"(6) For the purposes of this section, every member of the Royal Canadian Mounted Police Force and any special constable appointed for police duty on an Indian reserve, shall be a truant officer."

Truant
officers.

2. Section twenty-eight of the said Act is amended by adding thereto the following subsection:—

"(2) The Superintendent General may remove an executor of an estate who neglects or refuses to carry out the terms of the will in such time as may be considered reasonable by the Superintendent and appoint some one in the place of such executor."

Removal of
executors.

3. Section forty of the said Act, as enacted by section five of chapter twenty-five of the statutes of 1930, is repealed and the following is substituted therefor:—

"40. No person shall buy or otherwise acquire from any band or irregular band of Indians or from any Indian and no Indian shall sell or otherwise dispose of to any one other than a member of the band, any cattle or other animals of any kind from any reserve in the Province of Manitoba, Saskatchewan or Alberta or the Territories without the written consent of the Indian Agent."

Consent of
agent
required for
sale or barter.

4. Section forty-one of the said Act, as enacted by section six of chapter twenty-five of the statutes of 1930, is repealed and the following is substituted therefor:—

"41. No person shall buy or otherwise acquire from any band or irregular band of Indians, or from any Indian,

Buying of
produce
prohibited

Chap. 42. Indian Act. 23-24 Geo. V.

and no Indian shall sell or otherwise dispose of to any one other than a member of the band, any grain, road crops, or other produce from upon any reserve in the Province of Manitoba, Saskatchewan or Alberta, or the Territories, without the written consent of the Indian Agent."

5. Section forty-seven of the said Act is amended by adding thereto the following subsection:—

Roads. "(3) The Superintendent General shall have the authority to determine where roads shall be established on a reserve."

6. Section one hundred and one of the said Act is amended by adding thereto the following paragraph:—

Regulations. "(k) Regulating the operations of hawkers, peddlers or others coming on the reserve to sell, or take orders for, wares or merchandise."

7. Section one hundred and ten of the said Act is amended by adding thereto the following subsection:—

Board of enquiry as to fitness for enfranchisement. "(14) In respect of an Indian or Indians of any band who has not or have not made application for enfranchisement under this section or under section one hundred and fourteen of this Act, the Superintendent General may appoint a Board to consist of any judge of any superior court or any judge of any circuit, district or county court, an officer of the Department and a member of the band to be selected by the band to which the Indian or Indians under investigation belongs or belong, or, failing the selection of such member for a period of thirty days after the date of notice having been given to the Council, the member shall be appointed by the Superintendent General, to make enquiry and report as to the fitness of any Indian or Indians to be enfranchised, and such report shall have the same force and effect and shall be dealt with in the same manner as if the same had been made upon the application of an Indian or Indians under this section: Provided that no enfranchisement of any Indian or Indians shall be made under this subsection in violation of the terms of any treaty, agreement or undertaking that may have been entered into or made between or by the Crown and the Indians of the band in question."

8. Section one hundred and fifteen of the said Act is repealed and the following is substituted therefor:—

Residing or hunting upon any reserve without authority. "115. Every person, or Indian other than an Indian of the band, who, without the authority of the Superintendent General, resides or hunts upon, occupies or uses any land or marsh, or who resides upon or occupies any road, or allowance for road, running through any reserve belonging to or occupied by such band, or who is found on

1932-33. Indian Act. Chap. 42.

the reserve and is unable to prove that he is there for some legitimate purpose, shall be liable, upon summary conviction, to imprisonment for a term not exceeding one month or to a penalty not exceeding ten dollars and not less than five dollars, with costs of prosecution, half of which penalty shall belong to the informer." Penalty.

9. Section one hundred and twenty of the said Act, as enacted by section twelve of chapter twenty-five of the statutes of 1930, is repealed and the following is substituted therefor:—

"120. Every person who buys or otherwise acquires from any Indian or band or irregular band of Indians in the Province of Manitoba, Saskatchewan, or Alberta, or the Territories, or sells to any such Indian, any cattle or other animals or any grain, root crops or other produce, and every Indian who sells any cattle or other animals or any grain, root crops or other produce, contrary to the provisions of this Act, shall on summary conviction be liable to a penalty not exceeding fifty dollars or to imprisonment for a term not exceeding thirty days, or to both." Buying or selling contrary to the Act.

10. Subsection three of section one hundred and forty of the said Act is amended by striking out the words "in aboriginal costume" in the fifth line thereof. Restriction on Indian dances, etc.

11. Subsection two of section one hundred and eighty-five of the said Act is amended by adding thereto the following paragraph:—

"(n) Regulating the operations of hawkers, peddlers or others coming on the Reserve to sell, or take orders for, wares or merchandise." Regulations.

An Act respecting the Caughnawaga Indian Reserve and to amend the Indian Act. S.C. 1934, c. 29. (24-25 Geo. V.)

S.C. 1934, c. 29, cont'd.

24-25 GEORGE V.

CHAP. 29.

An Act respecting the Caughnawaga Indian Reserve and to amend the Indian Act.

[Assented to 28th June, 1934.]

Preamble.
R.S., 1886,
c. 44;
R.S., 1927,
c. 98.

R.S., 1886,
c. 43.

Acts and
proceedings
validated.

WHEREAS by Order in Council of the fifth March, 1889 (P.C. 466), the provisions of *The Indian Advancement Act*, being chapter forty-four of the Revised Statutes of Canada, 1886, were applied to the Iroquois Indians of Caughnawaga in the province of Quebec, and, for the purpose of giving effect to the application of the said Act, the reserve at Caughnawaga was designated the Caughnawaga Indian Reserve, and was divided into six sections, as therein set out; and whereas by Order in Council of the 12th July, 1906 (P.C. 1419), in the purported exercise of the powers conferred by section four of *The Indian Advancement Act*, as enacted by section one of chapter thirty of the statutes of 1890, it was provided that the division of the Caughnawaga Indian Reserve into sections be done away with, and that the said reserve be comprised in one section; and whereas it appears that there was no provision of *The Indian Act* or of any other statute authorizing the making of the last mentioned Order in Council, and that the same was and is, therefore, void and of no effect; and whereas it is expedient that anything duly done or suffered pursuant to the provisions of the said last mentioned Order in Council be validated, and that provision be made for again dividing the reserve into six sections: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:--

1. All acts committed, proceedings taken or things done or suffered under or pursuant to the provisions of the said Order in Council of the 12th July, 1906 (P.C. 1419), are hereby declared to have been valid and effective to all intents and purposes as if the said Order in Council had been lawfully made.

Chap. 29. *Caughnawaga Ind. Res. and Ind. Act. 24-25 GEO. V*

2. Sub-section one of section one hundred and sixty-seven of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, is repealed, and the following is substituted therefor:—

"167. (1) Every reserve to which this Part is applicable, may, by Order in Council, be divided into sections, the number of which shall not exceed six, and each section shall have therein, as nearly as is found convenient, an equal number of male Indians of the full age of twenty-one years, or, should the majority of the Indians of the reserve so desire, the Governor in Council may provide that the whole reserve may form one section, the wishes of the Indians in respect thereto being first ascertained in the manner prescribed in Part I in like matters, and certified to the Superintendent General by the Indian agent. The power to divide any such reserve into sections, or to provide that the whole reserve may form one section may, subject to the provisions of this section, be exercised at any time and from time to time, as the Governor in Council may see fit."

1 EDWARD VIII.

CHAP. 20.

An Act to amend the Indian Act.

[Assented to 2nd June, 1936.]

R.S., c. 96;
1930, c. 25;
1932-33, c. 42;
1934, c. 29.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subsection three of section twenty-five of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:—

Land devised or bequeathed to non-resident, to be sold.

"(3) No one who is not entitled to reside on the reserve shall by reason of any devise or bequest or by reason of any intestacy be entitled to hold land in a reserve, but any land in a reserve devised by will or devolving on an intestacy, to some one not entitled to reside on the reserve, shall be sold by the Superintendent General to the band or to some member of the band and the proceeds thereof shall be paid to such devisee or heir."

2. Section sixty-nine of the said Act is repealed and the following is substituted therefor:—

Regulations.

"69. (1) The Superintendent General, subject to the approval of the Governor in Council, may, as in this section provided, make regulations which, upon publication thereof in the *Canada Gazette*, shall apply with the same force as if the terms of such regulations had been herein enacted.

Penalties.

(2) The regulations may provide for appropriate penalties, not exceeding, as to imprisonment, three months and not exceeding as to fine, one hundred dollars, for violation or non-observance of any provision of any regulation.

Laws and regulations incorporated by reference.

(3) Without restricting the generality of the provisions of subsection one of this section, the regulations may provide, *inter alia*, for the incorporation by reference, as part of such regulations, of any specific and indicated law or regulation of and in force within any province of Canada, and in particular, and whether or not by way of the incorporation by reference of provincial laws or regulations, such regulations may provide—

Chap. 20.

Indian Act.

1 Ed. VIII.

(a) with relation to Indians within the province of Manitoba, Saskatchewan or Alberta or within the Territories, as the case may be, or to Indians in such parts of such provinces and Territories as to him seems expedient, that laws either in the same terms as, or in like terms to, or in other terms than, those in force in such provinces and territories, respectively, with relation to game in general or to specific game, shall apply, upon publication thereof in the *Canada Gazette*, with the same force as if enacted in this Act, to such Indians as such regulations shall prescribe;

Laws relating to game.

(b) for the destruction of noxious weeds and the prevention of the breeding, spreading or prevalence of any insect, pest or disease which may or might be destructive of or injurious to vegetation on Indian Reserves;

Laws for preventing plant diseases.

(c) governing the speed and operation of vehicles on highways within Indian Reserves."

Laws respecting motor vehicles.

3. Subsection one of section ninety-three of the said Act is repealed and the following substituted therefor:—

"(1) The Governor in Council may, with the consent of a band, authorize and direct the expenditure of any capital moneys standing at the credit of such band, in the purchase of land as a reserve for the band or as an addition to its reserve, or the possessory rights of a member of the band in respect of any particular parcel of land on the reserve, or in the purchase of cattle, implements or machinery for the band, or in the construction of permanent improvements upon the reserve of the band, or such works thereon or in connection therewith as, in his opinion, will be of permanent value to the band, or will, when completed, properly represent capital, or in the making of loans to members of the band to promote progress, no such loan, however, to exceed in amount one-half of the appraised value of the interest of the borrower in the lands held by him."

Power of Governor in Council over expenditure of capital.

4. Section ninety-six of the said Act is amended by adding thereto the following subsection:—

"(5) In any case of an equality of votes at any such election the agent or person presiding thereat shall have the casting vote."

In case of an equality of votes.

5. The said Act is amended by inserting the following section immediately after section ninety-nine thereof:—

1936. *Indian Act.* Chap. 20.

Duties of the agent at meetings of the council. "99A. (1) At meetings of the council the agent for the reserve, or his deputy appointed for the purpose with the consent of the Superintendent General, shall

(a) preside, and record the proceedings;

(b) control and regulate all matters of procedure and form, and adjourn the meeting to a time named or sine die;

(c) report and certify all by-laws and other acts and proceedings of the council to the Superintendent General;

(d) address the council and explain and advise the members thereof upon their powers and duties.

Not to vote. (2) No such agent or deputy shall vote on any question to be decided by the council."

6. Paragraph (c) of subsection one of section one hundred and twenty-six of the said Act is repealed and the following substituted therefor:—

Having intoxicants in his possession. "(c) is found in possession of any intoxicant in the house, room, tent, wigwam, or place of abode of any Indian or non-treaty Indian whether on or off a reserve, or of any person on any reserve or special reserve, or on any other part of any reserve or special reserve; or"

Selling intoxicants. 7. Subsection two of section one hundred and twenty-six of the said Act is repealed.

Commander of vessel where intoxicants are sold. 8. Subsection two of section one hundred and twenty-seven of the said Act is repealed.

Intoxicants. 9. Subsection one of section one hundred and thirty of the said Act is amended by striking out the words "half of which pecuniary penalty shall belong to the informer."

Gambling, drinking, etc. 10. Subsection two of section one hundred and thirty of the said Act is amended by striking out the words "half of which pecuniary penalty shall belong to the informer."

Keys for intoxicants, etc. 11. Subsection four of section one hundred and thirty-one of the said Act is repealed.

Intoxicants at council or meeting. 12. Subsection two of section one hundred and thirty-four of the said Act is repealed.

13. Section one hundred and seventy-four of the said Act is repealed and the following substituted therefor:—

Chap. 20. *Indian Act.* 1 Ed. VIII.

"174. One or more members to represent each section of the reserve, as provided in such Order in Council, shall be elected by the electors resident in each section, and the Indian or Indians, as the case may be, having the votes of the greatest number of electors for each section, shall be the councillor or councillors, as the case may be, therefor, provided he or they are respectively possessed of a house on, and living on, the reserve."

Who shall be deemed elected.

2 GEORGE VI.

CHAP. 31.

An Act to amend the Indian Act.

[Assented to 24th June, 1938.]

R. S., c. 94:
1930, c. 25;
1932-33, c. 42;
1934, c. 29;
1936, c. 20, 33.License and
licensee to
prospect for
minerals

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subsection two of section fifty of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:—

"(2) The Governor in Council may make regulations enabling the Superintendent General in respect of any Indian reserve, to issue leases upon such terms as may be considered proper in the interest of the Indians and of any other lessee or licensee of surface rights,

(a) upon surrender in accordance with this part, of any land deemed to contain salt, petroleum, natural gas, coal, gold, silver, copper, iron or other minerals and to grant in respect of such land the right to prospect for, mine, recover and take away any or all such mineral, and

(b) without surrender, to any person authorized to mine any of the minerals in this section mentioned, of surface rights over such area of any land within a reserve containing any such minerals as may be necessary for the mining thereof."

Advances for
assistance to
Indians.

2. The said Act is further amended by inserting immediately after section ninety four A the following:—

"94B. (1) For the purpose of granting loans to Indian Bands, group or groups of Indians, or individual Indians and for the expenditure of moneys for co-operative projects on their behalf, the Minister of Finance may, from time to time, authorize the advance to the Superintendent General of Indian Affairs out of the Consolidated Revenue Fund of Canada of such sums of money as the said Superintendent General may require to enable him to make loans to Indian Bands, group or groups of Indians or individual Indians,

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Indian Act.

2 GEO. VI.

for the purchase of farm implements, machinery, live stock, fishing and other equipment, seed grain and materials to be used in native handicrafts and to expend and loan money for the carrying out of co-operative projects on behalf of the Indians. All expenditures made under such advances shall be made under regulations established from time to time by the Governor in Council and shall be accounted for in the like manner as other public moneys. Any moneys received by the Superintendent General of Indian Affairs from the Indian Bands, group or groups of Indians, individual Indians or co-operative projects, for aid furnished under the provisions of this section shall be remitted by him to the Minister of Finance in repayment of such advances. The amount of outstanding advances to the said Superintendent General including all amounts owing by the Indian Bands, group or groups of Indians, individual Indians or outstanding on co-operative projects shall at no time exceed the sum of three hundred and fifty thousand dollars.

(2) The Superintendent General shall annually prepare a report with regard to loans made under the provisions of subsection one of this section, during the preceding calendar year, and such report shall be laid before parliament within fifteen days or, if parliament is not then sitting, within fifteen days after the beginning of the next session."

Annual report
on loans.

4-5 GEORGE VI.

Chap. 19.

Indian Act.

4-5 GEO. VI.

CHAP. 19.

An Act to amend the Indian Act.

[Assented to 14th June, 1941.]

R.S., c. 98;
1930, c. 25;
1932-33, c. 42;
1934, c. 29;
1936, c. 20;
1938, c. 31.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, is amended by inserting immediately after section forty-two thereof, the following section:—

Regulations controlling the buying of wild animals and skins from Indians.

"42A. (1) The Governor in Council may make regulations to prohibit and control the buying or otherwise acquiring from any Indian, non-treaty Indian or band or irregular band of Indians any wild animal or the skin or other part of such animal. Without restricting the generality of the foregoing the regulations may prescribe:—

- (a) that the Superintendent General or Agent acting on his behalf may issue permits to buy or otherwise acquire any wild animal or parts thereof as aforesaid and may fix the terms upon which such permits may be issued;
- (b) that a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months or both fine and imprisonment may be imposed for any violation of such regulations.

Seizure and forfeiture.

(2) Where the Superintendent General, or Agent acting on his behalf, has reason to believe that the regulations have been contravened in respect of any wild animal or the skin or other part of such animal he may seize such animal or any part or parts thereof wherever found and bring the same before any judge, police or stipendiary magistrate, two justices of the peace or Indian Agent and on proof that such contravention has occurred such animal or part or parts shall be declared forfeited to His Majesty. Any animal or part thereof declared forfeited hereunder shall be disposed of as the Superintendent General may direct.

(3) Such regulations may from time to time by order of the Superintendent General be declared to apply to any area in the Dominion of Canada and copies of every such order shall be posted in all post offices in or adjacent to the area therein specified.

Territorial application.

(4) The Superintendent General may at any time without prior notice revoke any permit issued in accordance with any regulation made under the provisions of this section.

Revocation.

(5) The regulations made by the Governor in Council and every order made by the Superintendent General under the provisions of this section shall be published in the *Canada Gazette*."

Publication in Canada Gazette

NOTE

No further legislation concerning Indian people was passed during the years 1942 to 1950. A subsequent re-evaluation of the Indian Act during these years led to the adoption of a new Indian Act in 1951 (S.C. 1951, c. 29). Sections 123 and 124 of chapter 29 of the Statutes of Canada, 1951, related directly to the Indian Act of 1927 and are accordingly reproduced below.

REPEAL

Repeal	123. (1) Section one of the <i>Indian Act</i> , chapter ninety-eight of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:
Short title	"1. This Act may be cited as the <i>Indian (Soldier Settlement) Act</i> ."
Repeal	(2) Sections two to one hundred and eighty-six of the said Act are repealed.
References	(3) Where in sections one hundred and eighty-seven to one hundred and ninety of the said Act (a) reference is made to the <i>Indian Act</i> , it shall be deemed to be a reference to this Act, and (b) reference is made to the Superintendent General or Deputy Superintendent General of Indian Affairs, it shall be deemed to be a reference to the Minister.

Par. 123(3)(b),
c. 29, S.C. 1951,
amended by a. 45
(Schedule B), c. 25,
S.C. 1966-67.

PRIOR GRANTS.

Prior grants
deemed
authorized

s. 124, c. 29,
S.C. 1951,
repealed and
replaced by
s. 3, c. 41,
S.C. 1952-53.

124. Where, prior to the coming into force of this Act,
(a) a reserve or portion of a reserve was released or surrendered to the Crown pursuant to Part I of the *Indian Act*, chapter ninety-eight 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,
(b) Letters Patent under the Great Seal of Canada were issued purporting to grant a reserve or portion of a reserve so released or surrendered, or any interest therein, to any person, and
(c) the Letters Patent have not been declared void or inoperative by any Court of competent jurisdiction, the Letters Patent shall, for all purposes, be deemed to have been issued at the date thereof under the direction of the Governor in Council.

An Act respecting the Revised Statutes of Canada, R.S.C. 1886,
c. 4 (49 Vict.)



49 VICTORIA.

CHAPTER 4.

An Act respecting the Revised Statutes of Canada.

[Assented to 2nd June, 1886.]

WHEREAS it has been found expedient to revise, classify Preamble.
and consolidate the public general statutes passed by
the Parliament of the Dominion of Canada, and also certain
public general statutes which were passed by the several
legislatures of the Provinces of Canada before they respect-
ively became a part thereof, and which are still in force,
and relate to matters within the legislative authority of the
Parliament of Canada; and whereas such revision, classifi-
cation and consolidation have been made accordingly; and
whereas it is expedient to provide for the incorporation
therewith of the public general statutes passed during the
present session, and for giving the force of law to the body
of the Revised Statutes to result from such incorporation:
Therefore Her Majesty, by and with the advice and consent
of the Senate and House of Commons of Canada, enacts as
follows:—

1. The printed Roll marked A and attested as that of the
said statutes, so revised, classified and consolidated as afore-
said, under the signature of the Governor General and that
of the Clerk of the Parliaments, and deposited in the office
of such Clerk, shall be held to be the original thereof, and
to embody the several Acts and parts of Acts mentioned as
to be repealed in the Schedule A annexed to the said roll;
but the marginal notes thereon, and the references to former
enactments at the foot of the several sections thereof, and
the explanatory notes and tables inserted by the revisors,
form no part of the said statutes, and shall be held to have
been inserted for convenience of reference only, and may be
omitted or corrected; and any misprint or error, whether of
commission or omission, or any contradiction or ambiguity
in the said Roll may also be corrected, but without changing
the legal effect; and such alterations in the language of the

Original roll
of the said
statutes to be
certified and
deposited.

As to mar-
ginal notes,
references,
misprints, &c.

Correction of
errors or am-
biguities, &c.

APPENDIX

said statutes as are requisite in order to preserve a uniform mode of expression, and do not alter the legal effect, may be made in the Roll hereinafter mentioned.

Governor may cause such Acts of the present session as he thinks proper to be inserted and Schedule A corrected.

2. The Governor General may select such Acts and parts of Acts passed during the present session as he deems it advisable to incorporate with the said statutes contained in the said Roll marked A, and may cause them to be so incorporated therewith, adapting their form and language to those of the said statutes, but without changing their effect, inserting them in their proper places in the said statutes, striking out of the latter any enactments repealed by or inconsistent with those so incorporated, altering the numbering of the chapters and sections, if need be, and adding to the said Schedule A a list of the Acts and parts of Acts of the present session so incorporated as aforesaid,—and also amending the said statutes in the particulars and to the extent in the schedule to this Act set forth.

Certified roll including such inserted Acts and such amendments of Schedule A to be deposited and deemed the original.

3. As soon as said incorporation of such Acts and parts of Acts with the said statutes, and the said addition to the said Schedule A and amendments have been completed, the Governor General may cause a correct printed Roll thereof, attested under his signature and countersigned by the Secretary of State, to be deposited in the office of the Clerk of the Parliaments,—which Roll shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as repealed in the amended Schedule A thereto annexed; but any marginal notes and references to former enactments which appear thereon shall be held to form no part of the said statutes, but to be inserted for convenience of reference only.

Proclamation declaring the Revised Statutes in force.

4. The Governor in Council, after such deposit of the said last mentioned Roll, may, by proclamation, declare the day on, from and after which the same shall come into force and have effect as law, by the designation of "The Revised Statutes of Canada."

Effect of such proclamation.

5. On, from and after such day, the same shall accordingly come into force and effect as and by the designation of "The Revised Statutes of Canada," to all intents, as if the same were expressly embodied in and enacted by this Act, to come into force and have effect on, from and after such day:

Repeal of enactments mentioned in schedule A.

2. On, from and after such day, all the enactments in the several Acts and parts of Acts in such amended Schedule A mentioned shall, so far as the same are within the legislative authority of the Parliament of Canada, stand and be repealed to the extent mentioned in the third column of the said Schedule A:

3. The Acts and parts of Acts mentioned in Schedule C, annexed to the said Roll marked A, shall, so far as they constitute indictable offences, be repealed, from and after a day when the proper legislature makes provision for the punishment of the offence by fine or imprisonment, under "The British North America Act, 1867."

As to certain enactments in Schedule C.

6. The repeal of the said Acts and parts of Acts shall not revive any Act or provision of law repealed by them; nor shall the said repeal prevent the effect of any saving clause in the said Acts and parts of Acts, or the application of any of the said Acts or parts of Acts, or of any Act or provision of law formerly in force, to any transaction, matter or thing anterior to the said repeal, to which they would otherwise apply.

Effect of repeal of enactments in Schedule A not retro-active.

7. The repeal of the said Acts and parts of Acts shall not affect—

As to matters anterior.

(a.) Any penalty, forfeiture or liability, civil or criminal, incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal;

Penalties, &c.

(b.) Any indictment, information, conviction, sentence or prosecution had, done, completed or pending at the time of such repeal;

Indictments, &c.

(c.) Any action, suit, judgment, decree, certificate, execution, process, order, rule, or any proceeding, matter or thing whatsoever respecting the same, had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal;

Actions, &c.

(d.) Any act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, order in council, proclamation, regulation, contract, lien, charge, status, capacity, immunity, matter or thing, had, done, made, acquired, established or existing at the time of such repeal; or—

Acts, deeds, rights, &c.

(e.) Any office, appointment, commission, salary, allowance, security or duty, or any matter or thing appertaining thereto, at the time of such repeal:

Offices, &c.

2. Such repeal shall not defeat, disturb, invalidate or prejudicially affect any other matter or thing whatsoever, had, done, completed, existing or pending at the time of such repeal:

Any other matters.

3. But every such—

But the same shall remain valid, &c.

(a.) Penalty, forfeiture and liability,

(b.) Indictment, information, conviction, sentence and prosecution.

(c.) Action, suit, judgment, decree, certificate, execution, process, order, rule, proceeding, matter or thing,

(d.) Act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, order in council, proclamation, regulation, contract, lien, charge, status, capacity, immunity, matter or thing.

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(e.) Office, appointment, commission, salary, allowance, security and duty, and—

(f.) Matter and thing, may and shall remain and continue as if no such repeal had taken place, and, so far as necessary, may and shall be continued, prosecuted, enforced and proceeded with under the said Revised Statutes and other the statutes and laws having force in Canada, and subject to the provisions of the said several statutes and laws, as if no such repeal had taken place.

Continuance thereof under Revised Statutes

Revised Statutes not to be deemed new laws

8. The said Revised Statutes shall not be held to operate as new laws, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the said Acts and parts of Acts so repealed, and for which the said Revised Statutes are substituted:

How construed if they differ from the repealed enactments

9. But if upon any point the provisions of the said Revised Statutes are not in effect the same as those of the repealed Acts and parts of Acts for which they are substituted, then, as respects all transactions, matters and things subsequent to the time when the said Revised Statutes take effect, the provisions contained in them shall prevail, but, as respects all transactions, matters and things anterior to the said time, the provisions of the said repealed Acts and parts of Acts shall prevail.

As to reference to repealed Acts in former Acts, &c.

10. Any reference in any former Act remaining in force, or in any proclamation, order in council, instrument or document, to any Act or enactment so repealed, shall, after the Revised Statutes take effect, be held, as regards any subsequent transaction, matter or thing, to be a reference to the enactments in the Revised Statutes, having the same effect as such repealed Act or enactment.

As to effect of insertion of an Act in Schedule A

10. The insertion of any Act in the said Schedule A shall not be considered as a declaration that such Act or any part of it was or was not in force immediately before the coming into force of the said Revised Statutes.

Copies by Queen's Printer to be evidence.

11. Copies of the said Revised Statutes, purporting to be printed by the Queen's Printer from the unamended Rolls so deposited, shall be evidence of the said Revised Statutes in all courts and places whatsoever.

As to distribution of copies of Revised Statutes

12. The laws relating to the distribution of the printed copies of the statutes shall not apply to the said Revised Statutes, but the same shall be distributed in such numbers and to such persons only as the Governor in Council directs.

This Act to be printed with them, &c.

13. This Act shall be printed with the said Revised Statutes, and shall be subject to the same rules of construction as the said Revised Statutes.

1886. *Revised Statutes of Canada.* Chap. 4.

14. Any chapter of the said Revised Statutes may be cited and referred to in any Act or proceeding whatsoever, either by its title as an Act, or by its short title, or by using the expression "The Revised Statute respecting—" adding the remainder of the title given at the beginning of the particular chapter, or by using the expression "The Revised Statutes" or "The Revised Statutes of Canada, chapter—" adding the number of the particular chapter in the copies printed by the Queen's Printer.

SCHEDULE.

Acts and parts of Acts amended.

Chapter and subject of Act.	Manner in which amended
(1.) Chapter 7, "An Act respecting Elections of Members of the House of Commons"	By striking out the forms of oaths of qualification marked "S" and "T" in the schedule to the said Act, and by changing the letters by which the subsequent forms are marked and identified to suit the omission of those forms.
(2.) Chapter 75, "An Act respecting the Navigation of Canadian Waters."	By striking out the words "a similar fog-horn and bell" in the fifth line of article twelve of section two, and by inserting the following in lieu thereof: "an efficient fog-horn to be sounded by a bellows or other mechanical means, and also with an efficient bell."
(3.) Chapter 175, "An Act respecting Summary Proceedings before Justices of the Peace."	By striking out section one hundred and three.

OTTAWA: Printed by BROWN CHAMBERLAIN, Law Printer in the Queen's Most Excellent Majesty.



PROCLAMATION.

LANSDOWNE.

[L.S.]

CANADA.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., &c., &c.

To all to whom these presents shall come, or whom the same may in anywise concern.—GREETING :

JNO. S. D. THOMPSON, } WHEREAS in and by an Act of the Parlia-
Attorney General, } ment of Canada, passed in the session
Canada. } thereof held in the forty-ninth year of Our reign,
chaptered four, and intituled "An Act respecting the Revised Statutes of Canada," after reciting that it has been found expedient to revise, classify and consolidate the public general statutes passed by the Parliament of the Dominion of Canada, and also certain public general statutes which were passed by the several legislatures of the Provinces of Canada before they respectively became a part thereof, and which are still in force and relate to matters within the legislative authority of the Parliament of Canada ; and that such revision, classification and consolidation have been made accordingly ; and that it is expedient to provide for the incorporation therewith of the public general statutes passed during the said session, and for giving the force of law to the body of the Revised Statutes to result from such incorporation.—it is, amongst other things, in effect enacted :

That the printed Roll marked A of the public general statutes passed by the Parliament of the Dominion of Canada, and also certain public general statutes which were passed by the several legislatures of the Provinces of Canada before they respectively became a part thereof, and which are still in force, and relate to matters within the legislative authority of the Parliament of Canada, attested under the signature of our Governor General of Canada and that of the Clerk of the Parliaments, as that of the said statutes so revised, classified and consolidated as aforesaid, and which is deposited in the office of such Clerk, shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as to be repealed in the Schedule A annexed to the said Roll ; but that the marginal notes thereon, and the references to former enactments at the foot of the several sections thereof, and the explanatory notes and tables inserted by the revisors, form no part of the said Statutes, and shall be held to have been inserted for convenience of reference only, and may be omitted or corrected ; and that any misprint or error, whether of commission or omission, or any contradiction or ambiguity in the said Roll may also be corrected, but without changing the legal effect ; and that such alterations in the language of the said Statutes as are requisite in order to preserve a uniform mode of expression and do not alter the legal effect, may be made in the correct printed Roll hereinafter mentioned :

Proclamation.

That Our said Governor General may select such Acts and parts of Acts passed during the said session of the said Parliament of Canada as he deems it advisable to incorporate with the said Statutes contained in the said Roll marked A, and may cause them to be so incorporated therewith, adapting their form and language to those of the said Statutes, but without changing their effect, inserting them in their proper places in the said Statutes, striking out of the latter any enactments repealed by or inconsistent with those so incorporated, altering the numbering of the chapters and sections, if need be, and adding to the said Schedule A a list of the Acts and parts of Acts of the said session so incorporated as aforesaid, and also amending the said Statutes in the particulars and to the extent in the Schedule to the said Act now in recital set forth :

That as soon as the said incorporation of such Acts and parts of Acts with the said Statutes, and the said addition to the said Schedule A and amendments have been completed, our said Governor General may cause a correct printed Roll thereof, attested under his signature and countersigned by the Secretary of State, to be deposited in the office of the Clerk of the Parliaments, which Roll shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as repealed in the amended Schedule A thereto annexed ; but any marginal notes and references to former enactments which appear thereon shall be held to form no part of the said Statutes, but to be inserted for convenience of reference only :

That Our said Governor in Council, after such deposit of the said last mentioned Roll, may, by Proclamation, declare the day on, from and after which the same shall come into force and have effect as law, by the designation of "The Revised Statutes of Canada:"

That on, from and after such day, the same shall accordingly come into force and effect as and by the designation of "The Revised Statutes of Canada," to all intents as if the same were expressly embodied in and enacted by the said Act, to come into force and have effect on, from and after such day :

And that on, from and after such day, all the enactments in the several Acts and parts of Acts in such amended Schedule A mentioned shall, so far as the same are within the legislative authority of the Parliament of Canada, stand and be repealed to the extent mentioned in the third column of the said Schedule A :

And whereas Our said Governor General of Canada has, by two certain Orders in Council, bearing date respectively the fifth day of October, in the year of Our Lord one thousand eight hundred and eighty-six, and the twenty-fourth day of December in the same year, selected from the Acts passed during the session of the said Parliament of Canada held in the forty-ninth year of Our Reign the Acts and parts of Acts mentioned in the Schedule hereto annexed as those which he deems it advisable to incorporate with the statutes contained in the said Roll marked A, and has caused them to be so incorporated therewith, adapting their form and language to those of the said statutes, but without changing their effect, and inserting them in their proper places in the said statutes, striking out of the latter any enactments repealed by or inconsistent with those so incorporated, altering the numbering of the chapters and sections, so far as was necessary, and adding to the said Schedule A a list of the Acts and parts of Acts so incorporated as aforesaid, and amending the said statutes

Proclamation.

in the particulars and to the extent set forth in the schedule to the said Act herebefore in part recited; and the said incorporation of the said Acts and parts of Acts with the said statutes, and the said additions to the said Schedule A, and the said amendments having been so completed as aforesaid, has caused a correct printed Roll thereof, attested under his signature and countersigned by the Secretary of State, to be deposited in the office of the Clerk of the Parliaments:

And whereas the provisions contained in the first three sections of the said Act herebefore in part recited have been thus duly carried into effect:

And whereas Our said Governor General, since such deposit of the said last mentioned Roll, by and with the advice of Our Privy Council for Canada, has declared the first day of March next as the day on, from and after which the same shall come into force and have effect as law by the designation of "The Revised Statutes of Canada":

Now Know Ye, that, by and with the advice of Our Privy Council for Canada, We do, by this Our Royal Proclamation, declare that on, from and after the first day of March next, the said last mentioned Roll, attested under the signature of Our said Governor General of Canada, countersigned by the Secretary of State and deposited in the Office of the Clerk of the Parliaments, shall come into force and have effect as law by the designation of "The Revised Statutes of Canada" to all intents as though the same were expressly embodied in and enacted by the said Act herebefore in part recited, to come into force and have effect on, from and after the said first day of March next.

Of all which Our loving subjects and all others whom these presents may concern, are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent, and the Great Seal of Canada to be hereunto affixed. Witness, Our Right Trusty and Entirely Beloved Cousin the Most Honourable Sir HENRY CHARLES KEITH PETTY-FITZMAURICE, Marquess of Lansdowne, in the County of Somerset, Earl of Wycombe, of Chipping Wycombe, in the County of Bucks, Viscount Calne and Calstone in the County of Wilts, and Lord Wycombe, Baron of Chipping Wycombe, in the County of Bucks, in the Peerage of Great Britain; Earl of Kerry and Earl of Shelburne, Viscount Clonmaurice and Fitzmaurice, Baron of Kerry, Lisnaw, and Dunkerron, in the Peerage of Ireland; Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George; Governor General of Canada, and Vice Admiral of the same.

At Our Government House, in our CITY OF OTTAWA, this TWENTY-FOURTH day of JANUARY, in the year of Our Lord one thousand eight hundred and eighty-seven, and in the fiftieth year of Our Reign.

By Command,

J. A. CHAPLEAU,
Secretary of State.

Proclamation.

SCHEDULE.

Acts and parts of Acts passed in the session held in the forty-ninth year of Her Majesty's Reign, which have been incorporated with the statutes contained in the Roll marked A.

CHAP.

- | | |
|--|--------------|
| 2. An Act further to amend "The Interpretation Act" | - The whole. |
| 3. An Act to amend the Act respecting the Electoral Franchise and the Dominion Elections Act, 1874 | do |
| 5. An Act respecting Commissions to Public Officers of Canada | do |
| 6. An Act to amend the law relating to the salaries of certain Judges of the Supreme Court of Judicature for Ontario | do |
| 7. An Act to expedite the issue of Letters Patent for Mining Lands | do |
| 8. An Act to explain the Act intituled: "An Act for the final settlement of the claims made by the Province of Manitoba on the Dominion" | do |
| 9. An Act further to amend the Act respecting the Canadian Pacific Railway | - Sec. 7. |
| 21. An Act further to amend "The Post Office Act, 1875" | The whole. |
| 22. An Act respecting the Department of Public Printing and Stationery | do |
| 23. An Act respecting Experimental Farm Stations | do |
| 24. An Act respecting the representation of the North-West Territories in the Parliament of Canada | do |
| 25. An Act further to amend the law respecting the North-West Territories | do |
| 26. An Act respecting Real Property in the Territories | do |
| 27. An Act further to amend "The Dominion Lands Act, 1883" | do |
| 28. An Act to make further provision respecting the administration of the Public Lands of Canada in British Columbia | do |
| 34. An Act further to amend the Steamboat Inspection Act, 1882 | do |
| 35. An Act respecting certain works constructed in or over Navigable Waters | do |
| 36. An Act respecting the protection of Navigable Waters | do |
| 37. An Act further to amend the Acts relating to Duties of Customs and the importation or exportation of goods into or from Canada | do |
| 39. An Act in amendment of "The Consolidated Inland Revenue Act, 1883" and the Act amending the same | do |
| 40. An Act in further amendment of the Weights and Measures Act of 1879 | do |
| 41. An Act to amend "The Adulteration Act" | do |
| 42. An Act to prohibit the manufacture and sale of certain substitutes for butter | do |
| 43. An Act to amend "The Animal Contagious Diseases Act" | do |
| 44. An Act respecting interest in the Province of British Columbia | do |

Proclamation.

CHAP.		The whole
45	An Act respecting Insurance	do
46	An Act further to amend "An Act respecting Insolvent Banks, Insurance Companies, Loan Companies, Building Societies, and Trading Corporations"	do
47	An Act to amend the law respecting Crown cases reserved.	do
48	An Act respecting the application of certain Fines and Forfeitures	do
49	An Act to make further provision respecting Summary Proceedings before Justices and other Magistrates.	do
50	An Act further to amend the law of evidence in certain cases	do
51	An Act to amend "An Act respecting offences against the Person."	do
52	An Act to punish seduction, and like offences, and to make further provision for the protection of Women and Girls	do
53	An Act to amend the Criminal Law, and to declare it a misdemeanor to leave unguarded and exposed certain holes, openings and excavations	do
54	An Act to amend an Act respecting a Reformatory for certain Juvenile Offenders in the County of Halifax, in the Province of Nova Scotia	do
114	An Act further to amend the Act respecting Fishing by foreign vessels.	do

OTTAWA:

Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.
1886



THE
REVISED STATUTES

OF

CANADA.

CHAPTER I.

An Act respecting the Form and Interpretation of A.D. 1886.
Statutes.

HER Majesty, by and with the advice and consent of the
Senate and House of Commons of Canada, enacts as
follows:—

SHORT TITLE.

1. This Act may be cited as "*The Interpretation Act.*" Short title.
31 V., c. 1, s. 16.

APPLICATION.

2. This Act, and every provision thereof, shall extend and apply to every Act of the Parliament of Canada, now or hereafter passed except in so far as the provision is inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression or clause is inconsistent with the context, —and except in so far as any provision hereof is in any such Act declared not applicable thereto; and the omission in any Act of a declaration that "*The Interpretation Act*" applies thereto, shall not be construed to prevent its so applying, although such express declaration is inserted in some other Act or Acts of the same session. 31 V., c. 1, s. 3;—31 V., c. 28.

This Act to apply to all Acts now or hereafter passed.

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FORM OF ENACTING.

Form of enacting clause.

3. The following words may be inserted in the preambles of statutes, and shall indicate the authority by virtue of which they are passed: "Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows." 31 V., c. 1, s. 1.

Other clauses to follow in concise form.

4. After the insertion of the words aforesaid, which shall follow the setting forth of the considerations or reasons upon which the law is grounded, and which shall, with these considerations or reasons, constitute the entire preamble, the various clauses of the statute shall follow in a concise and enunciative form. 31 V., c. 1, s. 2.

TIME OF COMMENCEMENT OF ACTS.

Date of Royal assent to be indorsed on every Act.

5. The Clerk of the Parliaments shall indorse on every Act of the Parliament of Canada, immediately after the title of such Act, the day, month and year when the same was, by the Governor General, assented to in Her Majesty's name, or reserved by him for the signification of Her Majesty's pleasure thereon,—and in the latter case, such Clerk shall also indorse thereon the day, month and year when the Governor General signified, either by speech or message to the Senate and House of Commons, or by proclamation, that the same was laid before Her Majesty in Council, and that Her Majesty was pleased to assent to the same; and such indorsement shall be taken to be a part of such Act, and the date of such assent or signification, as the case may be, shall be the date of the commencement of the Act, if no later commencement is therein provided. 31 V., c. 1, s. 4;—35 V., c. 1, s. 1, *part*.

Effect of such indorsement.

AMENDMENT OR REPEAL.

Every Act may be amended during session in which it passes.

6. Any Act of the Parliament of Canada may be amended, altered or repealed by any Act passed in the same session thereof. 46 V., c. 1, s. 1, *part*.

INTERPRETATION.

How enactments shall be construed. To apply to the whole Dominion. Territorial application of Acts amending previous Acts.

7. In every Act of the Parliament of Canada, unless the context otherwise requires:—

- (1) The enactments apply to the whole of Canada:
- (2) No Act amending a previous Act which does not apply to all the Provinces of Canada, and no enactment in any such amending Act, although of a substantive nature or form, shall apply to any Province to which the amended Act does not apply, unless it is expressly provided that such amending Act or enactment shall apply to such Province or to all the Provinces of Canada:

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(3.) The law shall be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same shall be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof, according to its spirit, true intent and meaning:

Application of expressions in present tense.

(4.) The expression "shall" shall be construed as imperative, and the expression "may" as permissive:

"Shall" and "may."

(5.) Whenever the expression "herein" is used in any section of an Act, it shall be understood to relate to the whole Act, and not to that section only:

"Herein"

(6.) The expression "Her Majesty," "the Queen," or "the Crown," means Her Majesty, her heirs and successors, sovereigns of the United Kingdom of Great Britain and Ireland:

"Her Majesty," &c.

(7.) The expression "Governor," "Governor of Canada," "Governor General," or "Governor in Chief," means the Governor General for the time being of Canada, or other the chief executive officer or administrator for the time being carrying on the Government of Canada on behalf and in the name of the Queen, by whatever title he is designated:

"Governor," &c.

(8.) The expression "Governor in Council," or "Governor General in Council," means the Governor General of Canada, or person administering the Government of Canada for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the Queen's Privy Council for Canada:

"Governor in Council," &c.

(9.) The expression "Lieutenant Governor" means the Lieutenant Governor for the time being, or other chief executive officer or administrator for the time being, carrying on the Government of the Province or Provinces of the Dominion indicated by the Act, by whatever title he is designated:

"Lieutenant Governor," &c.

(10.) The expression "Lieutenant Governor in Council" means the Lieutenant Governor, or person administering the Government of the Province indicated by the Act, for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the Executive Council of the said Province:

"Lieutenant Governor in Council," &c.

(11.) The expression "the United Kingdom" means the United Kingdom of Great Britain and Ireland:

"United Kingdom."

(12.) The expression "the United States" means the United States of America:

"United States."

(13.) The expression "Province" includes the North-West Territories and the District of Keewatin:

"Province."

(14.) The expression "Legislature," "Legislative Council" or "Legislative Assembly," includes the Lieutenant Governor in Council and also the Legislative Assembly of the North-West Territories, and the Lieutenant Governor in Council of the District of Keewatin:

"Legislature."

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"Act"	(15.) The expression "Act" as meaning an Act of a Legislature, includes an Ordinance of the North-West Territories or the District of Keewatin :	
Names of places, &c.	(16.) The name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, means such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name is not the formal and extended designation thereof :	
"Proclamation."	(17.) The expression "proclamation" means a proclamation under the Great Seal :	
"Great Seal."	(18.) The expression "Great Seal" means the Great Seal of Canada :	
Governor acting by Proclamation.	(19.) When the Governor General is authorized to do any act by proclamation, such proclamation is understood to be a proclamation issued under an order of the Governor in Council ; but it shall not be necessary that it be mentioned in the proclamation that it is issued under such order :	
"County."	(20.) The expression "county" includes two or more counties united for purposes to which the enactment relates :	
Number and gender.	(21.) Words importing the singular number or the masculine gender only, include more persons, parties or things of the same kind than one, and females as well as males, and the converse :	
"Person."	(22.) The expression "person" includes any body corporate and politic, or party, and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to the law of that part of Canada to which such context extends :	
"Writing," "written."	(23.) The expression "writing," "written," or any term of like import, includes words printed, painted, engraved, lithographed or otherwise traced or copied :	
"Now" or "next."	(24.) The expression "now" or "next" shall be construed as having reference to the time when the Act was presented for the Royal Assent :	
"Month"	(25.) The expression "month" means a calendar month :	
"Holiday."	(26.) The expression "holiday" includes Sundays, New Year's Day, the Epiphany, the Annunciation, Good Friday, the Ascension, Corpus Christi, St. Peter and St. Paul's Day, All Saints' Day, Conception Day, Easter Monday, Ash Wednesday, Christmas Day, the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign, Dominion Day, and any day appointed by proclamation for a general fast or thanksgiving :	
Reckoning time.	(27.) If the time limited by any Act for any proceeding, or the doing of any thing under its provisions, expires or falls upon a holiday, the time so limited shall be extended to, and such thing may be done on the day next following which is not a holiday :	
"Oath."	(28.) The expression "oath" includes a solemn affirmation or declaration, whenever the context applies to any	

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	person and case by whom and in which a solemn affirmation or declaration may be made instead of an oath ; and in like cases the expression "sworn" includes the expression "affirmed" or "declared" :	
	(29.) Whenever by an Act of Parliament or by a rule of the Senate or House of Commons, or by an order, regulation or commission made or issued by the Governor in Council, under any law authorizing him to require the taking of evidence under oath, an oath is authorized or directed to be made, taken or administered, such oath may be administered, and a certificate of its having been made, taken or administered, may be given, by any one named in any such Act, rule, order, regulation or commission, or by a judge of any court, a notary public, a justice of the peace, or a commissioner for taking affidavits, having authority or jurisdiction within the place where the oath is administered :	<small>Who may administer and certify to oaths.</small>
	(30.) The expression "sureties" means sufficient sureties, and the expression "security" means sufficient security, and whenever these words are used, one person shall be sufficient therefor unless otherwise expressly required :	<small>"Sureties." "Security."</small>
	(31.) The expression "superior court" means, in the Province of Ontario, the Court of Appeal for Ontario and the High Court of Justice for Ontario ; in the Province of Quebec, the Court of Queen's Bench and the Superior Court in and for the said Province ; in the Provinces of Nova Scotia, New Brunswick and British Columbia, the Supreme Court in and for each of the said Provinces respectively ; in the Province of Prince Edward Island, the Supreme Court of Judicature for that Province ; in the Province of Manitoba, Her Majesty's Court of Queen's Bench for Manitoba ; and in the North-West Territories, the Supreme Court of the North-West Territories :	<small>"Superior Courts."</small>
	(32.) The expression "registrar" or "register" means and includes indifferently registrars and registers in the several Provinces of Canada, and their deputies, respectively :	<small>"Registrar," "Register."</small>
	(33.) If any sum of the public money is, by any Act, appropriated for any purpose or directed to be paid by the Governor General, and no other provision is made respecting it, such sum shall be payable under warrant of the Governor General directed to the Minister of Finance and Receiver General, out of the Consolidated Revenue Fund of Canada ; and all persons intrusted with the expenditure of any such sum or any part thereof shall account for the same in such manner and form, with such vouchers, at such periods and to such officer as the Governor General directs :	<small>Paying and accounting for moneys appropriated by statute.</small>
	(34.) The expression "magistrate" means a justice of the peace :	<small>"Magistrate."</small>
	(35.) The expression "two justices" means two or more justices of the peace, assembled or acting together :	<small>"Two Justices."</small>
	(36.) If anything is directed to be done by or before a magistrate or a justice of the peace, or other public func-	<small>Local jurisdiction.</small>

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tionary or officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done:

Power to do anything to include all necessary powers for doing it

(37.) Whenever power is given to any person, officer or functionary, to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as are necessary to enable such person, officer or functionary to do or enforce the doing of such act or thing:

Imprisonment where to be, when no special place is mentioned.

(38.) If, in any Act, any person is directed to be imprisoned or committed to prison, such imprisonment or committal shall, if no other place is mentioned or provided by law, be in or to the common gaol of the locality in which the order for such imprisonment is made, or if there is no common gaol there, then in or to that common gaol which is nearest to such locality; and the keeper of any such common gaol shall receive such person, and safely keep and detain him in such common gaol under his custody until discharged in due course of law, or bailed, in cases in which bail may, by law, be taken:

Words giving power to appoint include power to remove, &c

(39.) Words authorizing the appointment of any public officer or functionary, or any deputy, include the power of removing or suspending him, re-appointing or re-instating him or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested:

Directions to a Minister or public officer, to apply to his substitute, successors and Deputy.

(40.) Words directing or empowering a Minister of the Crown to do any act or thing, or otherwise applying to him by his name of office, include a Minister acting for, or, if the office is vacant, in the place of such Minister, under the authority of an Order in Council, and also his successors in such office, and his or their lawful deputy; and words directing or empowering any other public officer or functionary to do any act or thing, or otherwise applying to him by his name of office, include his successors in such office, and his or their lawful deputy:

Appointments by Governor to be during pleasure.

(41.) All officers now appointed or hereafter appointed by the Governor General, whether by commission or otherwise, shall remain in office during pleasure only, unless otherwise expressed in their commissions or appointments:

Acts to be done by more than two.

(42.) When any act or thing is required to be done by more than two persons, a majority of them may do it:

Words constituting a corporation to vest certain powers in it

(43.) Words making any association or number of persons a corporation or body politic and corporate, shall vest in such corporation power to sue and be sued, contract and be contracted with by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or movables for the purposes for which the corporation is constituted, and to alienate the same at pleasure; and shall also vest in any majority of the members of the corporation the power to bind the others by their acts; and shall exempt the individual members of the corporation from personal liability for its

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debts or obligations or acts, provided they do not violate the provisions of the Act incorporating them; but no corporation shall carry on the business of banking unless when such power is expressly conferred on them by the Act creating such corporation:

(41.) Whenever forms are prescribed, slight deviations therefrom, not affecting the substance or calculated to mislead, shall not vitiate them:

Slight deviation from forms not to invalidate.

(45.) Whenever power to make by-laws, regulations, rules or orders is conferred, it shall include the power, from time to time, to alter or revoke the same and make others:

Power to make by-laws, what included by.

(46.) No provision or enactment in any Act shall affect, in any manner or way whatsoever, the rights of Her Majesty, Her heirs or successors, unless it is expressly stated therein that Her Majesty shall be bound thereby; nor, if such Act is of the nature of a private Act, shall it affect the rights of any person or of any body politic, corporate or collegiate,—such only excepted as are therein mentioned or referred to:

Acts not to affect the Crown, unless specially declared to do so.

As to Acts of a private nature.

(47.) Every Act shall be so construed as to reserve to Parliament the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever such repeal, amendment, revocation, restriction or modification is deemed by Parliament, to be required for the public good; and unless it is otherwise expressly provided in any Act passed for chartering any bank, it shall be in the discretion of Parliament at any time thereafter, to make such provisions and impose such restrictions with respect to the amount and description of notes which may be issued by such bank, as to Parliament appears expedient:

Power always reserved to Parliament to repeal or amend any Act.

As to Bank Charters.

(48.) The repeal of any Act or part of an Act shall not revive any Act or provision of law repealed by such Act or part of an Act, or prevent the effect of any saving clause therein:

Effect of repeal of repealing Act.

(49.) Whenever any Act is repealed, wholly or in part, and other provisions are substituted, and whenever any regulation is revoked and other provisions substituted, all officers, persons, bodies politic or corporate, acting under the old law or regulation, shall continue to act as if appointed under the new law or regulation until others are appointed in their stead; and all proceedings taken under the old law or regulation shall be taken up and continued under the new law or regulation, when not inconsistent therewith; and all penalties and forfeitures may be recovered and all proceedings had in relation to matters which have happened before the repeal or revocation, in the same manner as if the law or regulation was still in force, pursuing the new provisions as far as they can be adapted to the old law or regulation:

Effect of repeal of Act as to persons acting under it.

How far only to affect certain proceedings.

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As to by-laws, &c., under repealed Act.

(50.) Whenever any Act is repealed, wholly or in part, and other provisions are substituted, all by-laws, orders, regulations, rules and ordinances made under the repealed Act shall continue good and valid in so far as they are not inconsistent with the substituted Act, enactment or provision, until they are annulled or others made in their stead:

Construction of references to enactments for which others are substituted.

(51.) Whenever any Act or part of an Act is repealed, and other provisions are substituted by way of amendment, revision or consolidation, any reference in any unrepealed Act, or in any rule, order or regulation made thereunder to such repealed Act or enactment, shall, as regards any subsequent transaction, matter or thing, be held and construed to be a reference to the provisions of the substituted Act or enactment relating to the same subject matter as such repealed Act or enactment: Provided always, that where there is no provision in the substituted Act or enactment relating to the same subject matter, the repealed Act or enactment shall stand good, and be read and construed as unrepealed, in so far, but in so far only, as is necessary to support, maintain or give effect to such unrepealed Act, or such rule, order or regulation made thereunder:

Proviso: case in which the repealed enactment is to stand good.

As to acts, &c., done before repeal.

(52.) The repeal of an Act, or the revocation of a regulation, at any time, shall not affect any act done or any right or right of action existing, accruing, accrued or established, or any proceedings commenced in a civil cause, before the time when such repeal or revocation takes effect: but the proceedings in such case shall be conformable when necessary, to the repealing act or regulation:

Offences committed and penalties incurred not affected by repeal.

(53.) No offence committed and no penalty or forfeiture incurred, and no proceeding pending under any Act at any time repealed, or under any regulation at any time revoked, shall be affected by the repeal or revocation, except that the proceeding shall be conformable, when necessary, to the repealing Act or regulation, and that whenever any penalty, forfeiture or punishment is mitigated by any of the provisions of the repealing Act or regulation, such provisions shall be extended and applied to any judgment to be pronounced after such repeal or revocation:

All Acts to be deemed public Acts, as regards pleading.

(54.) Every Act shall, unless by express provision it is declared to be a private Act, be deemed to be a public Act, and shall be judicially noticed by all judges, justices of the peace and others without being specially pleaded:

Proof of Act

(55.) Every copy of any Act, public or private, printed by the Queen's Printer, shall be evidence of such Act and of its contents: and every copy purporting to be printed by the Queen's Printer shall be deemed to be so printed, unless the contrary is shown:

Preamble to be a part of Act

(56.) The preamble of every Act shall be deemed a part thereof, intended to assist in explaining the purport and object of the Act: and every Act and every provision or enactment thereof, shall be deemed remedial, whether its immediate purport is to direct the doing of any thing

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which Parliament deems to be for the public good, or to prevent or punish the doing of any thing which it deems contrary to the public good—and shall accordingly receive such fair, large and liberal construction and interpretation as will best insure the attainment of the object of the Act and of such provision or enactment, according to its true intent, meaning and spirit:

to be construed as such.

(57.) Nothing in this section shall exclude the application to any Act, of any rule of construction applicable thereto, and not inconsistent with this section. 31 V., c. 1, ss. 6, 7, part, and 8;—35 V., c. 27, ss. 12, part, 13, 14 and 15;—37 V., c. 9, s. 129;—37 V., c. 10, s. 62;—38 V., c. 1, ss. 2 and 3;—42 V., c. 47, s. 3;—46 V., c. 1, ss. 1 and 2, parts;—48-49 V., c. 40, s. 2, part;—49 V., c. 2, s. 1;—19 V., c. 24, s. 69, part;—49 V., c. 25, s. 14, part.

Application of rules of construction not excluded.

8. Any Act may be cited as of the year of Our Lord.

How Acts may be cited.

9. The provisions of this Act shall apply to the construction thereof, and to the words and expressions used therein. 31 V., c. 1, s. 7, part.

Provisions herein to apply to this Act.

OTTAWA: Printed by BROWN CHAMBERLAIN, Law Printer to the Queen's Most Excellent Majesty.

R.S.C. 1886, History and Disposal of Acts.

SCHEDULE A.

ACTS AND PARTS OF ACTS REPEALED, from the date of the coming into force of the Revised Statutes of Canada, so far as the said Acts and parts of Acts relate to matters within the legislative authority of the Parliament of Canada.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued. 43 Victoria—1890—Concluded.		
25.....	An Act to amend and consolidate the several Acts relating to the North-West Territories	The whole.
26.....	An Act to amend and consolidate the laws respecting Indians	do

APPENDIX No. 1.

TABLE

OF ACTS PASSED PRIOR TO CONFEDERATION BY THE DIFFERENT PROVINCES NOW COMPRISED IN THE DOMINION OF CANADA, AND OF ACTS OF THE DOMINION OF CANADA, SHEWING HOW MUCH OF EACH IS IN FORCE, AND HOW EACH HAS BEEN DEALT WITH.

Acts of the Province of Canada 1859—1867.	
" " Nova Scotia, 1864—1867.	
" " New Brunswick, 1854—1867.	
" " British Columbia, 1871.	
" " Prince Edward Island, 1773—1873.	
" Dominion of Canada, 1867—1886.	

PROVINCE OF CANADA.

Consolidated Statutes of Canada.—1859.	
" " Upper Canada.—1859.	
" " Lower Canada.—1860.	
23 Vict.—1860.	27-28 Vict.—1864.
24 Vict.—1861.	28 Vict.—1865.
25 Vict.—1862.	29 Vict.—1865.
26 Vict.—1863.	29-30 Vict.—1866.
27 Vict.—1863.	

History and disposal of Acts.

ACTS OF THE DOMINION OF CANADA.—Continued.

Chapter	Subject Matter.	Remarks.
28	Indian Act, consolidation of.....	Consolidated, except s. 3, which is repealed by 46 V., c. 6, s. 1; s. 20 which is repealed by 41 V., c. 21, s. 6; s. 23 which is repealed by 44 V., c. 17, s. 8; sub-s. 1 of s. 27 which is repealed by 41 V., c. 21, s. 7; s. 30 which is repealed by 44 V., c. 17, s. 9; ss. 99 and 100 which are repealed by 47 V., c. 27, ss. 16 and 17 respectively; and s. 5 from "affairs," in line 3 to the end of the section; s. 6; s. 7 from "affairs" in line 6 to the end of the section; s. 53 from "respectively" in line 12 to the end of the section, s. 89 from "form" in line 5 to the end of the section; s. 108 from "Public" in line 14 to the end of the section; and ss. 112 and 113, all which are recommended for repeal.



6-7 EDWARD VII.

CHAPTER 43.

An Act respecting the Revised Statutes, 1906.

[Assented to 30th January, 1907.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

1. This Act may be cited as The Revised Statutes of Canada, Short title, 1906, Act.

INTERPRETATION.

2. This Act shall be subject to the same rules of construction as The Revised Statutes, 1906. Rules of construction.

SANCTION.

3. The Revised Statutes of Canada, 1906, are hereby confirmed and declared to have and to have had, on, from and after the thirty-first day of January, 1907, the force of law as if herein enacted. R. S., 1906, confirmed.

2. The marginal notes thereon, the reference to former enactments at the foot of the sections, and the explanatory notes and tables inserted by the Commissioners, shall form no part of the said Revised Statutes, and shall be held to have been inserted for convenience only, and may be corrected or omitted. Marginal notes, references, etc.

REPEAL.

4. The several Acts enumerated in schedule A to the said Revised Statutes are hereby declared to be and to have been, on, from and after the last mentioned date, repealed to the extent mentioned in the said schedule. Acts in schedule A repealed.

5. The repeal of the said Acts or parts of Acts shall not,—
 (a) revive any Act or provision of law repealed by them; or,
 (b) prevent the effect of any saving clause in the said Acts and parts of Acts, or the application of any of the said Acts, or parts of Acts, or of any Act or provision of law formerly in force, to any transaction, matter or thing anterior to the said repeal to which they would otherwise apply. Repeal not to revive or be retroactive.

6. The repeal of the said Acts and parts of Acts shall not affect,— Repeal not to affect matters anterior.

Revised Statutes of Canada, 1906.

- (a) any penalty, forfeiture or liability, civil or criminal, incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal;
- (b) any indictment, information, conviction, sentence or prosecution, had, done, completed or pending at the time of such repeal;
- (c) any action, suit, judgment, decree, certificate, execution, process, order, rule, or any proceeding, matter or thing whatsoever respecting the same, had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal;
- (d) any act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, order in council, proclamation, regulation, contract, lien, charge, status, capacity, immunity, matter or thing, had, done, made, acquired established or existing at the time of such repeal; or,
- (e) any office, appointment, commission, salary, allowance, security or duty, or any matter or thing appertaining thereto at the time of such repeal.

Or affect anything pending or existing.

Such matters but every such, — remain valid.

2. Such repeal shall not defeat, disturb, invalidate or prejudicially affect any other matter or thing whatsoever, had, done, completed, existing or pending at the time of such repeal:

- (a) penalty, forfeiture, liability and proceeding;
- (b) indictment, information, conviction, sentence and prosecution;
- (c) action, suit, judgment, decree, certificate, execution, process, order, rule, proceeding, matter or thing;
- (d) act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, order in council, proclamation, regulation, contract, lien, charge, status, capacity, immunity, matter or thing; and,
- (e) office, appointment, commission, salary, allowance, security, duty, matter or thing;

Continuance thereof under R. S., 1906.

may and shall remain and continue as if no such repeal had taken place, and, so far as necessary, may and shall be continued, prosecuted, enforced and proceeded with under the said Revised Statutes, and other the statutes and laws having force in Canada, and subject to the provisions of the said several statutes and laws, as if no such repeal had taken place.

R. S., 1906, not to be deemed new laws.

7. The said Revised Statutes shall not be held to operate as new laws, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the said Acts and parts of Acts so repealed, and for which the said Revised Statutes are substituted.

Construction where they differ from repealed enactments.

2. If upon any point the provisions of the said Revised Statutes are not in effect the same as those of the repealed Acts and parts of Acts for which they are substituted, then, as

Revised Statutes of Canada, 1906.

respects all transactions, matters and things subsequent to the time when the said Revised Statutes take effect, the provisions contained in them shall prevail, but, as respects all transactions, matters and things anterior to the said time, the provisions of the said repealed Acts and parts of Acts shall prevail.

8. Any reference in any former Act remaining in force, or in any proclamation, order in council, instrument or document, to any Act or enactment so repealed, shall, after the said Revised Statutes take effect, be held, as regards any subsequent transaction, matter or thing, to be a reference to the enactments in the said Revised Statutes, having the same effect as such repealed Act or enactment.

As to references to repealed Act in former Acts, etc.

9. The insertion of any Act in the said schedule A shall not be considered as a declaration that such Act or any part of it was or was not in force immediately before the coming into force of the said Revised Statutes.

As to effect of insertion of an Act in Schedule A.

FRENCH VERSION.

10. The Governor in Council may appoint two or more competent persons to prepare the French version of the said Revised Statutes, and they shall proceed as speedily as possible to make and complete such version and report the same to the Governor in Council.

Governor in Council to appoint translators. Report.

2. The Governor General shall thereupon cause a printed Roll of the version so made and reported, attested under the signature of the Governor General and that of the Clerk of the Parliaments, to be deposited in the office of the said Clerk, and such Roll shall be deemed to be the authentic original French version of the said statutes, and as such shall have the force of law as if herein enacted.

Roll to be deposited.

Deemed authentic and to have force of law.

EVIDENCE.

11. Copies of the said Revised Statutes, either in the English or French language, purporting to be printed by the King's Printer, shall be evidence of the said Revised Statutes and of their contents.

Copies by King's Printer to be evidence.

DISTRIBUTION.

12. The laws relating to the distribution of the printed copies of the statutes shall not apply to the said Revised Statutes, but the same shall be distributed in such numbers and to such persons only as the Governor in Council directs.

Regulated by Governor in Council.

CITATION.

13. Any chapter of the said Revised Statutes may be cited and referred to in any Act or proceeding whatsoever, either by

Citation of R. S., 1906.

R.S.C. 1906, c. 43, cont'd.

Revised Statutes of Canada, 1906.

its title as an Act, or by its short title, or by using the expression *The Revised Statute, 1906*, respecting—, adding the remainder of the title given at the beginning of the particular chapter, or by using the expression *The Revised Statutes, 1906*, or *The Revised Statutes of Canada, 1906*, chapter , adding the number of the particular chapter in the copies printed by the King's Printer.

PRINTING.

This Act to be printed with R. S., 1906. **14.** This Act shall be printed with the said Revised Statutes.

COMMENCEMENT.

31st January, 1907. **15.** This Act shall come into force on the thirty-first day of January, 1907.

FORMER LEGISLATION CORRECTED AND REPEALED.

1903, c. 61. Interpretation of preamble and declaratory. **16.** The preamble of the Act respecting the Revised Statutes of Canada, 3 Edward VII., chapter 61, shall be read as having included, and shall be deemed to have always included, the words "and The Revised Statutes of 1886," immediately after the words "1886," in the fourth line thereof.

3 E. VII., c. 61, and 4 E. VII., c. 36, repealed. **2.** The last mentioned Act, and the Act amending it, 4 Edward VII., chapter 36, are hereby repealed.

Proclamation, R.S.C. 1906.

PROCLAMATION.

GREY.
[L.S.]

CANADA.

EDWARD the SEVENTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, KING, Defender of the Faith, Emperor of India.

To all to whom these presents shall come, or whom the same may in anywise concern,—GREETING :

A PROCLAMATION.

A. B. AYLESWORTH, } **WHEREAS** in and by an Act of the
Attorney General, } Parliament of Canada passed in the
Canada. } session thereof held in the third year of
Our Reign, chaptered sixty-one, and intituled 'An Act respecting the Revised Statutes of Canada,' it is recited that it has been found expedient to revise, classify and consolidate the public general statutes of Canada; and that such revision, classification and consolidation are being made by Commissioners appointed by a certain Commission under the Great Seal of Canada bearing date the 21st day of November, 1902; and that it is expedient to provide for the incorporation therewith of the public general statutes passed during the said session and subsequent thereto, and for giving the force of law to the body of the Revised Statutes to result from such incorporation.

AND WHEREAS it is thereupon by the said Act, as it is amended by an Act of the said Parliament passed in the next following session thereof, chaptered thirty-six, and intituled 'An Act to amend chapter 61 of the Statutes of 1903, respecting the Revised Statutes of Canada,' amongst other things in effect enacted as follows:—

That so soon as the said Commissioners or a majority of them shall report in writing the completion of the said consolidation, including therein such Acts or parts of Acts passed during the said session held in the third year of Our reign and subsequent thereto as the Governor General may deem advisable to be so included, the Governor General may cause a printed Roll thereof, attested under his signature and that of the Clerk of the Parliaments to be deposited in the office of such Clerk; and that such Roll shall be held to be the original of the said statutes so revised, classified and consolidated; but that the marginal notes thereon, the reference to former enactments at the foot of the sections, and the explanatory notes and tables inserted by the Commissioners, shall form no part of the said statutes, and shall be held to have been inserted for convenience only, and may be corrected or omitted;

Proclamation.

And that there shall be appended to the said Roll a Schedule A similar in form to Schedule A appended to the Revised Statutes of Canada, 1886; and that the Commissioners may include in the said Schedule all Acts and parts of Acts which, though not expressly repealed, are superseded by the Acts so consolidated, or are inconsistent therewith, and all Acts and parts of Acts which were for a temporary purpose, the force of which is spent;

And that the said Commissioners in consolidating the said statutes and in incorporating therewith the Acts or parts of Acts passed subsequent thereto and selected for inclusion therein as above provided may make such alterations in their language as are requisite in order to preserve a uniform mode of expression, and may make such minor amendments as are necessary to bring out more clearly what they deem to be the intention of Parliament or to reconcile seemingly inconsistent enactments, or to correct clerical or typographical errors;

And that the Governor in Council, after such deposit of the said Roll may, by proclamation, declare the day on, from and after which the same shall come into force and have effect as law, by the designation of 'The Revised Statutes of Canada, 1906';

And that on, from and after such day, the same shall accordingly come into force and effect as, and by designation of, 'The Revised Statutes of Canada, 1906,' to all intents as if the same were expressly embodied in and enacted by the said Act to come into force and have effect on, from and after such day;

And that on, from and after such day, all the enactments in the several Acts and parts of Acts in such Schedule A mentioned shall stand and be repealed to the extent mentioned in the third column of the said Schedule A, and subject to the provisions of sections six and seven of the said Act;

AND WHEREAS Our said Commissioners, so appointed as aforesaid, have completed the said consolidation and have included therein certain Acts and parts of Acts passed during the sessions of the said Parliament held respectively in the third, the fourth, the fourth and fifth, and the sixth sessions of Our reign, and have reported in writing the completion of the said consolidation;

AND WHEREAS Our Governor General in Council has approved of and deems advisable the inclusion of the Acts and parts of Acts so included as aforesaid;

AND WHEREAS Our Governor General has caused a printed Roll of the said consolidation, attested under His signature and that of the Clerk of the Parliaments, to be deposited in the office of the said Clerk of the Parliaments;

AND WHEREAS there is appended to the said Roll a Schedule A conforming to the prescription of the said Act, so amended as aforesaid;

AND WHEREAS Our said Commissioners have otherwise complied with the provisions of the said Act as so amended;

NOW KNOW YE that, by and with the advice of Our Privy Council for Canada, We do, by these presents, proclaim and declare that on, from and after the thirty-first day of January, 1907, the said Roll so attested

Proclamation.

and deposited as aforesaid shall come into force and have effect as law by the designation of 'The Revised Statutes of Canada, 1906.'

Of all which Our loving subjects and all others whom these presents may concern, are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed.
WITNESS, Our Right Trusty and Right Well-Beloved Cousin the Right Honourable Sir ALBERT HENRY GEORGE, EARL GREY, Viscount Howick, Baron Grey of Howick, in the County of Northumberland, in the Peerage of the United Kingdom, and a Baronet; Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, etc., etc., Governor General and Commander in Chief of Our Dominion of Canada.

At Our Government House, in Our City of OTTAWA, this TWENTY-FIFTH day of JANUARY, in the year of Our Lord one thousand nine hundred and seven, and in the seventh year of Our Reign.

By Command,

R. W. SCOTT,
Secretary of State.

Interpretation Act, R.S.C. 1906, c. 1.



THE
REVISED STATUTES

or

CANADA, 1906.

CHAPTER 1.

An Act respecting the Form and Interpretation of
Statutes.

SHORT TITLE.

1. This Act may be cited as the Interpretation Act. R.S., Short title.
c. 1, s. 1.

APPLICATION.

2. Every provision of this Act shall extend and apply to every Act of the Parliament of Canada, now or hereafter passed, except in so far as any such provision,—

- (a) is inconsistent with the intent or object of such Act; or, Exceptions.
(b) would give to any word, expression or clause of any such Act an interpretation inconsistent with the context; or,
(c) is in any such Act declared not applicable thereto.

2. The omission in any Act of a declaration that this Act applies thereto, shall not be construed to prevent its so applying, although such a declaration is expressed in some other Act or Acts of the same session. R.S., c. 1, s. 2.

3. Nothing in this Act shall exclude the application to any Act of any rule of construction applicable thereto, and not inconsistent with this Act. R.S., c. 1, s. 7.

Chap. 1. *Interpretation.*

This Act applies to itself. 4. The provisions of this Act shall apply to the construction thereof, and to the words and expressions used therein. R.S., c. 1, s. 9.

FORM OF ENACTING.

Enacting clause. 5. The enacting clause of a statute may be in the following form:—'His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows.' R.S., c. 1, s. 3.

Order of clauses. 6. The enacting clause shall follow the preamble, if any, and the various clauses within the purview or body of the statute shall follow in a concise and enucleative form. R.S., c. 1, s. 4.

TIME OF COMMENCEMENT.

To be endorsed. 7. The Clerk of the Parliaments shall endorse on every Act, immediately after the title thereof, the day, month and year when the Act was, by the Governor General, assented to in His Majesty's name, or reserved by him for the signification of His Majesty's pleasure thereon; and in the latter case, the Clerk shall also endorse thereon the day, month and year when the Governor General signified, either by speech or message to the Senate and House of Commons, or by proclamation, that such Act had been laid before His Majesty in Council, and that His Majesty had been pleased to assent to the same.

Endorsement part of Act. 2. Such endorsement shall be taken to be a part of the Act, and the date of such assent or signification, as the case may be, shall be the date of the commencement of the Act, if no later commencement is therein provided. R.S., c. 1, s. 5.

AMENDMENT OR REPEAL.

In same session. 8. Any Act may be amended, altered or repealed by an Act passed in the same session of the Parliament. R.S., c. 1, s. 6.

RULES OF CONSTRUCTION.

Every Act applies to all Canada. 9. Every Act of the Parliament of Canada shall, unless the contrary intention appears, apply to the whole of Canada.

Amending Acts. 2. No Act amending a previous Act which does not apply to all the provinces of Canada, and no enactment in any such amending Act, although of a substantive nature or form, shall apply to any province to which the amended Act does not apply, unless it is expressly provided that such amending Act or enactment shall apply to such province, or to all the provinces of Canada. R.S., c. 1, s. 7.

Interpretation. Chap. 1.

10. The law shall be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same shall be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof, according to its spirit, true intent and meaning. R.S., c. 1, s. 7.

11. Where an Act, or any order in council, order, warrant, scheme, letters patent, rule, regulation, or by-law, made, granted, or issued, under a power conferred by any Act, is expressed to come into operation on a particular day, the same shall be construed as coming into operation immediately on the expiration of the previous day. 6 E. VII., c. 21, s. 1.

12. Where an Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant, or issue any instrument, that is to say, any order in council, order, warrant, scheme, letters patent, rule, regulation, or by-law, to give notices, to prescribe forms, or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, so far as may be necessary or expedient for the purpose of making the Act effective at the date of the commencement thereof, be exercised at any time after the passing of the Act, subject to this restriction, that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the contrary is necessary for making the Act effective from its commencement, come into operation until the Act comes into operation. 6 E. VII., c. 21, s. 2.

13. Every Act shall, unless by express provision it is declared to be a private Act, be deemed to be a public Act. R.S., c. 1, s. 7.

14. The preamble of every Act shall be deemed a part thereof, intended to assist in explaining the purport and object of the Act. R.S., c. 1, s. 7.

15. Every Act and every provision and enactment thereof, shall be deemed remedial, whether its immediate purport is to direct the doing of any thing which Parliament deems to be for the public good, or to prevent or punish the doing of any thing which it deems contrary to the public good; and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act and of such provision or enactment, according to its true intent, meaning and spirit. R.S., c. 1, s. 7.

Chap. 1.	<i>Interpretation.</i>
His Majesty not bound.	16. No provision or enactment in any Act shall affect, in any manner whatsoever, the rights of His Majesty, his heirs or successors, unless it is expressly stated therein that His Majesty shall be bound thereby. R.S., c. 1, s. 7.
Private Acts.	17. No provision or enactment in any Act of the nature of a private Act shall affect the rights of any person, save only as therein mentioned or referred to. R.S., c. 1, s. 7.
Powers of Parliament reserved.	18. Every Act shall be so construed as to reserve to Parliament the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person, whenever such repeal, amendment, revocation, restriction or modification is deemed by Parliament to be required for the public good.
Bank charters.	2. Unless it is otherwise expressly provided in any Act passed for the chartering of any bank, it shall be in the discretion of Parliament, at any time thereafter, to make such provisions and impose such restrictions, with respect to the amount and description of notes which may be issued by such bank, as to Parliament appears expedient. R.S., c. 1, s. 7.
Effect of repeal.	19. Where any Act or enactment is repealed, or where any regulation is revoked, then, unless the contrary intention appears, such repeal or revocation shall not, save as in this section otherwise provided,— <p>(a) revive any Act, enactment, regulation or thing not in force or existing at the time at which the repeal or revocation takes effect; or,</p> <p>(b) affect the previous operation of any Act, enactment or regulation so repealed or revoked, or anything duly done or suffered thereunder; or,</p> <p>(c) affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the Act, enactment or regulation so repealed or revoked; or,</p> <p>(d) affect any offence committed against any Act, enactment or regulation so repealed or revoked, or any penalty or forfeiture or punishment incurred in respect thereof; or,</p> <p>(e) affect any investigation, legal proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;</p> <p>and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the Act or regulation had not been repealed or revoked.</p>
If other provisions substituted.	2. If other provisions are substituted for those so repealed or revoked, then, unless the contrary intention appears,— <p>(a) all officers and persons acting under the Act, enactment or regulation so repealed or revoked shall continue to act, as if appointed under the provisions so substituted, until others are appointed in their stead; and,</p>

<i>Interpretation.</i>	Chap. 1.
(b) all proceedings taken under the Act, enactment or regulation so repealed or revoked, shall be taken up and continued under and in conformity with the provisions so substituted, so far as consistently may be; and,	
(c) in the recovery or enforcement of penalties and forfeitures incurred, and in the enforcement of rights existing or accruing under the Act, enactment or regulation so repealed or revoked, or in any other proceedings in relation to matters which have happened before the repeal or revocation, the procedure established by the substituted provisions shall be followed as far as it can be adapted; and,	
(d) if any penalty, forfeiture or punishment is reduced or mitigated by any of the provisions of the Act or regulation whereby such other provisions are substituted, the penalty, forfeiture or punishment, if imposed or adjudged after such repeal or revocation, shall be reduced or mitigated accordingly. R.S., c. 1, s. 7.	
20. Whenever any Act or enactment is repealed, and other provisions are substituted by way of amendment, revision or consolidation,—	Effect of revision or consolidation.
(a) all regulations, orders, ordinances, rules and by-laws made under the repealed Act or enactment shall continue good and valid, in so far as they are not inconsistent with the substituted Act or enactment, until they are annulled and others made in their stead; and,	
(b) any reference in any unrepealed Act, or in any rule, order or regulation made thereunder to such repealed Act or enactment, shall, as regards any subsequent transaction, matter or thing, be held and construed to be a reference to the provisions of the substituted Act or enactment relating to the same subject-matter as such repealed Act or enactment; and, if there is no provision in the substituted Act or enactment relating to the same subject-matter, the repealed Act or enactment shall stand good, and be read and construed as unrepealed in so far, and in so far only, as is necessary to support, maintain or give effect to such unrepealed Act, or such rule, order or regulation made thereunder. R.S., c. 1, s. 7.	
21. The repeal of any Act or enactment shall not be deemed to be or to involve a declaration that such Act or enactment was, or was considered by Parliament to have been, previously in force.	Repeal.
2. The amendment of any Act shall not be deemed to be or to involve a declaration that the law under such Act was, or was considered by Parliament to have been, different from the law as it has become under such Act as so amended.	Amendment.

Chap. 1. Interpretation.

Repeal or amendment. 3. The repeal or amendment of any Act shall not be deemed to be or to involve any declaration whatsoever as to the previous state of the law.

Re-enactment. Does not admit judicial construction. 4. Parliament shall not, by re-enacting any Act or enactment, or by revising, consolidating or amending the same, be deemed to have adopted the construction which has, by judicial decision or otherwise, been placed upon the language used in such Act, or upon similar language. 53 V., c. 7, s. 1.

Amendment a part of Act. 22. An amending Act shall, so far as is consistent with the tenor thereof, be construed as one with the Act which it amends. 6 E. VII., c. 21, s. 3.

Proclamation to be made upon advice. 23. When the Governor General is authorized to do any act by proclamation, such proclamation is understood to be a proclamation issued under an order of the Governor in Council; but it shall not be necessary that it be mentioned in the proclamation that it is issued under such order. R.S., c. 1, s. 7.

Officers during pleasure. 24. All officers now appointed or hereafter appointed by the Governor General, whether by commission or otherwise, shall remain in office during pleasure only, unless it is otherwise expressed in their commissions or appointments. R.S., c. 1, s. 7.

Oath, who may administer. 25. Whenever by any Act of Parliament, or by a rule of the Senate or House of Commons, or by an order, regulation or commission made or issued by the Governor in Council, under any law authorizing him to require the taking of evidence under oath, evidence under oath is authorized or required to be taken, or an oath is authorized or directed to be made, taken or administered, the oath may be administered, and a certificate of its having been made, taken or administered, may be given by any one authorized by the Act, rule, order, regulation or commission to take the evidence, or by a judge of any court, a notary public, a justice of the peace, or a commissioner for taking affidavits, having authority or jurisdiction within the place where the oath is administered. R.S., c. 1, s. 7.

Public moneys, to be paid by warrant. 26. If any sum of the public money is, by any Act, appropriated for any purpose, or directed to be paid by the Governor General, and no other provision is made respecting it, such sum shall be payable under warrant of the Governor General directed to the Minister of Finance and Receiver General, out of the Consolidated Revenue Fund of Canada.

Account. 2. All persons entrusted with the expenditure of any such sum, or any part thereof, shall account for the same in such manner and form, with such vouchers, at such periods and to such officer as the Governor General directs. R.S., c. 1, s. 7.

Imprisonment, where. 27. If, in any Act, any person is directed to be imprisoned or committed to prison, such imprisonment or committal shall, if no other place is mentioned or provided by law, be in or to

Interpretation. Chap. 1.

the common gaol of the locality in which the order for such imprisonment is made, or if there is no common gaol there, then in or to that common gaol which is nearest to such locality.

2. The keeper of any such common gaol shall receive such person, and safely keep and detain him in such common gaol under his custody until discharged in due course of law, or bailed, in cases in which bail may, by law, be taken. R.S., c. 1, s. 7.

28. Every Act shall be read and construed as if any offence for which the offender may be,—

(a) prosecuted by indictment, howsoever such offence may be therein described or referred to, were described or referred to as an indictable offence; and

(b) punishable on summary conviction, were described or referred to as an offence; and,

all provisions of the Criminal Code relating to indictable offences, or offences, as the case may be, shall apply to every such offence.

2. Every commission, proclamation, warrant or other document relating to criminal procedure, in which offences which are indictable offences, or offences, as the case may be, are described or referred to by any names whatsoever, shall be read and construed as if such offences were therein described and referred to as indictable offences, or offences, as the case may be. 55-56 V., c. 29, s. 536.

29. Unless the context otherwise requires, a reference in any Act to,—

(a) *The Summary Convictions Act* shall be construed as a reference to Part XV. of the Criminal Code;

(b) *The Summary Trials Act* shall be construed as a reference to Part XVI. of the Criminal Code;

(c) *The Speedy Trials Act* shall be construed as a reference to Part XVIII. of the Criminal Code. 55-56 V., c. 29, s. 537.

30. In every Act, unless the contrary intention appears, words making any association or number of persons a corporation or body politic and corporate shall,—

(a) vest in such corporation power to sue and be sued, to contract and be contracted with by their corporate name, to have a common seal, to alter or change the same at their pleasure, to have perpetual succession, to acquire and hold personal property or movables for the purposes for which the corporation is constituted, and to alienate the same at pleasure; and,

(b) vest in a majority of the members of the corporation the power to bind the others by their acts; and,

(c) exempt individual members of the corporation from personal liability for its debts or obligations or acts, if

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they do not violate the provisions of the Act incorporating them.

Banking Powers. 2. No corporation shall be deemed to be authorized to carry on the business of banking unless such power is expressly conferred upon it by the Act creating such corporation. R.S., c. 1, s. 7.

General rules. Magistrates, etc. 31. In every Act, unless the contrary intention appears,—

(a) if anything is directed to be done by or before a magistrate or a justice of the peace, or other public functionary or officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done;

Powers. (b) whenever power is given to any person, officer or functionary, to do or enforce the doing of any act or thing, all such powers shall be understood to be also given as are necessary to enable such person, officer or functionary to do or enforce the doing of such act or thing;

Majorities. (c) when any act or thing is required to be done by more than two persons, a majority of them may do it;

Forma. (d) whenever forms are prescribed, slight deviations therefrom, not affecting the substance or calculated to mislead, shall not invalidate them;

Powers and duties. (e) if a power is conferred or a duty imposed the power may be exercised and the duty shall be performed from time to time as occasion requires;

Idem. (f) if a power is conferred or a duty imposed on the holder of any office as such, the power may be exercised and the duty shall be performed by the holder for the time being of the office;

Rules, regulations and by-laws. (g) if a power is conferred to make any rules, regulations or by-laws, the power shall be construed as including a power, exercisable in the like manner, and subject to the like consent and conditions, if any, to rescind, revoke, amend or vary the rules, regulations or by-laws and make others;

If time falls on a holiday. (h) if the time limited by any Act for any proceeding, or the doing of any thing under its provisions, expires or falls upon a holiday, the time so limited shall be extended to, and such thing may be done on the day next following which is not a holiday;

Masculine includes feminine. Singular and plural. Removal and suspension. (i) words importing the masculine gender include females;

(j) words in the singular include the plural, and words in the plural include the singular;

(k) words authorizing the appointment of any public officer or functionary, or any deputy, include the power of removing or suspending him, re-appointing or reinstating him, or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested;

Interpretation. **Chap. 1.**

(l) words directing or empowering a minister of the Crown ^{Ministers and deputies.} to do any act or thing, or otherwise applying to him by his name of office, include a minister acting for, or, if the office is vacant, in the place of such minister, under the authority of an order in council, and also his successors in such office, and his or their lawful deputy;

(m) words directing or empowering any other public officer ^{Other public officers.} to do any act or thing, or otherwise applying to him by his name of office, include his successors in such office, and his or their lawful deputy. R.S., c. 1, s. 7.

32. Whenever in any Act of the Parliament of Canada here- ^{Meaning of Supreme Court in past Acts.} before passed, or that may be passed before the bringing into force of the Act of the Legislature of the province of New Brunswick, passed in the sixth year of His Majesty's reign, chapter thirty seven, relating to the establishment of a Supreme Court of Judicature and to the practice and proceedings therein, the Supreme Court of the said province is named, such Act of the Parliament of Canada shall, after the said provincial Act is brought into force, be construed as if the Court therein named was the Court established by the said Act.

2. Whenever in or under any such Act of the Parliament of ^{Powers and duties of court.} Canada or otherwise any powers, rights or duties are conferred or imposed upon, or vested in or incumbent upon, the said Supreme Court of the said province, or any judge or judges thereof, such powers, rights or duties, after the said provincial Act has been brought into force, shall, so far as the Parliament of Canada has legislative authority to so enact, be deemed to have been conferred or imposed upon, or to be vested in and incumbent upon, the Court established as aforesaid, or any judge or judges thereof.

3. Any jurisdiction or authority heretofore vested in the ^{Jurisdiction of court in banc exercisable by Court of Appeal.} Supreme Court of the said province which has been exercised or is exercisable by the said Court when sitting in banc, shall, after the said provincial Act is brought into force, so far as the Parliament of Canada has legislative authority to so enact, be vested in and exercisable by the division of the Court established by the said provincial Act which is called the Court of Appeal. 6 E. VII., c. 51, ss. 1, 2 and 3.

33. Definitions or rules of interpretation contained in any ^{Interpretation sections.} Act shall, unless the contrary intention appears, apply to the construction of the sections of the Act which contain those definitions or rules of interpretation, as well as to the other provisions of the Act. 6 E. VII., c. 21, s. 4.

DEFINITIONS.

34. In every Act, unless the context otherwise requires,—

(1.) 'Act' as meaning an Act of a legislature, includes an 'Act' ordinance of the Northwest Territories as now or hereto-

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	fore constituted, or of the district of Keewatin, or of the Yukon Territory;
'Commencement.'	(2.) 'commencement' when used with reference to an Act means the time at which the Act comes into operation;
'County.'	(3.) 'county' includes two or more counties united for purposes to which the enactment relates;
'County court.'	(4.) 'county court' in its application to the province of Ontario, includes 'district court';
'Fiscal year.'	(5.) 'fiscal year' or 'financial year' means, as respects moneys provided by Parliament, or any moneys relating to the Consolidated Revenue Fund of Canada, or to Dominion accounts, taxes or finance, the twelve months ending the thirty-first day of March;
'Governor.'	(6.) 'Governor,' 'Governor of Canada,' or 'Governor General,' means the Governor General for the time being of Canada, or other the chief executive officer or administrator for the time being carrying on the Government of Canada on behalf and in the name of the Sovereign, by whatever title he is designated;
'Governor in Council.'	(7.) 'Governor in Council,' or 'Governor General in Council' means the Governor General of Canada, or person administering the Government of Canada for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with the King's Privy Council for Canada;
'Great Seal.'	(8.) 'Great Seal' means the Great Seal of Canada;
'Herein.'	(9.) 'herein' used in any section shall be understood to relate to the whole Act, and not to that section only;
'His Majesty.'	(10.) 'His Majesty,' 'the King,' or 'the Crown,' or other reference to the sovereign reigning at the time of the passing of the Act, means the Sovereign of the United Kingdom of Great Britain and Ireland, his heirs and successors;
'Holiday.'	(11.) 'holiday' includes Sundays, New Year's Day, the Epiphany, Good Friday, the Ascension, All Saints' Day, Conception Day, Easter Monday, Ash Wednesday, Christmas Day, the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign, Victoria Day, Dominion Day, the first Monday in September, designated <i>Labour Day</i> , and any day appointed by proclamation for a general fast or thanksgiving;
'Legislature.'	(12.) 'legislature,' 'legislative council' or 'legislative assembly' includes the Lieutenant Governor in Council and also the Legislative Assembly of the Northwest Territories, as constituted previously to the first day of September, one thousand nine hundred and five, the Lieutenant Governor in Council of the district of Keewatin, the Commissioner in Council of the Northwest Territories as now constituted, and the Commissioner in Council of the Yukon Territory;

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(13.) 'lieutenant governor' means the lieutenant governor for the time being, or other chief executive officer or administrator for the time being, carrying on the government of the province indicated by the Act, by whatever title he is designated;	'Lieutenant Governor.'
(14.) 'lieutenant governor in council' means the lieutenant governor, or person administering the government of the province indicated by the Act, for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with the executive council of such province;	'Lieutenant Governor in Council.'
(15.) 'magistrate' means a justice of the peace;	'Magistrate.'
(16.) 'month' means a calendar month;	'Month.'
(17.) the name commonly applied to any country, place, body, corporation, society, officer, functionary, person, or thing, means such country, place, body, corporation, society, officer, functionary, person or thing, although such name is not the formal and extended designation thereof;	Names.
(18.) 'now' or 'next' shall be construed as having reference to the time when the Act was presented for the Royal Assent;	'Now,' 'next.'
(19.) 'oath' includes a solemn affirmation or declaration whenever the context applies to any person and case by whom and in which a solemn affirmation or declaration may be made instead of an oath; and in like cases the expression 'sworn' includes the expression 'affirmed' or 'declared';	'Oath.'
(20.) 'person' includes any body corporate and politic, and the heirs, executors, administrators or other legal representatives of such person, according to the law of that part of Canada to which the context extends;	'Person.'
(21.) 'proclamation' means a proclamation under the Great Seal;	'Proclamation.'
(22.) 'province' includes the Northwest Territories as now or heretofore constituted, the district of Keewatin, and the Yukon Territory;	'Province.'
(23.) 'registrar' or 'register' means and includes indifferently registrars or registers in the several provinces of Canada;	'Registrar.'
(24.) 'shall' is to be construed as imperative, and 'may' as permissive;	'Shall,' 'may.'
(25.) 'statutory declaration' means a solemn declaration made by virtue of the Canada Evidence Act;	'Statutory declaration.'
(26.) 'superior court' means,—	'Superior court.'
(a) in the province of Ontario, the Court of Appeal for Ontario, and the High Court of Justice for Ontario;	
(b) in the province of Quebec, the Court of King's Bench, and the Superior Court for the said province;	
(c) in the provinces of Nova Scotia, New Brunswick, British Columbia and Prince Edward Island, the Supreme Court for each of the said provinces respectively;	

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- (d) in the province of Manitoba, His Majesty's Court of King's Bench for the said province;
- (e) in the province of Saskatchewan, the Supreme Court of the Northwest Territories, or, after the abolition of the said Court in the said province, such court as may be established by the legislature of the said province in lieu thereof;
- (f) in the province of Alberta, the Supreme Court of the Northwest Territories, or, after the abolition of the said Court in the said province, such court as may be established by the legislature of the said province in lieu thereof; and
- (g) in the Yukon Territory, the Territorial Court;

'Sureties,'
'security.'

(27.) 'sureties' means sufficient sureties, and the expression 'security' means sufficient security; and, whenever these words are used, one person shall be sufficient therefor, unless otherwise expressly required;

'Two justices.'

(28.) 'two justices' means two or more justices of the peace, assembled or acting together;

'United Kingdom.'

(29.) 'the United Kingdom' means the United Kingdom of Great Britain and Ireland;

'United States.'

(30.) 'the United States' means the United States of America;

'Writing.'

(31.) 'writing,' 'written,' or any term of like import, includes words printed, painted, engraved, lithographed or otherwise traced or copied. R.S., c. 1, s. 7; 56 V., c. 30, s. 1; 57-58 V., c. 55, s. 1; 1 E. VII., c. 11, s. 1, c. 12, s. 3, and c. 41, s. 12.

'Minister of Finance.'

35. The expression 'Minister of Finance' or 'Receiver General' in any Act, or in any document, means the Minister of Finance and Receiver General, and the expression 'Deputy Minister of Finance' or 'Deputy Receiver General' in any Act or document means the Deputy Minister of Finance and Receiver General. R.S., c. 28, s. 1.

'Telegraph.'

36. The expression 'telegraph' and its derivatives in any Act of the Parliament of Canada, or in any Act of the legislature of any province now forming part of Canada, passed before such province entered into the Union, on any subject which is within the legislative powers of the Parliament of Canada, shall not be deemed to include the word 'telephone' or its derivatives. R.S., c. 132, s. 10.

Expressions in instruments to have same meaning.

37. Where any Act confers power to make, grant or issue any instrument, that is to say, any order in council, order, warrant, scheme, letters patent, rule, regulation, or by-law, expressions used in the instrument shall, unless the contrary intention appears, have the same respective meanings as in the Act conferring the power. 6 E. VII., c. 21, s. 5.

Interpretation.

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FISCAL YEAR—POWERS OF THE GOVERNOR IN COUNCIL.

38. Whenever in any Act of the Parliament of Canada, passed previously to the thirteenth day of July, one thousand nine hundred and six, a day or time is designated for any purpose, and the Governor in Council is of opinion that the day or time so designated was fixed because of its relation to the fiscal year as then constituted, or that the day or time designated for such purpose should bear a corresponding relation to the fiscal year as constituted by the Act passed in the sixth year of His Majesty's reign, intitled *An Act respecting the Fiscal Year*, chapter twelve, the Governor in Council may, by proclamation, declare that the day or the time fixed for such purpose shall be changed so that it shall bear to the fiscal year, as constituted by the said Act, the same relation as the day or time previously designated bore to the said previous fiscal year. 6 E. VII., c. 12, ss. 1 and 4.

CITATION OF ACTS.

39. In any Act, instrument or document, an Act may be How. cited by reference to its short title, if any, either with or without reference to the chapter, or by reference to the regnal year, or the year of our Lord in which it was passed.

2. Any such citation of or reference to any Act, shall, unless the contrary intention appears, be deemed to be a citation of or reference to such Act as amended. R.S., c. 1, s. 8; 6 E. VII., c. 21, s. 6.

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14-15 GEORGE V.

CHAPTER 65.

An Act respecting the Revised Statutes of Canada.

[Assented to 19th July, 1924.]

WHEREAS it has been found expedient to revise, classify and consolidate the public general statutes of Canada passed since the date of the Revised Statutes of Canada of 1906; and whereas such revision, classification and consolidation are being made by Commissioners appointed under the authority of an order of the Governor General in Council bearing date the 28th day of December, 1923; and whereas it is expedient to provide for the incorporation therewith of the public general statutes passed during the present session and subsequent thereto and for giving the force of law to the body of the Revised Statutes to result from such incorporation: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. So soon as the said Commissioners or a majority of them shall report in writing the completion of the said consolidation, including therein such Acts or parts of Acts passed during the present session and subsequent thereto as the Governor General upon the said report may deem advisable so to be included, the Governor General may cause a printed Roll thereof, attested under his signature and that of the Clerk of the Parliaments to be deposited in the office of such Clerk; and such Roll shall be held to be the original of the said statutes so revised, classified and consolidated.

2. There shall be appended to the said Roll a Schedule A similar in form to Schedule A appended to the Revised Statutes of Canada of 1906; and the Commissioners may include in the said Schedule all Acts and parts of Acts which though not expressly repealed, are superseded by the Acts so consolidated, or are inconsistent therewith, and all Acts and parts of Acts which were for a temporary purpose, the force of which is spent.

APPENDIX I.

TABLE

OF ACTS CONTAINED IN THE REVISED STATUTES OF CANADA, 1886, AND ACTS OF THE DOMINION OF CANADA PASSED THEREAFTER, SHOWING HOW MUCH OF EACH IS IN FORCE AND HOW EACH HAS BEEN DEALT WITH

ACTS OF THE DOMINION OF CANADA.
THE REVISED STATUTES.

Clasp.	Subject-Matter.	Remarks
43	Indians	Consolidated, except s. 13, ss. 1, repealed by 51 V., c. 22, s. 1; s. 14, s. 2 unnecessary, covered by Interpretation Act and recommended for repeal; ss. 20, 21 repealed by 57-58 V., c. 32, s. 1, 2, respectively; s. 26, ss. 1 repealed by 53 V., c. 29, s. 3; s. 26, ss. 5 repealed by 50-51 V., c. 33, s. 3; s. 27 repealed by 50-51 V., c. 33, s. 4; s. 33 repealed by 61 V., c. 34, s. 1; s. 38 repealed by 57-58 V., c. 32, s. 3; s. 43, ss. 2 repealed by 53 V., c. 29, s. 4; s. 56 repealed by 61 V., c. 34, s. 4; ss. 62, 63 repealed by 50-51 V., c. 33, ss. 6, 7, respectively; s. 66 repealed by 61 V., c. 34, s. 5; s. 70 repealed by 58-59 V., c. 35, s. 2; ss. 72, 73 repealed by 50-51 V., c. 33, ss. 8, 9, respectively; s. 75 repealed by 58-59 V., c. 35, s. 3; s. 77, ss. 3 repealed by 51 V., c. 22, s. 3; s. 93 repealed by 58-59 V., c. 35, s. 5; s. 94 repealed by 51 V., c. 22, s. 4; s. 97 unnecessary, covered by Canada Evidence Act and recommended for repeal; s. 99 repealed by 57-58 V., c. 32, s. 7; s. 104 repealed by 50-51 V., c. 33, s. 10; s. 106, ss. 1 repealed by 50-51 V., c. 33, s. 11; ss. 106, ss. 2 and 111 repealed by Criminal Code, s. 981; s. 107 superseded by s. 190, ss. 2 of Criminal Code and recommended for repeal; s. 108 recommended for repeal in view of Part XXV. of the Criminal Code; s. 114 repealed by 58-59 V., c. 35, s. 6; s. 117 repealed by 53 V., c. 29, s. 9; s. 119 covered by Canada Evidence Act, unnecessary and recommended for repeal; s. 125 covered by Criminal Code, unnecessary and recommended for repeal.
44	The Indian Advancement Act	Consolidated, except s. 4, ss. 1 repealed by 53 V., c. 30, s. 1, and s. 10, par. (b) repealed by 53 V., c. 30, s. 2

Revised Statutes of Canada, 1927.

Revised Statutes of Canada, 1927.

Powers of Commissioners as to alterations.

3. The said Commissioners in consolidating the said statutes, and in incorporating therewith the Acts or parts of Acts passed subsequent thereto and selected for inclusion therein as above provided, may make such alterations in their language as are requisite in order to preserve a uniform mode of expression, and may make such minor amendments as are necessary to bring out more clearly what they deem to be the intention of Parliament or to reconcile seemingly inconsistent enactments or to correct clerical or typographical errors.

Marginal notes, references, etc.

2. The marginal notes thereon, the references to former enactments at the foot of the sections, and the explanatory notes and tables inserted by the Commissioners, shall form no part of the said statutes, and shall be held to have been inserted for convenience only, and may be corrected or omitted.

Proclamation declaring statutes in force.

4. The Governor in Council, after such deposit of the said last mentioned Roll, may, by proclamation, declare the day on, from and after which the same shall come in force and have effect as law, by the designation of "The Revised Statutes of Canada, 1927."

Effect of Proclamation.

5. On, from and after such day, the said Roll shall accordingly come into force and effect as and by the designation of "The Revised Statutes of Canada, 1927." to all intents, as if the same were expressly embodied in and enacted by this Act, to come into force and have effect, on from and after such day.

Repeal of enactments in Schedule A.

2. On, from and after such day, all the enactments in the several Acts and parts of Acts in Schedule A above mentioned shall stand and be repealed to the extent mentioned in the third column of the said Schedule A.

Repeal not to have dead law, nor to be retroactive.

6. The repeal of the said Acts and parts of Acts shall not revive any Act or provision of law repealed by them; nor shall the said repeal prevent the effect of any saving clause in the said Acts and parts of Acts, nor the application of any of the said Acts or parts of Acts, or of any Act or provision of law formerly in force, to any transaction, matter or thing anterior to the said repeal, to which they would otherwise apply.

Anterior matters not invalidated nor affected.

7. The repeal of the said Acts and parts of Acts shall not defeat, disturb, invalidate nor affect

(a) any penalty, forfeiture or liability, civil or criminal, incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal;

(b) any indictment, information, conviction, sentence or prosecution had, done, completed or pending at the time of such repeal;

(c) any action, suit, judgment, decree, certificate, execution, process, order, rule, or any proceeding, matter or thing whatsoever respecting the same, had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal;

(d) any act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, order in council, proclamation, regulation, contract, lien, charge, status, capacity, immunity, matter or thing, had, done, made, acquired, established or existing at the time of such repeal;

(e) any office, appointment, commission, salary, allowance, security or duty, or any matter or thing appertaining thereto, at the time of such repeal; or

(f) any other matter or thing whatsoever, had, done, completed, existing or pending at the time of such repeal.

2. Every such

(a) penalty, forfeiture and liability;

(b) indictment, information, conviction, sentence and prosecution;

(c) action, suit, judgment, decree, certificate, execution, process, order, rule, proceeding, matter or thing;

(d) act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, order in council, proclamation, regulation, contract, lien, charge, status, capacity, immunity, matter or thing;

(e) office, appointment, commission, salary, allowance, security and duty, and

(f) matter and thing whatsoever

may and shall remain and continue as if no such repeal had taken place, and, so far as necessary, may and shall be continued, prosecuted, enforced and proceeded with under the said Revised Statutes, and other the statutes and laws having force in Canada, and subject to the provisions of the said several statutes and laws, as if no such repeal had taken place.

Anterior matters remain valid

Continuance thereof under Revised Statutes.

8. The said Revised Statutes shall not be held to operate as new laws, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the said Acts and parts of Acts so repealed, and for which the said Revised Statutes are substituted.

Revised Statutes not to be deemed new laws.

2. If upon any point the provisions of the said Revised Statutes are not in effect the same as those of the repealed Acts and parts of Acts for which they are substituted, then as respects all transactions, matters and things subsequent

Construction where they differ from repealed enactments

Revised Statutes of Canada, 1927.

to the time when the said Revised Statutes take effect, the provisions contained in them shall prevail; but, as respects all transactions, matters and things anterior to the said time, the provisions of the said repealed Acts and parts of Acts shall prevail.

As to references to repealed Acts in former Acts, etc.

9. Any reference in any former Act remaining in-force, or in any proclamation, order in council, instrument or document to any Act or enactment so repealed, shall, after the said Revised Statutes take effect, be held, as regards any subsequent transaction, matter or thing, to be a reference to the enactments in the said Revised Statutes, having the same effect as such repealed Act or enactment.

As to effect of insertion of an Act in Schedule A.

10. The insertion of any Act in the said Schedule A shall not be considered as a declaration that such Act or any part of it was or was not in force immediately before the coming into force of the said Revised Statutes.

Copies by King's Printer to be evidence.

11. Copies of the said Revised Statutes purporting to be printed by the King's Printer from the amended Roll so deposited, shall be evidence of the said Revised Statutes in all courts and places whatsoever.

Distribution of Revised Statutes.

12. The laws relating to the distribution of the printed copies of the statutes shall not apply to the said Revised Statutes, but the same shall be distributed in such numbers and to such persons only as the Governor in Council directs.

Printing and construction of this act.

13. This Act shall be printed with the said Revised Statutes, and shall be subject to the same rules of construction as the said Revised Statutes.

Citation of Revised Statutes.

14. Any chapter of the said Revised Statutes may be cited and referred to in any Act or proceeding whatsoever, either by its title as an Act, or by its short title, or by using the expression "The Revised Statute respecting—" adding the remainder of the title given at the beginning of the particular chapter, or by using the expression "The Revised Statutes, 192,;" or "The Revised Statutes of Canada, 192, . . . chapter . . ." adding the number of the particular chapter in the copies printed by the King's Printer.

PROCLAMATION.

WILLINGDON,
[L.S.]

CANADA.

GEORGE THE FIFTH, by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas KING, Defender of the Faith, Emperor of India.

To all to whom these presents shall come, or whom the same may in anywise concern,— GREETING:

A PROCLAMATION.

W. STUART EDWARDS, } WHEREAS in and by an Act of the
Deputy Minister of } Parliament of Canada passed in
Justice, Canada, } the session thereof holden in the
fourteenth and fifteenth years of Our Reign, chaptered sixty-five and intitled: "An Act respecting the Revised Statutes of Canada," it is recited that it has been found expedient to revise, classify and consolidate the public general statutes of Canada passed since the date of the Revised Statutes of Canada of 1906; and that such revision, classification and consolidation are being made by Commissioners appointed under the authority of an Order of Our Governor General in Council bearing date the twenty-eighth day of December, 1923; and that it is expedient to provide for the incorporation therewith of the public general statutes passed during the said session and subsequent thereto, and for giving the force of law to the body of the Revised Statutes to result from such incorporation.

AND WHEREAS it is thereupon by the said Act, amongst other things in effect, enacted as follows:—

That so soon as the said Commissioners or a majority of them shall report in writing the completion of the said consolidation, including therein such Acts or parts of Acts passed during the said session and subsequent thereto as the Governor General upon the said report may deem advisable so to be included, the Governor General may cause a printed Roll thereof, attested under his signature and that of the Clerk of the Parliaments to be deposited in the office of such Clerk; and that such Roll shall be held to be the original of the said statutes so revised, classified and consolidated;

And that there shall be appended to the said Roll a Schedule A, similar in form to Schedule A appended to the Revised Statutes of Canada, 1906; and that the Commissioners may include in the said Schedule all Acts and parts of Acts which, though not expressly

Proclamation.

repealed, are superseded by the Acts so consolidated, or are inconsistent therewith, and all Acts and parts of Acts which were for a temporary purpose, the force of which is spent;

And that the said Commissioners in consolidating the said statutes and in incorporating therewith the Acts or parts of Acts passed subsequent thereto and selected for inclusion therein, as above provided may make such alterations in their language as are requisite in order to preserve a uniform mode of expression, and may make such minor amendments as are necessary to bring out more clearly what they deem to be the intention of Parliament or to reconcile seemingly inconsistent enactments, or to correct clerical or typographical errors; but the marginal notes thereon, the reference to former enactments at the foot of the sections, and the explanatory notes and tables inserted by the Commissioners, shall form no part of the said statutes, and shall be held to have been inserted for convenience only, and may be corrected or omitted;

And that the Governor in Council, after such deposit of the said Roll, may, by proclamation, declare the day on, from and after which the same shall come into force and have effect as law, by the designation of "The Revised Statutes of Canada, 1927";

And that on, from and after such day, the same shall accordingly come into force and effect as, and by designation of, "The Revised Statutes of Canada, 1927," to all intents as if the same were expressly embodied in and enacted by the said Act to come into force and have effect on, from and after such day;

And that on, from and after such day, all the enactments in the several Acts and parts of Acts in such Schedule A mentioned shall stand and be repealed to the extent mentioned in the third column of the said Schedule A, and subject to the provisions of sections six and seven of the said Act;

AND WHEREAS Our said Commissioners, so appointed as aforesaid, have completed the said consolidation and have included therein certain Acts and parts of Acts passed during the sessions of the said Parliament held respectively in the fourteenth and fifteenth, the fifteenth and sixteenth, the sixteenth and seventeenth and the seventeenth sessions of Our Reign, and have reported in writing the completion of the said consolidation;

AND WHEREAS Our Governor General in Council has approved of and deems advisable the inclusion of the Acts and parts of Acts so included as aforesaid;

AND WHEREAS Our Governor General has caused a printed Roll of the said consolidation, attested under His signature and that of the Clerk of the Parliaments, to be deposited in the office of the said Clerk of the Parliaments;

AND WHEREAS there is appended to the said Roll a Schedule A conforming to the prescription of the said Act;

AND WHEREAS Our said Commissioners have otherwise complied with the provisions of the said Act;

Proclamation.

Now Know YE that, by and with the advice of Our Privy Council for Canada. We do, by these presents, proclaim and declare that on, from and after the first day of February, in the year of Our Lord one thousand nine hundred and twenty-eight, the said Roll so attested and deposited shall come into force and have effect as law by the designation of "The Revised Statutes of Canada, 1927."

Of all which Our loving subjects and all others whom these presents may concern, are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent, and the Great Seal of Canada to be hereunto affixed. WITNESS: Our Right Trusty and Well-beloved Cousin Freeman Viscount Willingdon, Knight Grand Commander of Our Most Exalted Order of the Star of India, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Grand Commander of Our Most Eminent Order of the Indian Empire, Knight Grand Cross of Our Most Excellent Order of the British Empire, Governor General and Commander-in-Chief of Our Dominion of Canada.

At Our Government House, in Our City of Ottawa, this twenty-second day of December, in the year of Our Lord one thousand nine hundred and twenty-seven, and in the eighteenth year of Our Reign.

By Command,

THOMAS MULVEY,
Under-Secretary of State.

Interpretation Act, R.S.C. 1927, c. 1.



THE
REVISED STATUTES
OF CANADA, 1927.

CHAPTER 1.

An Act respecting the Form and Interpretation of Statutes.

SHORT TITLE.

1. This Act may be cited as the Interpretation Act. R.S., Short title. c. 1, s. 1.

APPLICATION.

2. Every provision of this Act shall extend and apply to every Act.

(a) every Act of the Parliament of Canada, now or hereafter passed, except in so far as any such provision

(i) is inconsistent with the intent or object of such Act; or

(ii) would give to any word, expression or clause of any such Act an interpretation inconsistent with the context; or

(iii) is in any such Act declared not applicable thereto;

(b) every order and regulation heretofore or hereafter passed by the Governor in Council in the execution of any powers delegated by statute, except in so far as any such provision is inconsistent with the intent or

Application of Act to Orders in Council and regulations.

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object of such order or regulation, or would give to any word, expression or clause thereof an interpretation repugnant to the subject matter or the context, or is in any such order or regulation declared not applicable thereto.

No declaration necessary in any Act.

2. The omission in any Act of a declaration that this Act applies thereto, shall not be construed to prevent its so applying, although such a declaration is expressed in some other Act or Acts of the same session. R.S., c. 1, s. 2; 1919 (2nd session), c. 20, s. 1.

Rules of construction not excluded.

3. Nothing in this Act shall exclude the application to any Act of any rule of construction applicable thereto, and not inconsistent with this Act. R.S., c. 1, s. 3.

This Act applies to itself.

4. The provisions of this Act shall apply to the construction thereof, and to the words and expressions used therein. R.S., c. 1, s. 4.

FORM OF ENACTING.

Enacting clause.

5. The enacting clause of a statute may be in the following form:—"His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows." R.S., c. 1, s. 5.

Order of clauses.

6. The enacting clause shall follow the preamble, if any, and the various clauses within the purview or body of the statute shall follow in a concise and enunciativc form. R.S., c. 1, s. 6.

TIME OF COMMENCEMENT.

To be endorsed.

7. The Clerk of the Parliament shall endorse on every Act, immediately after the title thereof, the day, month and year when the Act was, by the Governor General, assented to in His Majesty's name, or reserved by him for the signification of His Majesty's pleasure thereon; and in the latter case, the Clerk shall also endorse thereon the day, month and year when the Governor General signified, either by speech or message to the Senate and House of Commons, or by proclamation, that such Act had been laid before His Majesty in Council, and that His Majesty had been pleased to assent to the same.

Endorsement part of Act.

2. Such endorsement shall be taken to be a part of the Act, and the date of such assent or signification, as the case may be, shall be the date of the commencement of the Act, if no later commencement is therein provided. R.S., c. 1, s. 7.

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AMENDMENT OR REPEAL.

8. Any Act may be amended, altered or repealed by an Act passed in the same session of the Parliament. R.S., c. 1, s. 8.

RULES OF CONSTRUCTION.

9. Every Act of the Parliament of Canada shall, unless the contrary intention appears, apply to the whole of Canada.

2. No Act amending a previous Act which does not apply to all the provinces of Canada, and no enactment in any such amending Act, although of a substantive nature or form, shall apply to any province to which the amended Act does not apply, unless it is expressly provided that such amending Act or enactment shall apply to such province, or to all the provinces of Canada. R.S., c. 1, s. 9.

10. The law shall be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same shall be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof, according to its spirit, true intent and meaning. R.S., c. 1, s. 10.

11. Where an Act, or any order in council, order, warrant, scheme, letters patent, rule, regulation, or by-law, made, granted, or issued, under a power conferred by any Act, is expressed to come into operation on a particular day, the same shall be construed as coming into operation immediately on the expiration of the previous day. R.S., c. 1, s. 11.

12. Where an Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant, or issue any instrument, that is to say, any order in council, order, warrant, scheme, letters patent, rule, regulation, or by-law, to give notices, to prescribe forms, or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, so far as may be necessary or expedient for the purpose of making the Act effective at the date of the commencement thereof, be exercised at any time after the passing of the Act, subject to this restriction, that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the contrary is necessary for making the Act effective from its commencement, come into operation until the Act comes into operation. R.S., c. 1, s. 12.

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Acts to be deemed public.	13. Every Act shall, unless by express provision it is declared to be a private Act, be deemed to be a public Act. R.S., c. 1, s. 13.
Preamble a Part.	14. The preamble of every Act shall be deemed a part thereof, intended to assist in explaining the purport and object of the Act. R.S., c. 1, s. 14.
Every Act remedial.	15. Every Act and every provision and enactment thereof, shall be deemed remedial, whether its immediate purport is to direct the doing of any thing which Parliament deems to be for the public good, or to prevent or punish the doing of any thing which it deems contrary to the public good; and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act and of such provision or enactment, according to its true intent, meaning and spirit. R.S., c. 1, s. 15.
His Majesty not bound.	16. No provision or enactment in any Act shall affect, in any manner whatsoever, the rights of His Majesty, his heirs or successors, unless it is expressly stated therein that His Majesty shall be bound thereby. R.S., c. 1, s. 16.
Private Act.	17. No provision or enactment in any Act of the nature of a private Act shall affect the rights of any person, save only as therein mentioned or referred to. R.S., c. 1, s. 17.
Powers of Parliament reserved.	18. Every Act shall be so construed as to reserve to Parliament the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person, whenever such repeal, amendment, revocation, restriction or modification is deemed by Parliament to be required for the public good.
Bank charters.	2. Unless it is otherwise expressly provided in any Act passed for the chartering of any bank, it shall be in the discretion of Parliament, at any time thereafter, to make such provisions and impose such restrictions, with respect to the amount and description of notes which may be issued by such bank, as to Parliament appears expedient. R.S., c. 1, s. 18.
Effect of repeal.	19. Where any Act or enactment is repealed, or where any regulation is revoked, then, unless the contrary intention appears, such repeal or revocation shall not, save as in this section otherwise provided, (a) revive any Act, enactment, regulation or thing not in force or existing at the time at which the repeal or revocation takes effect; or

<i>Interpretation.</i>	Chap. 1.
(b) affect the previous operation of any Act, enactment or regulation so repealed or revoked, or anything duly done or suffered thereunder; or	
(c) affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the Act, enactment or regulation so repealed or revoked; or	
(d) affect any offence committed against any Act, enactment or regulation so repealed or revoked, or any penalty or forfeiture or punishment incurred in respect thereof; or	
(e) affect any investigation, legal proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;	
and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the Act or regulation had not been repealed or revoked.	
2. If other provisions are substituted for those so repealed or revoked, then, unless the contrary intention appears,	If other provisions substituted.
(a) all officers and persons acting under the Act, enactment or regulation so repealed or revoked shall continue to act, as if appointed under the provisions so substituted, until others are appointed in their stead; and	
(b) all proceedings taken under the Act, enactment or regulation so repealed or revoked, shall be taken up and continued under and in conformity with the provisions so substituted, so far as consistently may be; and	
(c) in the recovery or enforcement of penalties and forfeitures incurred, and in the enforcement of rights existing or accruing under the Act, enactment or regulation so repealed or revoked, or in any other proceedings in relation to matters which have happened before the repeal or revocation, the procedure established by the substituted provisions shall be followed as far as it can be adapted; and	
(d) if any penalty, forfeiture or punishment is reduced or mitigated by any of the provisions of the Act or regulation whereby such other provisions are substituted, the penalty, forfeiture or punishment, if imposed or adjudged after such repeal or revocation, shall be reduced or mitigated accordingly. R.S., c. 1, s. 19.	
20. Whenever any Act or enactment is repealed, and other provisions are substituted by way of amendment, revision or consolidation,	Effect of revision or consolidation.
(a) all regulations, orders, ordinances, rules and by-laws made under the repealed Act or enactment shall continue good and valid, in so far as they are not incon-	

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sistent with the substituted Act or enactment, until they are annulled and others made in their stead; and (b) any reference to any unrepealed Act, or in any rule, order or regulation made thereunder to such repealed Act or enactment, shall, as regards any subsequent transaction, matter or thing, be held and construed to be a reference to the provisions of the substituted Act or enactment relating to the same subject-matter as such repealed Act or enactment; and, if there is no provision in the substituted Act or enactment relating to the same subject-matter, the repealed Act or enactment shall stand good, and be read and construed as unrepealed in so far, and in so far only, as is necessary to support, maintain or give effect to such unrepealed Act, or such rule, order or regulation made thereunder. R.S., c. 1, s. 20.

Repeal. 21. The repeal of any Act or enactment shall not be deemed to be or to involve a declaration that such Act or enactment was, or was considered by Parliament to have been, previously in force.

Amendment. 2. The amendment of any Act shall not be deemed to be or to involve a declaration that the law under such Act was, or was considered by Parliament to have been, different from the law as it has become under such Act as so amended.

Repeal or amendment. 3. The repeal or amendment of any Act shall not be deemed to be or to involve any declaration whatsoever as to the previous state of the law.

Re-enactment. 4. Parliament shall not, by re-enacting any Act or enactment, or by revising, consolidating or amending the same, be deemed to have adopted the construction which has, by judicial decision or otherwise, been placed upon the language used in such Act, or upon similar language. R.S., c. 1, s. 21.

Amendment a part of Act. 22. An Amending Act shall, so far as is consistent with the tenor thereof, be construed as one with the Act which it amends. R.S., c. 1, s. 22.

Proclamation to be made upon advice. 23. When the Governor General is authorized to do any act by proclamation, such proclamation is understood to be a proclamation issued under an order of the Governor in Council; but it shall not be necessary that it be mentioned in the proclamation that it is issued under such order. R.S., c. 1, s. 23.

Officers during pleasure. 24. All officers now appointed or hereafter appointed by the Governor General, whether by commission or otherwise, shall remain in office during pleasure only, unless it

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is otherwise expressed in their commissions or appointments. R.S., c. 1, s. 24.

25. Whenever by any Act of Parliament, or by a rule of the Senate or House of Commons, or by an order, regulation or commission made or issued by the Governor in Council, under any law authorizing him to require the taking of evidence under oath, evidence under oath is authorized or required to be taken, or an oath is authorized or directed to be made, taken or administered, the oath may be administered, and a certificate of its having been made, taken or administered, may be given by any one authorized by the Act, rule, order, regulation or commission to take the evidence, or by a judge of any court, a notary public, a justice of the peace, or a commissioner for taking affidavits, having authority or jurisdiction within the place where the oath is administered. R.S., c. 1, s. 25.

26. If any sum of the public money is, by any Act, appropriated for any purpose, or directed to be paid by the Governor General, and no other provision is made respecting it, such sum shall be payable under warrant of the Governor General directed to the Minister of Finance and Receiver General, out of the Consolidated Revenue Fund of Canada.

2. All persons entrusted with the expenditure of any such sum, or any part thereof, shall account for the same in such manner and form, with such vouchers, at such periods and to such officer as the Governor General directs. R.S., c. 1, s. 26.

27. If, in any Act, any person is directed to be imprisoned or committed to prison, such imprisonment or committal shall, if no other place is mentioned or provided by law, be in or to the common gaol of the locality in which the order for such imprisonment is made, or if there is no common gaol there, then in or to that common gaol which is nearest to such locality.

2. The keeper of any such common gaol shall receive such person, and safely keep and detain him in such common gaol under his custody until discharged in due course of law, or bailed, in cases in which bail may, by law, be taken. R.S., c. 1, s. 27.

28. Every Act shall be read and construed as if any offence for which the offender may be (a) prosecuted by indictment, howsoever such offence may be therein described or referred to, were described or referred to as an indictable offence;

Oath, who may administer.

Public moneys, to be paid by warrant.

Account.

Imprisonment, where.

Keeper of gaol, duties of.

Indictable offences.

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Offences. (b) punishable on summary conviction, were described or referred to as an offence; and
Criminal Code to apply. all provisions of the Criminal Code relating to indictable offences, or offences, as the case may be, shall apply to every such offence.

Proclamations, etc., construed accordingly. 2. Every commission, proclamation, warrant or other document relating to criminal procedure, in which offences which are indictable offences, or offences, as the case may be, are described or referred to by any names whatsoever, shall be read and construed as if such offences were therein described and referred to as indictable offences, or offences, as the case may be. R.S., c. 1, s. 28.

References to. 29. Unless the context otherwise requires, a reference in any Act to
Summary Convictions Act. (a) *The Summary Convictions Act* shall be construed as a reference to Part XV of the Criminal Code;
Summary Trials Act. (b) *The Summary Trials Act* shall be construed as a reference to Part XVI of the Criminal Code;
Speedy Trials Act. (c) *The Speedy Trials Act* shall be construed as a reference to Part XVIII of the Criminal Code. R.S., c. 1, s. 29.

Incorporation, effect of. 30. In every Act, unless the contrary intention appears, words making any association or number of persons a corporation or body politic and corporate shall
 (a) vest in such corporation power to sue and be sued, to contract and be contracted with by their corporate name, to have a common seal, to alter or change the same at their pleasure, to have perpetual succession, to acquire and hold personal property or movables for the purposes for which the corporation is constituted, and to alienate the same at pleasure; and
 (b) vest in a majority of the members of the corporation the power to bind the others by their acts; and
 (c) exempt individual members of the corporation from personal liability for its debts or obligations or acts, if they do not violate the provisions of the Act incorporating them.

Banking powers. 2. No corporation shall be deemed to be authorized to carry on the business of banking unless such power is expressly conferred upon it by the Act creating such corporation. R.S., c. 1, s. 30.

General rules. 31. In every Act, unless the contrary intention appears,
Magistrates, etc. (a) if anything is directed to be done by or before a magistrate or a justice of the peace, or other public functionary or officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done;

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(b) whenever power is given to any person, officer or **Powers.** functionary, to do or enforce the doing of any act or thing, all such powers shall be understood to be also given as are necessary to enable such person, officer or functionary to do or enforce the doing of such act or thing;

(c) when any act or thing is required to be done by more **Majorities.** than two persons, a majority of them may do it;

(d) whenever forms are prescribed, slight deviations **Forma.** therefrom, not affecting the substance or calculated to mislead, shall not invalidate them;

(e) if a power is conferred or a duty imposed the power **Powers and duties.** may be exercised and the duty shall be performed from time to time as occasion requires;

(f) if a power is conferred or a duty imposed on the **Idem.** holder of any office as such, the power may be exercised and the duty shall be performed by the holder for the time being of the office;

(g) if a power is conferred to make any rules, regula- **Rules, regulations and by-laws.** tions or by-laws, the power shall be construed as including a power, exercisable in the like manner, and subject to the like consent and conditions, if any, to rescind, revoke, amend or vary the rules, regulations or by-laws and make others;

(h) if the time limited by any Act for any proceeding, **If time falls on a holiday.** or the doing of any thing under its provisions, expires or falls upon a holiday, the time so limited shall be extended to, and such thing may be done on the day next following which is not a holiday;

(i) words importing the masculine gender include **Masculine includes feminine.** females;

(j) words in the singular include the plural, and words **Singular and plural.** in the plural include the singular;

(k) words authorizing the appointment of any public **Removal and suspension.** officer or functionary, or any deputy, include the power of removing or suspending him, re-appointing or reinstating him, or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested;

(l) words directing or empowering a minister of the **Ministers and deputies.** Crown to do any act or thing, or otherwise applying to him by his name of office, include a minister acting for, or, if the office is vacant, in the place of such minister, under the authority of an order in council, and also his successors in such office, and his or their lawful deputy;

(m) words directing or empowering any other public **Other public officers.** officer or functionary to do any act or thing, or otherwise applying to him by his name of office, include his successors in such office, and his or their lawful deputy.

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2. Whenever power is conferred upon a justice of the peace to administer any oath or affirmation, or to take any affidavit or declaration, then, unless a contrary intention appears, the power may be exercised by a notary public or a commissioner for taking affidavits. R.S., c. 1, s. 32.

Court of Appeal, Ontario.

32. Whenever under any Act of the Parliament of Canada, provision is made by which any jurisdiction, power or authority is conferred upon the Court of Appeal for Ontario, such jurisdiction, power or authority, shall be deemed to be conferred upon the Appellate Division of the Supreme Court of Ontario.

Ontario High Court.

2. Whenever under any Act of the Parliament of Canada provision is made by which any jurisdiction, power or authority is conferred upon the High Court of Justice for Ontario, or any judge thereof, such jurisdiction, power or authority, shall be deemed to be conferred upon the High Court Division of the Supreme Court of Ontario or a judge of that Division sitting in court or in chambers. 1913, c. 50, ss. 1 and 2.

Supreme Court New Brunswick.

33. Any jurisdiction, power or authority under any Act of the Parliament of Canada in force, which was vested in or exercisable by the Supreme Court of New Brunswick, or any judge thereof, shall be and continue to be vested in and exercisable by the Supreme Court of Judicature of New Brunswick, or any judge thereof: Provided that the Division of the latter Court which is called the Court of Appeal shall continue to have and shall exercise such of the said jurisdiction, power and authority as was formerly had and exercised by the Supreme Court of New Brunswick when sitting *en banc*. R.S., c. 1, s. 32.

Supreme Court Saskatchewan.

34. Whenever under any Act of the Parliament of Canada, provision is made by which any jurisdiction, power or authority, is conferred upon the Supreme Court of Saskatchewan, or any judge thereof, such jurisdiction, power or authority, shall be deemed to be conferred upon the Court of Appeal or Court of King's Bench for Saskatchewan or a judge of one of the said courts, as the case may require; and in case of any doubt as to whether such jurisdiction, power or authority is to be exercised by the Court of Appeal or the Court of King's Bench, or by a judge of one of those Courts, any judge of either Court shall have power to determine the same. 1916, c. 25, s. 1.

Supreme Court Alberta.

35. Whenever under any Act of the Parliament of Canada, provision is made by which any jurisdiction, power or authority is conferred upon the Supreme Court of Alberta, or a judge thereof, such jurisdiction, power or authority,

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shall be deemed to be conferred upon the Court of Appeal or the Court of King's Bench for Alberta, or a judge of one of the said Courts, as the case may require; and in case of any doubt as to whether such jurisdiction, power or authority is to be exercised by the Court of Appeal or the Court of King's Bench, or a judge of one of those Courts, any judge of either Court shall have power to determine the same. 1920, c. 56, s. 6.

36. Definitions or rules of interpretation contained in any Act shall, unless the contrary intention appears, apply to the construction of the sections of the Act which contain those definitions or rules of interpretation, as well as to the other provisions of the Act. R.S., c. 1, s. 33.

DEFINITIONS.

37. In every Act, unless the context otherwise requires,

- (1) "Act" as meaning an Act of a legislature, includes "Act" an ordinance of the Northwest Territories as now or heretofore constituted, or of the district of Keewatin, or of the Yukon Territory;
- (2) "commencement" when used with reference to an Act means the time at which the Act comes into operation;
- (3) "county" includes two or more counties united for purposes to which the enactment relates;
- (4) "county court" in its application to the province of Ontario includes, and in its application to the provinces of Saskatchewan and Alberta means "district court";
- (5) "fiscal year" or "financial year" means, as respects moneys provided by Parliament, or any moneys relating to the Consolidated Revenue Fund of Canada, or to Dominion accounts, taxes or finance, the twelve months ending the thirty-first day of March;
- (6) "Governor," "Governor of Canada," or "Governor General" means the Governor General for the time being of Canada, or other chief executive officer or administrator for the time being carrying on the Government of Canada on behalf and in the name of the Sovereign, by whatever title he is designated;
- (7) "Governor in Council," or "Governor General in Council" means the Governor General in Canada, or person administering the Government of Canada for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with the King's Privy Council for Canada;
- (8) "Great Seal" means the Great Seal of Canada;

Interpretation sections.

"Fiscal year."

"Governor."

"Governor in Council."

"Great Seal."

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"Herein."	(9) "herein" used in any section shall be understood to relate to the whole Act, and not to that section only;
"His Majesty."	(10) "His Majesty," "the King," or "the Crown," or other reference to the sovereign reigning at the time of the passing of the Act, means the Sovereign of the United Kingdom of Great Britain and Ireland, his heirs and successors;
"Holiday."	(11) "holiday" includes Sundays, New Year's Day, the Epiphany, Good Friday, the Ascension, All Saints' Day, Conception Day, Easter Monday, Ash Wednesday, Christmas Day, the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign, Victoria Day, Dominion Day, the first Monday in September, designated Labour Day, Armistice Day, and any day appointed by proclamation for a general fast or thanksgiving;
"Legislature."	(12) "legislature," "legislative council" or "legislative assembly" includes the Lieutenant Governor in Council and also the Legislative Assembly of the Northwest Territories, as constituted previously to the first day of September, one thousand nine hundred and five, the Lieutenant Governor in Council of the district of Keewatin, the Commissioner in Council of the Northwest Territories as now constituted, and the Commissioner in Council of the Yukon Territory;
"Lieutenant Governor."	(13) "lieutenant governor" means the lieutenant governor for the time being, or other chief executive officer or administrator for the time being, carrying on the government of the province indicated by the Act, by whatever title he is designated;
"Lieutenant Governor in Council."	(14) "lieutenant governor in council" means the lieutenant governor, or person administering the government of the province indicated by the Act, for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with the executive council of such province;
"Magistrate."	(15) "magistrate" means a justice of the peace;
"Month."	(16) "month" means a calendar month;
Name.	(17) the name commonly applied to any country, place, body, corporation, society, officer, functionary, person, or thing, means such country, place, body, corporation, society, officer, functionary, person or thing, although such name is not the formal and extended designation thereof;
"Now." "Next."	(18) "now" or "next" shall be construed as having reference to the time when the Act was presented for the Royal Assent;
"Oath."	(19) "oath" includes a solemn affirmation or declaration, whenever the context applies to any person and case by whom and in which a solemn affirmation or

<i>Interpretation.</i>	Chap. 1.
declaration may be made instead of an oath; and in like cases the expression "sworn" includes the expression "affirmed" or "declared";	
(20) "person," or any word or expression descriptive of a person, includes any body corporate and politic, and the heirs, executors, administrators or other legal representatives of such person, according to the law of that part of Canada to which the context extends;	"Person."
(21) "proclamation" means a proclamation under the Great Seal;	"Proclamation."
(22) "province" includes the Northwest Territories as now or heretofore constituted, the district of Keewatin, and the Yukon Territory;	"Province."
(23) "registrar" or "register" means and includes indifferently registrars or registers in the several provinces of Canada;	"Registrar."
(24) "shall" is to be construed as imperative, and "may" as permissive;	"Shall." "May."
(25) "statutory declaration" means a solemn declaration made by virtue of the Canada Evidence Act;	"Statutory declaration."
(26) "superior court" means	"Superior court."
(a) in the province of Ontario, the Appellate Division of the Supreme Court of Ontario and the High Court Division of the Supreme Court of Ontario;	
(b) in the province of Quebec, the Court of King's Bench, and the Superior Court for the said province;	
(c) in the provinces of Nova Scotia, New Brunswick and Prince Edward Island, the Supreme Court for each of the said provinces, respectively, and in the province of British Columbia the Court of Appeal of the province and the Supreme Court of British Columbia;	
(d) in the province of Manitoba, the Court of Appeal for Manitoba and the Court of King's Bench for Manitoba;	
(e) in the province of Saskatchewan, the Court of Appeal of the said province and the Court of King's Bench for Saskatchewan;	
(f) in the province of Alberta, the Supreme Court of Alberta;	
(g) in the Yukon Territory, the Territorial Court.	
(27) "sureties" means sufficient sureties, and the expression "security" means sufficient security; and, whenever these words are used, one person shall be sufficient therefor, unless otherwise expressly required;	"Sureties." "Security."
(28) "two justices" means two or more justices of the peace, assembled or acting together;	"Two justices."
(29) "the United Kingdom" means the United Kingdom of Great Britain and Ireland;	"United Kingdom."

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"United States." (30) "the United States" means the United States of America;
"Writing." (31) "writing," "written," or any term of like import, includes words printed, painted, engraved, lithographed or otherwise traced or copied. R.S., c. 1, s. 34; 1907, c. 23, s. 1; 1907, c. 45, s. 1; 1919, c. 27, s. 1; 1921, c. 16, s. 4.

"Minister of Finance." 38. The expression "Minister of Finance" or "Receiver General" in any Act, or in any document, means the Minister of Finance and Receiver General, and the expression "Deputy Minister of Finance" or "Deputy Receiver General" in any Act or document means the Deputy Minister of Finance and Receiver General. R.S., c. 1, s. 35.

"Telegraph." 39. The expression "telegraph" and its derivatives in any Act of the Parliament of Canada, or in any Act of the legislature of any province now forming part of Canada, passed before such province entered into the Union, on any subject which is within the legislative powers of the Parliament of Canada, shall not be deemed to include the word "telephone" or its derivatives. R.S., c. 1, s. 36.

Expressions in instruments to have same meaning. 40. Where any Act confers power to make, grant or issue any instrument, that is to say, any order in council, order, warrant, scheme, letters patent, rule, regulation, or by-law, expressions used in the instrument shall, unless the contrary intention appears, have the same respective meanings as in the Act conferring the power. R.S., c. 1, s. 37.

FISCAL YEAR—POWERS OF THE GOVERNOR IN COUNCIL.

Change of dates. 41. Whenever in any Act of the Parliament of Canada, passed before the thirteenth day of July, one thousand nine hundred and six, a day or time is designated for any purpose, and the Governor in Council is of opinion that the day or time so designated was fixed because of its relation to the fiscal year as then constituted, or that the day or time designated for such purpose should bear a corresponding relation to the fiscal year as constituted by the Act passed in the year one thousand nine hundred and six, intitled An Act respecting the Fiscal Year, chapter twelve, the Governor in Council may, by proclamation, declare that the day or the time fixed for such purpose shall be changed so that it shall bear to the fiscal year, as constituted by the said Act, the same relation as the day or time previously designated bore to the said previous fiscal year. R.S., c. 1, s. 38.

Interpretation.

Chap. 1.

CITATION OF ACTS.

42. In any Act, instrument or document, an Act may be cited by reference to its short title, if any, either with or without reference to the chapter, or by reference to the regnal year, or the year of our Lord in which it was passed.

2. Any such citation of or reference to any Act, shall, unless the contrary intention appears, be deemed to be a citation of or reference to such Act as amended. R.S., c. 1, s. 39.

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R.S.C. 1927, History and Disposal of Acts.

APPENDIX I.

TABLE

OF ACTS CONTAINED IN THE REVISED STATUTES OF CANADA, 1906, AND ACTS OF THE DOMINION OF CANADA PASSED THEREAFTER, UP TO AND INCLUDING THE STATUTES OF 1927, SHOWING HOW EACH HAS BEEN DEALT WITH.

ACTS OF THE DOMINION OF CANADA.

THE REVISED STATUTES.

Table with 3 columns: Chap., Title, Disposal. Row 1: 81 Indian Act, Consolidated, except par. (h) of s. 2, repealed 1920, c. 50, s. 3; s. 9, repealed 1920, c. 50, s. 1; s. 10, repealed 1914, c. 35, s. 1; s. 11, repealed 1920, c. 50, s. 1; s. 14, repealed 1920, c. 50, s. 2; s. 23, repealed 1924, c. 47, s. 3; ss. 1 of s. 46, repealed 1911, c. 14, s. 1; s. 90, repealed 1924, c. 47, s. 5; par. (c), ss. 1 of s. 88, repealed 1927, c. 32, s. 3; ss. 1 of s. 105, repealed 1910, c. 28, s. 3; ss. 107 to 123, both inclusive, repealed 1920, c. 50, s. 3; s. 171, repealed 1911, c. 14, s. 3; par. (c), ss. 2 of s. 194, repealed 1927, c. 32, s. 7.