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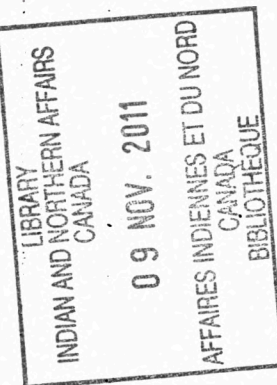
The Seigneurie of Sault St. Louis, Vol. 6, Part 2

/ prepared by Joan Holmes & Associates, Inc. ;
for the Working Group on the Seigneurie
of Sault St. Louis Grievance,
Canada - Kahnawake Relations.

[S.l. : s.n., 1995]

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(CHR# I-321)
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An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordinance Lands. S.C. 1868, c. 42 (31 Vict.)

CAP. XLII.

An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordinance 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:

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.

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.

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.

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.

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.

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.

7. All moneys or accretions 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

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

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

Cap. 42. Department of Secretary of State. 81 Vict.

be under this Act. of any lands or of any timber on any lands reserved or held in trust on behalf, 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.

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

Consent of the chief or chiefs of the tribe. 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 assembled 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;

Certificate of assent to be forwarded to Secretary of State. 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 an affidavit shall be transmitted to the Secretary of State by such officer, and shall be submitted to the Governor in Council for acceptance or refusal.

Penalty for introducing liquor at any meeting for such assent. D. 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 officers 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.

Any surrender otherwise invalid, not hereby confirmed. 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.

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

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

18. 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 sources 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 attendant 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.

19. No person shall sell, barter, exchange or give to any Indian man, woman or child in Canada, any kind of spirituous liquor, in any manner or way, or cause or procure the same to be done for any purpose whatsoever;—and if any person so sells, barter, exchanges or gives any such spirituous liquor 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 two credible witnesses, 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.

20. 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 used for and recovered, with costs of suit, by the Indian who has deposited the same, before any Court of competent jurisdiction.

21. 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.

22. For the purpose of determining what persons are entitled to hold, use or enjoy the lands and other inalienable 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 some other, shall be considered as

Power to direct the application of Indian moneys.

Penalty for giving or selling liquor to Indians.

How recovered and applied.

Penalty in case of sickness.

Power not to be taken from Indians.

Penalty, &c., not liable for debt.

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.

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

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

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

Firstly. All persons of Indian blood, entitled to belong to the particular tribe, band or body of Indians interested in such lands or immovable 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 entitled to belong to the particular tribe, band or body of Indians interested in such lands or immovable property, and the descendants of all such persons; And

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

How and to whom shall be performed on Indian lands.

86. 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 thereto 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 residing upon any of the said lands; and the said Secretary of State, officer or person shall have the like power to regulate 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 similar 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 reside on Indian lands.

87. 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 persons intermarried with Indians, when by persons other than Indians are permitted to reside upon such lands, shall be absolutely void.

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

88. 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 thereto deputize 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 non-Indian persons from Indian lands, settling on Indian lands, provided for.

Proviso.

89. 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 deputized 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.

90. 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.

Proviso, i.e., to arrest each person.

91. 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, - 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.

Cap. 48. Department of Secretary of State. 31 Nov.

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

29. 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, trespass 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, officers 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 Jail as aforesaid, for a period not exceeding thirty days, where 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, officers or person, may commit the party in default upon such warrant, to the Common Jail 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 whom benefit the lands are held, in such manner as the Governor may direct.

Whenever in writs, warrants, &c., not to be used.

30. 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, officers 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.

1868. Department of Secretary of State. Cap. 48.

31. All Sheriffs, Gaolers or Peace Officers in 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.

32. 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.

33. 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.

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

35. 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.

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

37. 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.

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

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

Cap. 48. Department of Secretary of State. 31 VMT.

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 moneys 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 moneys 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 Commissioners, or other persons whatsoever, for the use of Indians, shall henceforth be vested in the Crown and shall be under the management of the Secretary of State.

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 moneys 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 moneys 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 Commissioners, or other persons whatsoever, for the use of Indians, shall henceforth be vested in the Crown and shall be under the management of the Secretary of State.

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.

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

35. All powers and duties vested in the Commissioner of Crown Lands with respect to the said Ordinance 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 chapter 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

Cap. 67 of Revised Stat. N. S. repealed: moneys to be paid over.

Indian lands vested in Secretary.

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

Indian lands vested in Secretary.

Act not to affect Cap. 9 of Can. Stat. Gen. Act.

Secretary of State to manage Ordinance lands.

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

C. 23, Can. Stat. Gen.

1868. Department of Secretary of State. Cap. 48.

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 executed 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 "Magistrate 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 executed with reference to any act or thing done or performed since that date, in connection with Ordinance or Indian Lands.

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.

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 distraint 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 fees 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

Proviso: How such Acts shall be construed.

Proviso: Act to refer to 1st July, 1868.

Proviso as to certain other Crown Lands.

Proviso as to Regulations to be made by Governor in Council, 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, cons'd.

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

timber shall be dealt with as the regulation may direct:—and may appropriate any such fines in such manner as may see fit; and the Governor in Council may by such regulations provide for the forfeiture of any lease, 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: and to impose other conditions.

Publication, effect and proof of Regulations.

34. 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
c. 99, c. 10,
S.C. 1876.

Governor may appoint agents to, 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.

Letter Book Vol. 21.
Indian Department
25 Sept. 1867- 11 Nov. 1868.
Page 321.

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Department of Secy of State,
Ottawa 28th May 1868.

Ed. N. DeLorimier, Esq.,
Indian Land Agent,
Laprairie, P.Q.

Sir:

I have to acquaint you that by the 26th. Section of the Act passed during the Session of the Parliament of Canada which has just closed, 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" the Secretary of State is substituted for the Commissioner of Indian lands for Lower Canada - which appointment was conferred upon you under the 14th Chapter of the Consolidated Statutes of Lower Canada - and a copy of the new Act will be forwarded to you as soon as it is printed in its final shape. You will perceive that the new Law causes the lands in the Province of Quebec which was vested in you as such Commissioner to be vested in the Secretary of State of Canada - but it is not proposed to give Effect to it in such a Manner as to deprive You of the Agency of the Indian Seigniory of St Louis, or to interfere with the collection of moneys payable for the benefit of the Iroquois Indians of that settlement by you as Agent Authorized to collect such moneys.

I am Sir,

Sgd. H. L. Langevin.

RECEIVED A TRUE COPY.

E. M. Matheson

Dep. Secy of State
Indian Affairs.

NAC RG 10
Vol. 10025

(11)

1868/05/28.

On the Petition of the Algonquins Indians of Two Mountains — — —

The Petition claims —

- 1st That the Seminary of St. Sulpice have no right to the land or wood, but that they belong to the Indians —
- 2^d That the Seminary of St. Sulpice refuses to give timber to the Indians to build houses with —
- 3^d That certain Islands in the Ottawa River have been taken possession of by the Crown — must give the works 30 years ago and in compensation paid to the Indians —
- 4th That certain equipment that used to be paid to the Two Mountains Indians have now ceased to be paid;
- 5th That the Indians should have the same privileges as are enjoyed by the whole people.

On the first point, I have read attentively the Petition and Mr. Spragg's Memorandum of the 12 August last thereon, and after carefully reading the Title of the Signings of Two Mountains, and the Acts of Parliament thereto relating, I have no doubt that the Algonquins Indians are altogether in error, and that the comparison established by Mr. Spragg between the land at Sault Ste. Marie or Lac Seul and the Seminary of Two Mountains is quite wrong in every way, the tenure of both being quite different in so much as the first has reverted to the Crown, whilst in the case of the Signings of Two Mountains it is the absolute property of the Seminary of St. Sulpice of Montreal, as shown by the title or grant of the 9th April 1777, by that of the 1st March 1785, by the permission granted to the Gentlemen of the Seminary by the Treaty of Paris to sell their Signings and carry away the proceeds to France if they had chosen to do so by the 3rd 4th Vic. Chap 30 (now Chap 12 of the Consolidated Statutes of Lower Canada) and by

ref. Session Papers NO 55 1st D 1870 33 vol 11

the seigniorial Act of 1854. The Algonquin Indians of the Two Mountains have therefore no right of property in the Seignory of Two Mountains, but have the right to remain where they are at the Mission as long as they think proper, provided they behave peacefully and respect the right of the Seminary of St. Sulpice.

On the second point, I have ascertained that the Seminary of St. Sulpice do not allow the Indians to cut wood for sale, but that they allow them to cut with and cut wood for their own use.

On the third point, I have to observe that by the Act 11 & 15 Victoria Chap. 106 a large tract of land is set apart for the use of certain Indian Tribes in Lower Canada (now Quebec) and that by an Order in Council of the late Province of Canada dated 9th August 1853, and passed in accordance with and under the last mentioned Statute 45,750 (forty five thousand seven hundred and fifty) acres of land in the Township Menawabie in their District are set apart specially for the Tête de l'Anse, Algonquins and Nipissingue Indians, being the tribes dwelling on the territory between St. Maurice and Gatineau, principally residing at the Mission of St. Joseph of Two Mountains. Compensation has therefore been given to the Algonquins Indians that may have been appropriated by the Government on the Ottawa River.

On the 4th point it appears that the Imperial authorities for a long time gave certain equipments as mentioned. But they have ceased to bring for a number of years, and the Canadian authorities have replaced them by blankets, seed grain and other assistance to the old and infirm Indians.

On the last point the Indians cannot have the same privileges as the white man as long as the law remains as it is. But it is the intention of the Report to submit a scheme by which Indians could under certain conditions and with certain qualifications obtain their emancipation and become to all intents & purposes citizens as the white men are. But in order that such a measure may obtain the sanction of Parliament and become law, Indians must not violate the law of the land nor throw otherwise obstacles in the way. They must

must respect property, be content with their present condition and be sure that the disposition of the Government is to improve their condition elevates them in their social position and prepare them for a complete emancipation

Ottawa 24 Oct 1868

Edw. Nelson Langwin

Secretary of State

✓

Mem^o: Extract of Report on Mr Joseph Wilson application for payment of acct. of expenses incurred in protecting the timber on the Reserves to

It appears to me from the explanation contained in Mr Wilson's letter of the 20 Inst. that he has had to encounter serious obstacles in protecting the Timber upon the Indian Reserve at Garden River and other Reserves in the North Shore of Lake Huron, and that although not always successful he has prevented the removing of Timber to the extent which would have otherwise apparently have taken place thereby leaving for disposal the more Timber.

I am of opinion therefore that his account for \$57 ⁷⁵/₁₀₀ for the half year ended 30th June last for him at the rate of \$5. per day including Board expenses and Horse hire should be paid to him.

Oct. 30. 1868

M. G. Gage
C. S. A.

Mem^o: From the Indian Office -
Cancelling Sale of Lot No 3 in the 8 Con^o of the Township of Anderson entered in the name of Henry McHenry -

Application has been made by John Agnew Esq. M. P. on behalf of Mr William Petty price for the purchase of Lot No 3 in the 8 Concession of the Township of Anderson which was sold on the 6th April 1852 to Henry McHenry at the

Mem^d.

In the Canada Gazette of the 12th December, Current, appears among the notices of Sheriffs Sales, the following:

Thomas Jocks of the Village of Sault St Louis in the District of Montreal, Merchant, against the lands & tenements of Joseph Tahowtakote, Yeoman &c. &c.-

Firstly a Land lying & situate in the Seignior of Sault St Louis, containing 200 yards more or less in front by 500 yards more or less in depth &c &c.

Secondly an emplacement situate at the Village of St Louis containing 60 feet in width at the front and 57 in width at the other end by 72 feet in depth &c &c. with a wooden house thereon erected.

To be sold at the Parochial Church door of the Parish of St Louis, on the 12th day of January next at ten O'Clock in the forenoon.

In calling attention to this Notice it is proper to point out that both the Plaintiff & Defendant are Iroquois Indians of Caughnawaga and the property so advertized forms a part of the Indian Reserve, known as the Seignior of St Louis. - Accordingly the suggestion is offered, whether the case be not one which ought to be brought under the notice of the Hon^{ble}. the Minister of Justice.

Wm. Spragge.
D. S. I. A.

Indian Office,
Ottawa 22 Dec. 1868.

I would wish to know from the Hon^{ble}. the Minister of Justice what should be done in this case.

Ottawa, 22nd. Dec. 1868.

Hector L. Langevin.
Sec. of State.

Instructions have been sent by the Minister of Justice to Mr. Pominville to have a proper Notarial protest served against the sale.

H. Bernard.
Dec. 24/68.

Mr. Spragge will please for the future see whether the Official Gazettes of any of the four Provinces contain any notice of sale of any Indian land and call my attention thereto.

Hector L. Langevin.
Secy. of State.
31st Dec. 1868.

CERTIFIED A TRUE COPY.

G. D. Matheson

In Charge of Records
Department of the Interior.

NAC RG10
Vol. 10025

1868/12/22

Letter Book, Vol. 22.
Indian Department,
14 Nov. 1868 -14 Sep. 1869.
Page 158-159.

14.
457

Department of Sec. of State,
Ottawa, 12 Feb. 1869.

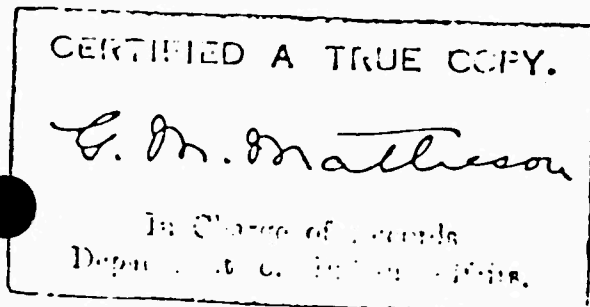
E. N. DeLorimier, Esq.,
Indian Agent,
Laprairie.

Sir:

I have to request that you will assemble the Indians of the Seigniory of St Louis in Council and state with a view to the Government obtaining a knowledge of the extent & positions of the Various Farms and properties held & occupied by the families of the Iroquois Indians of that Seigniory it is advisable that a Survey should be made of that portion of the Seigniory upon which the Indians reside, that a map be constructed exhibiting their lands and improvements and you will have the goodness to submit to them a proposal that they shall vote to appropriate from their moneys a sufficient sum to defray the expenses of such a Survey - And I have also to request that you will obtain an estimate of the cost for a survey of that description that you may both communicate to the Indians in Council information upon that point and report to me the probable expense which would be incurred.

I have the &c

(Sgd.) H. L. Langevin.



NAC RG 10
Vol. 10025

1869/02/12

(14)

HOUSE OF COMMONS

Tuesday, April 27, 1869

The Speaker took the chair at three p.m.

JOLIETTE ELECTION

Mr. Scatcherd presented the final report of the Joliette Election Committee. They stated that the petitioner, with the consent of the sitting member, had withdrawn his contestation, and accordingly reported that the sitting member, Godin, had been duly elected, and that neither the petition nor defence was frivolous and vexatious.

INDIAN AFFAIRS

Hon. Mr. Langevin moved for leave to introduce a Bill to provide for the better management of Indian Affairs, and explained its leading features. He said experience had shown that a number of Indians, by their education, good conduct, and intelligence, could be entrusted with the same privileges as white men, but as the law stood—at least in Quebec and Ontario—for Indians to obtain the Franchise was so difficult that not one of them had ever been able to obtain it. The Government had thought, therefore that they should provide for the gradual enfranchisement of the Indians by a mode that would be less difficult. Whenever the Governor in Council, on the report of the Superintendent of Indian Affairs found that an Indian by his education, good conduct, and intelligence was qualified to be the proprietor of land, that Indian would receive letters patent for a lot of land in the Indian reserve. He would only have a life estate in it, but it would go down to his children, to be held by them in fee simple. It was also provided that the Indian, who received this land, should not be dispossessed of it, and that the land should not be affected by mortgages or other incumbrances. This was another attempt in the direction of civilizing the Indians, and the Government should try, as much as possible, to protect them in the first instance. An attempt was also made in the direction of giving them the benefits of a municipal government. It was proposed to give them certain powers to pass by-laws, subject to confirmation by the Governor in

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CHAMBRE DES COMMUNES

Le mardi 27 avril 1869

L'Orateur prend le fauteuil à 3 heures de l'après-midi.

ÉLECTIONS DE JOLIETTE

M. Scatcherd présente le rapport définitif du comité électoral de Joliette. Celui-ci précise que le pétitionnaire a retiré son avis de contestation, avec le consentement du député actuel, en déclarant donc que ce dernier, M. Godin, a bien été élu selon les règles et que ni la pétition, ni la défense, ne sont futiles ou vexatoires.

AFFAIRES INDIENNES

L'hon. M. Langevin propose la présentation d'un bill prévoyant une meilleure gestion des affaires indiennes et en explique les traits dominants. L'expérience montre, dit-il, qu'un certain nombre d'Indiens pourraient, de par leur éducation, leur bonne conduite et leur intelligence, se voir accorder les mêmes privilèges que ceux dont jouissent les Blancs, mais que d'après la loi actuelle, du moins au Québec et en Ontario, il est à ce point difficile pour un Indien d'être affranchi qu'aucun d'entre eux n'a encore été en mesure de le devenir. Le Gouvernement a donc pensé qu'il fallait prévoir l'affranchissement progressif des Indiens par une méthode plus aisée. Si le Gouverneur-en-Conseil, sur l'avis du surintendant des Affaires indiennes, estime qu'un Indien est habilité, de par son éducation, sa bonne conduite et son intelligence, à devenir propriétaire d'une terre, cet Indien devra recevoir des lettres patentes pour un lot de terre situé dans la réserve indienne. Il en jouirait en viager, mais la terre pourrait revenir à ses enfants avec tous les droits de jouissance et de possession y afférent. Le Bill prévoit également que l'Indien qui recevra ce terrain ne pourra pas en être privé et que celui-ci ne pourra être grevé d'aucune hypothèque ou autre charge. Il s'agit d'une nouvelle tentative visant à civiliser les Indiens et le Gouvernement doit essayer avant tout, dans la mesure du possible, de protéger ces derniers. Le Bill tente également de les faire profiter d'un gouvernement municipal. On se propose de leur accorder certains pouvoirs de réglementation en matière municipale, sous

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ment, as to the care of public health, observance of order and decorum in their meetings, encouragement of temperance, &c. Again, it was found that in many tribes there was a want of proper discrimination between those who belonged to the tribe and those who came on the reserve from some other quarter. Many came in on the plea of being Indians, and divided the revenues of the tribe, which, of course, impoverished them, and deprived them of the means of maintaining their families. This Bill provided that, when an Indian woman married a white man, as regarded her rights to the reserve, her children would not be considered Indians, but would assume the position of the father. So, also, if an Indian woman of one tribe married an Indian man of another tribe she would cease to belong to her own tribe and her children also. Again, it had been found with reference to reserves, that a good many Indians took advantage of the weakness of others and took possession of more land than they ought to have, some having 400 or 500 acres, while others would have none. By this Bill, it was provided that no Indian would be recognized as having a right to any land, unless he received a location from the Superintendent of Indian Affairs. Again, the complaint was often brought against the Indians that they did not keep up their roads, bridges, fences and ditches. In this Bill authority was given to compel the Chiefs to have their roads, &c. kept in proper order. If they failed to do so the Superintendent would provide for the work being done at the cost of the tribe.

Hon. Mr. Holton said the general provisions of the Bill, as they had now been explained, struck him as being well considered. There was one point, however, on which he must make a remark even at this preliminary stage. He understood the hon. gentleman to say that a white man married to an Indian woman would be expelled from the Reserve. If this provision was retro-active, it would operate very great hardships to the men who had hitherto been suffered to live on the Indian reserves, having married Indian women and acquired such rights of property as could be acquired there. They had made improvements and perhaps were the most useful occupants of those reserves. Perhaps the hon. gentleman would state what special provision

[Hon. Mr. Langevin.—Hon. M. Langevin.]

réserve de confirmation par le Gouverneur-en-Conseil, dans le domaine de la santé publique, du maintien de l'ordre et du décorum au cours de leurs réunions, de l'encouragement à la tempérance, etc. Ici encore, la volonté d'établir une distinction judicieuse entre les membres authentiques de la tribu et les membres de la réserve ayant une autre origine s'observe dans de nombreuses tribus. Bon nombre de ces nouveaux arrivants se sont joints à la tribu en alléguant qu'ils étaient des Indiens, divisant ainsi les revenus de la tribu, ce qui a eu bien sûr pour effet de les appauvrir et de leur ôter tout moyen d'entretenir leurs familles. En ce qui concerne les droits de la femme indienne par rapport à la réserve, le Bill dispose que, lorsqu'une indienne épouse un Blanc, ses enfants ne seront pas considérés comme Indiens, mais auront le même statut que leur père. De même, si une Indienne appartenant à une tribu épouse un Indien appartenant à une autre tribu, elle cesse de faire partie de sa tribu d'origine tout comme ses enfants d'ailleurs. Ici encore, en ce qui concerne les réserves, il apparaît que bon nombre d'Indiens ont profité de la faiblesse d'autres Indiens pour s'approprier un territoire plus important que celui auquel ils avaient droit; certains Indiens possèdent ainsi 400 ou 500 acres alors que d'autres n'en possèdent point. Le Bill dispose que le droit de propriété d'une terre ne sera reconnu à aucun Indien s'il n'a pas reçu cette terre en location du surintendant des Affaires indiennes. Ici encore, des plaintes ont été souvent formulées contre des Indiens parce qu'ils n'entretenaient pas leurs routes, leurs ponts, leurs clôtures, ni leurs fossés. Le Bill prévoit des instruments permettant d'obliger les Chefs à maintenir en bon état leurs routes, etc. S'ils manquent à leurs obligations, le Surintendant fera procéder aux travaux aux frais de la tribu.

L'hon. M. Holton dit que les dispositions générales du Bill qui viennent d'être expliquées lui paraissent judicieuses. Il doit néanmoins faire dès maintenant un commentaire. Il comprend, d'après les propos de l'honorable député, qu'un Blanc marié à une Indienne serait expulsé de la réserve. Si cette disposition est rétroactive, elle nuira énormément aux hommes qui, jusqu'à présent, ont peiné pour vivre dans les réserves indiennes, qui ont épousé des indiennes et acquis les droits de propriété qu'ils pouvaient y obtenir. Ces hommes ont apporté une contribution importante et ce sont peut-être les occupants les plus utiles de ces réserves. L'honorable député pourrait peut-être préciser quelles sont les dispositions particulières qu'il envisage dans

he intended to make for such cases. He made these remarks with special reference to the Caughnawaga reserve, in which people of the county he had the honor to represent, took a very warm interest.

Hon. Mr. Langevin said it was the wish of the Government to apply the rule referred to by the member for Chateauguay, only to the case of such white men as misbehaved by selling liquor, or robbing the Indians of their timber. Within the last few days he had received five or six petitions from white men in Caughnawaga. In cases where the white man had nothing to do with the Indians, and was not married to an Indian woman, the Government gave him a certain time within which to go. As regards those who were married to Indian women, and there was nothing alleged against their conduct, they received a license to remain.

Hon. Mr. Dorion thought it was the duty of Government to try to favor, as much as possible, intermarriage between the whites and Indians. Instead of excluding a white man who married an Indian woman, he thought such a man ought to receive the same grant of land as was given to an Indian. He believed this would tend to raise the character of the whole tribe. If some of the white men misbehaved themselves, by selling liquor or otherwise, they would be amenable to the ordinary tribunals for such misconduct. If encouragement were given to white men to settle with the Indians, to intermarry with them, etc., to be protected both in their chattel and real property, he believed this would better tend to make the Indians a useful class of society than the course heretofore followed, and which it seemed to be the intention of this bill to continue.

Hon. Mr. Langevin said the hon. gentleman had not correctly understood him. As soon as the title of land was given to the Indians, they would be in the same position, with respect to it, as whites; and when an Indian woman, having land, married a white man, her property would take the same course as if she were a white woman. The hon. gentleman need not be afraid that the Government would discourage those intermarriages, they would take place without any Government encouragement at all.

The Bill was then read a first time, and ordered to be read a second time on Friday.

Hon. Mr. Langevin introduced a Bill to avoid the necessity of having public documents engrossed on parchment.

de tels cas. Cette remarque vise particulièrement la réserve de Caughnawaga qui fait l'objet d'un intérêt tout particulier de la part des habitants du comté qu'il a l'honneur de représenter.

L'hon. M. Langevin dit que le Gouvernement désire n'appliquer le règlement mentionné par le député de Chateauguay que dans le cas d'hommes blancs qui se méconduisent en vendant de l'alcool ou en volant leur bois aux Indiens. Au cours des derniers jours, il a reçu cinq ou six pétitions provenant des Blancs de Caughnawaga. Lorsqu'un Blanc n'a aucun commerce avec les Indiens et n'est pas marié à une Indienne, le Gouvernement lui accorde un délai avant de quitter la réserve. En ce qui concerne les Blancs mariés à des Indiennes, lorsqu'on n'a rien à leur reprocher, ils reçoivent la permission de rester.

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through the House while members were out, not expecting it to be brought up. He thought that species of legislation should not be tolerated for a moment.

Hon. Mr. Mitchell said the Bill had been prepared since the beginning of the session, and therefore could not have been brought on before. The measure had been forced upon the consideration of the Department by several Boards of Trade and Chambers of Commerce. They had yet plenty of time to discuss the measure, and if after it was discussed the House wished the Bill to stand over, he would have no objection to it. In reference to the Quebec Pilots' Bill, if his hon. friend was out of the House when it passed, he was neglecting the duty he owed to his constituency. When the Bill was submitted for its third reading, if any member had objected, he would have allowed it to stand over until the next day.

Hon. Mr. Campbell submitted a message to the House from the Governor General respecting the Union of Newfoundland with the Dominion of Canada, and also on the subject of arrangements having in view the admission of Prince Edward Island into the Dominion.

Hon. Mr. Allan—From the Committee on Standing Orders and Private Bills—presented their fourth report.

Several petitions were presented.

On motion of Hon. Mr. Campbell the House adjourned.

adopté au Sénat alors que les sénateurs, pour la plupart, étaient absents et ne s'attendaient pas à ce que ce Bill soit présenté. A son avis, on ne devrait pas du tout tolérer ce genre de procédé.

L'honorable M. Mitchell répond que le Bill est en préparation depuis le début de la session et que, par conséquent, on ne pouvait le présenter avant. Le ministère a été forcé d'étudier cette mesure à la demande de plusieurs Chambres de commerce. Il reste suffisamment de temps pour en discuter et, si le Sénat désire ensuite réserver le Bill, il n'aura pas d'objection. Si son honorable ami était absent du Sénat lorsque le Bill sur l'incorporation des pilotes du havre de Québec a été adopté, il ne s'acquittait pas convenablement des fonctions dont il doit répondre dans sa circonscription. Si un sénateur s'était opposé au Bill lorsqu'il a été présenté en troisième lecture, il aurait permis que le Bill soit reporté au jour suivant.

L'honorable M. Campbell présente à la Chambre un message du Gouverneur Général portant sur l'union de Terre-Neuve à la Puissance du Canada ainsi que sur les dispositions concernant l'admission de l'Île-du-Prince-Édouard dans la Puissance.

L'honorable M. Allan, du Comité des Ordres permanents et des Bills privés, dépose le quatrième rapport.

Plusieurs pétitions sont présentées.

Sur motion de l'honorable M. Campbell, le Sénat s'ajourne.

THE SENATE

Monday, June 7, 1869

The Speaker took the chair at three o'clock p.m.

After routine,

Several petitions were presented.

Pursuant to the order of the day the Bill intituled "An Act to remove doubts as to Legislation in Canada regarding offences not wholly committed within its limits," was read a second time, to be referred to a Committee of the Whole House to-morrow.

INDIANS ENFRANCHISEMENT BILL

Hon. Mr. Campbell moved the second reading of a Bill intituled "An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act 31st Vict., cap. 42." He said the Bill was for the purpose of enabling individual Indians upon passing a certain examination to be enfranchised, and to be placed practically in the same position as other men. It also contained several provisions for the better management of Indian affairs. The first section of the Bill provided that each Indian should have a title to a lot of land for his own use and benefit, but this title will not give him power to sell it. It will only give him an individual title as against other Indians, and that will descend under certain restrictions to his children. Then there is another provision against the sale of liquor to the Indians. He had also adopted a suggestion of his hon. friend (Mr. Christie) that where any Indian commits a breach of the law the costs incurred should be paid by the Superintendent out of any annuity coming to that Indian, or tribe, as the case may be.

Hon. Mr. McCully said as the Bill provided for the transmission of property to the children of Indians it must necessarily involve the laws of marriage. There should be some provision to provide whether the marriage of an Indian, according to the laws of his own tribe, is to be considered as according to law, or whether he must be married by the minister of some Christian society. This Bill, applying to the whole of Canada, would apply

LE SÉNAT

Le lundi 7 juin 1869

Le Président occupe le fauteuil à trois heures de l'après-midi.

Après les affaires courantes,

Plusieurs pétitions sont présentées.

Conformément à l'Ordre du jour, le Bill intitulé: «Acte pour faire disparaître les doutes auxquels donnent lieu certaines lois du Canada, en ce qui concerne les offenses qui ne sont pas entièrement commises sur son territoire,» est lu pour la deuxième fois, pour être ensuite renvoyé au Comité général de la Chambre, le lendemain.

BILL SUR L'ÉMANCIPATION DES SAUVAGES

L'honorable M. Campbell propose la deuxième lecture d'un Bill intitulé: «Acte pourvoyant à l'émancipation graduelle des Sauvages, à la meilleure administration des affaires des Sauvages et à l'extension des dispositions de l'Acte trente et un Victoria, chapitre quarante-deux.» Il dit que le Bill doit permettre à des Indiens de passer un examen en vue de leur émancipation, et d'être ainsi pratiquement traités à égalité avec tout autre homme. Il contient également plusieurs autres dispositions visant une meilleure administration des affaires des Indiens. Le premier article du Bill stipule que chaque Indien a le droit de posséder une parcelle de terrain pour son propre usage, mais ce titre de propriété ne lui donne pas le droit de vendre sa parcelle. Il ne fera que confirmer ses droits de propriété vis-à-vis des autres Indiens et il sera transmissible à ses enfants sous réserve de certaines restrictions. Ensuite, une autre disposition interdit la vente de spiritueux aux Indiens. Il a également adopté une suggestion de son honorable ami (M. Christie) voulant que lorsqu'un Indien commet une infraction à la loi, les frais encourus soient payés par le surintendant qui les prélèverait sur toute rente due à l'Indien en question ou à sa tribu, selon le cas.

L'honorable M. McCully dit que puisque le Bill prévoit la transmission de biens aux enfants des Indiens, il faut nécessairement tenir compte des lois du mariage. La loi doit préciser si le mariage d'un Indien, selon les coutumes de sa propre tribu, est conforme à la loi, ou si le mariage doit être prononcé par un ministre du culte chrétien. Puisqu'il intéresse tout le Canada, le Bill s'appliquerait au Territoire du Nord-Ouest, et il serait bon de se

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well to consider whether the Bill would be applicable to them. The Bill must bring into operation the entire laws of inheritance, and the right of making wills, and the law of dower must apply in the same way. The Indians of Nova Scotia had not advanced to that state of civilization to enable them to inherit property.

Hon. Mr. Campbell said it was proposed, under the Bill, that any Indian, who is not enfranchised, should have the right to transmit his property by will. The right of inheritance is provided in the 9th clause, which is limited in its operation by the first clause, which provides for the sub-division into lots of certain lands that are set apart for the Indians in Canada. It cannot apply to the Northwest Territory, as that is not subdivided into lots for the Indians, and even in Canada there is a large portion of Indian lands as Manitoulin Island and other places, which are not sub-divided in that way. The title to the land is restricted in such a way that it must be left to the widow and children, and cannot be taken away from them. The 16th clause provides for the enfranchisement of the Indian, and then he has all the rights of white men.

Hon. Mr. Kenny said in reference to the Indians of Nova Scotia that they were almost all Roman Catholics, and are married according to the rites of that Church.

Hon. Mr. Christie expressed his satisfaction that substantial justice had now been done to that part of the country that he at one time had the honour to represent. The Indians of the county of Braut numbered 3,000, and according to a return which he held in his hand, the annual cost of the administration of justice among them for five years, previous to June, 1867, had been \$1,468.33. The Bill as it came up from the House of Commons did not quite provide for the whole costs, and at his suggestion the Postmaster-General had adopted a provision that the cost of carrying into effect the sentences accorded, should be added to the liabilities of individual Indians or to the band or tribe as the superintendent might decide. He was glad the Postmaster-General had acceded to his suggestion thereby doing substantial justice to the people of his country.

Hon. Mr. Bureau (in French) said that there were 2,000 or 3,000 Indians at Caughnawaga whom this Bill would affect. He thought the Government should dispose of their lands there, and give them the proceeds. As it is well known they will sell their improvements and properties at a great sacrifice if they get the chance. Some of these lands are covered with valuable cordwood. Then the Govern-

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L'honorable M. Campbell dit que le Bill confère à tout Indien non émancipé le droit de transmettre ses biens par testament. Le droit à l'héritage est précisé dans l'article 9, dont l'application est restreinte par le premier article, lequel prévoit la subdivision en parcelles de certaines terres réservées aux Indiens du Canada. Le Bill ne peut donc s'appliquer au Territoire du Nord-Ouest, puisque celui-ci n'est pas subdivisé en lots pour les Indiens, et même au Canada, il y a une grande proportion de terres indiennes, comme l'île Manitoulin, par exemple, qui ne sont pas ainsi subdivisées. Le titre de propriété des terres ne peut être légué qu'à la veuve et aux enfants et, ce, de façon inaliénable. L'article 16 prévoit l'émancipation de l'Indien, ce qui lui confère alors tous les droits de l'homme blanc.

L'honorable M. Kenny dit que les Indiens de la Nouvelle-Écosse sont presque tous catholiques et sont mariés conformément aux rites de ce culte.

L'honorable M. Christie dit combien il se réjouit de voir que justice a été faite dans cette région du pays qu'il a jadis eu l'honneur de représenter. Les Indiens du comté de Braut sont au nombre de 3,000 et, d'après un rapport qu'il a en mains, le coût annuel de l'administration de la justice chez eux, pendant les cinq années précédant juin 1867, s'élevait à 1,468.33 dollars. Tel qu'il a été présenté à la Chambre des Communes, le Bill ne couvrirait pas l'ensemble de ces coûts et, sur ses conseils, le ministre des Postes a adopté une disposition qui permet de débiter les frais résultant de l'application des sentences rendues aux Indiens concernés, ou à leur bande ou tribu, selon la décision du surintendant. Il se réjouit de voir que le ministre des Postes a suivi ses conseils, corrigeant ainsi une injustice que subissaient ses compatriotes.

L'honorable M. Bureau dit (en français) qu'à Caughnawaga 2,000 ou 3,000 Indiens seraient affectés par ce Bill. A son avis, le Gouvernement devrait vendre les terres qu'ils y possèdent et leur en remettre le produit. Comme on le sait très bien, à la première occasion, ils vont vendre leurs biens avec une perte considérable. Certaines de ces terres sont couvertes de bois de corde de grande valeur.

7 juin 1869

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DÉBATS DU SÉNAT

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ment might purchase them lands elsewhere
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great benefit. Of course some families of these
tribes have more lands than others. Since the
Act passed last Session the simple warrant of
a Justice of the Peace has been invoked to
expel the white men who are proprietors
of these lands, and they lose all their im-
provements. They will have to make claim for
damages from the Government. The sum-
mary proceedings under this law remove all
hopes of a successful defence. The law is
working a great injustice and hardship to the
white man, as was predicted it would last
session when the Bill was under discussion.
But the measure was passed into law, and we
are now reaping the fruits of it.

The Bill was read a second time, and or-
dered to be referred to a Committee of the
Whole to-morrow.

SEAMEN'S SHIPPING BILL

Hon. Mr. Mitchell moved that the Order
of the Day for the House to go into Commit-
tee upon the Bill intituled "An Act respect-
ing masters and mates of ships and the ship-
ping of seamen," be discharged. He said he
did not intend to go on any further with the
Bill this session. He had been influenced in
adopting this course by the opinions of a
number of gentlemen interested in this ques-
tion, who wished to enquire in regard to the
general interests throughout the Dominion
that would be affected by it. The preparation
of this Bill, and the correspondence with
different Boards of Trade, had occupied a
great deal of his time and attention, and
however much might be his desire to have
the Bill become law, yet he felt in deference
to the hon. gentlemen who wished to delay it
in consequence of the great interests it would
affect, that it would be unwise to ask the
House to consider it at so late a period of the
session. The Bill had not been translated into
French and was but lately printed, although
he had urged the parties in charge of the
printing to get it ready for the session, but
it had been delayed from some cause or other.
He regretted that it had not been distributed
before, and he now reluctantly asked the
House to permit him to have the order of the
day discharged.

Hon. Mr. McCully took a great interest in
this question, as it affected a large amount
of property, there being 500,000 tons of ship-
ping in Nova Scotia alone. He thought the
Bill should during the recess be brought

Le Gouvernement pourrait donc leur acheter
des terres ailleurs avec le montant réalisé, ce
qui serait vraiment à leur avantage. Bien sûr,
quelques familles de ces tribus possèdent plus
de terres que d'autres. Depuis l'adoption de la
loi lors de la dernière session, on s'est servi
d'un simple mandat signé par un juge de paix
pour expulser les blancs qui étaient proprié-
taires de ces terres, et ceux-ci ont alors perdu
toute la plus-value qu'elles avaient accumulée.
Ils devront présenter une demande de dom-
mages-intérêts au Gouvernement. La procé-
dure sommaire stipulée dans la loi interdit
tout espoir d'une défense fructueuse. La loi
constitue une grave injustice et une charge
excessive pour l'homme blanc, comme on l'a
prédicté durant la dernière session lors de la
discussion du Bill. Mais la mesure a pris force
de loi, et nous en récoltons maintenant les
fruits.

Le Bill est lu pour la deuxième fois, et son
renvoi au Comité général, le lendemain, est
décrété.

BILL RELATIF À L'ENGAGEMENT DES MATELOTS

L'honorable M. Mitchell propose la révoca-
tion de l'Ordre du jour demandant que la
Chambre siège en Comité pour étudier le Bill
intitulé «Acte relatif aux maîtres et aux se-
conds de navires et à l'engagement des ma-
telots.» Il dit n'avoir pas l'intention de pousser
davantage le Bill au cours de la présente
session. En prenant cette décision, il s'est laissé
influencer par un certain nombre de sénateurs
désireux d'en étudier les répercussions sur les
intéressés. La préparation de ce Bill et la
correspondance échangée avec les différentes
Chambres de commerce ont occupé une grande
partie de son temps; malgré son grand désir de
voir le Bill entrer en vigueur, il croit tout
de même que, par respect pour les sénateurs
qui veulent le retarder et étant donné l'im-
portance des intérêts en jeu, il serait mal avisé
de demander à la Chambre de l'étudier si tard
dans la session. Le Bill n'a pas été traduit en
français et vient tout juste d'être imprimé, car
malgré les pressions qu'il a exercées sur l'im-
primeur pour qu'il le prépare pour la session,
un retard s'est produit pour une raison ou une
autre. Il déplore qu'il n'ait pas été distribué
avant, et il prie maintenant à regret le Sénat
de lui permettre de révoquer l'Ordre du jour.

L'honorable M. McCully s'intéresse beau-
coup à la question, car elle met en cause des
biens importants, les expéditions de la Nou-
velle-Écosse seule s'élevant à 500,000 tonnes.
Il pense que, pendant l'intersession, le Bill

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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 be 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.

Penalty on 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

Imprisonment in default of payment.

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.

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.
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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.

Duties of chiefs with respect to roads, &c.

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.

Chiefs to frame rules for certain purposes.

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.

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 band 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.

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 surname

Duties of Indians with respect to enfranchisement.

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 annuities 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.

21. Indians not enfranchised shall have the right to sue for Legal remedies of Indians debt 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 Duty of Under 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. Can. Stat. Can., cap. 9 repealed.

24. This Act shall be construed as one Act with the Act thirty-first Victoria, chapter forty-two. 31 Vic. c. 32.

CAP. VII.

An Act respecting the Office of Queen's Printer and the Public Printing.

[Assented to 22nd June, 1869.]

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

1. The Governor may, by Commission under the Great Seal of Canada, appoint a Queen's Printer for the Dominion of Canada, who shall hold his office during pleasure, and shall receive for his services a salary not exceeding two thousand dollars per annum, and so *pro rata* for any longer or shorter period, in lieu of all other fees or emoluments whatever. Queen's Printer to be appointed. Salary.

2. It shall be the duty of the Queen's Printer to print and publish or cause to be printed and published, for the Government, under his Superintendence, the Official Gazette of the Dominion, to be known as the "Canada Gazette," the Statutes of Canada, and all such official and departmental and other reports, forms, documents, and other papers, as he may be required to print and publish, or cause to be printed and published by, or under the authority of the Governor in Council, and he shall perform all such other duties as shall be from time to time assigned to him by Order in Council: and whatever is printed under his superintendence, by authority of this Act, shall be held to be printed by him. His duties, &c.

3. All Proclamations issued by the Governor or under the authority of the Governor in Council, and all official notices, advertisements and documents relating to the Dominion of Canada, or matters under the control of the Parliament thereof, and requiring publication, shall be published in the Canada Gazette, unless some other mode of publication thereof be required by law. Certain documents to be printed in the Canada Gazette.

certifié par le Parlement du Canada à sa prochaine session et non autrement; et considérant qu'il est expédient de le sanctionner et ratifier: à ces causes, Sa Majesté, par et de l'avis et du consentement du Sénat et de la Chambre des Communes du Canada, décrète ce qui suit:

Contrat ratifié.

1. Le dit contrat ainsi que toutes les matières et choses y énoncées sont par le présent acte sanctionnés et ratifiés et déclarés valides pour toutes les fins et intentions quelconques.

CAP. VI.

Acte pourvoyant à l'émancipation graduelle des Sauvages, à la meilleure administration des affaires des Sauvages, et à l'extension des dispositions de l'acte trente-et-un Victoria, chapitre quarante-deux.

[Sanctionné le 22 Juin, 1869.]

Préambule.

SA MAJESTÉ, par et de l'avis et du consentement du Sénat et de la Chambre des Communes du Canada, décrète ce qui suit:

Co qui constituera la possession légitime.

1. Dans les townships ou autres étendues de terre réservées pour les Sauvages en Canada, et subdivisées en lots à la suite d'arpentages, nul Sauvage ou nulle personne se prétendant Sauvage ou allié par mariage à quelque famille Sauvage, ne sera réputé avoir la légitime possession d'une terre dans ces townships ou étendues, à moins qu'il n'ait obtenu le droit de l'occuper par ordre du surintendant-général des affaires des Sauvages; et toute personne qui prendra possession de quelque-une de ces terres, sera considérée comme n'en ayant pas la possession légitime, et pourra en être sommairement évicé, à moins que dans les six mois de la passation du présent acte, il ne lui ait été concédé un permis d'occupation (*location title*) par le surintendant-général des affaires des Sauvages ou par tout officier ou personne à ce délégué ou autorisé par le surintendant; mais la concession d'un permis d'occupation n'aura pas l'effet de rendre transférable, ou saisissable par voie de procédures judiciaires, la terre couverte par ce titre.

Eviction.

2. Quiconque sera passible de l'éviction sommaire mentionnée dans la section précédente, pourra être expulsé de la terre dont il aura pris possession, de la manière prévue par la dix-huitième section de l'acte passé en la trente-unième année du règne de Sa Majesté, chapitre quarante-deux, relativement aux personnes autres que les Sauvages ou ceux mariés à des Sauvages, qui s'établissent sur les terres y énumérées sans la permission du secrétaire d'Etat; et cette dernière section, ainsi que les dix-neuvième, vingtième et vingt-unième sections du même acte s'appliqueront et s'appliqueront aux personnes passibles de l'éviction sommaire sous l'autorité du présent acte, et, en tout, à tous

égards, qu'à celles passibles de l'expulsion en vertu de l'acte plus haut mentionné.

3. Quiconque vendra, troquera, échangera ou donnera des liqueurs spiritueuses d'aucune espèce à un Sauvage, soit homme, femme ou enfant, ou lui en procurera ou lui en fera obtenir, ou ouvrira et tiendra, ou fera ouvrir et tenir, sur des terres réservées pour les Sauvages, une auberge, maison ou un édifice pour y vendre ou débiter des liqueurs spiritueuses ou enivrantes, sera, sur conviction en la manière prescrite par la douzième section de l'acte trente-et-un Victoria, chapitre quarante-deux, ci-haut cité, passible de l'amende y mentionnée; et à défaut de paiement de l'amende, ou de toute amende imposée par la douzième section du même acte, tout délinquant pourra être envoyé en prison sur l'ordre du juge de paix saisi de l'affaire, pour un terme de pas plus de trois mois ou jusqu'à paiement de l'amende; et le commandant de tout bateau à vapeur ou autre vaisseau ou bâtiment, du bord ou à bord duquel des liqueurs spiritueuses ou autres liqueurs enivrantes auront été ou pourront être vendues ou cédées à tout Sauvage, homme, femme ou enfant, sera passible de la même amende.

Vente de liqueurs aux Sauvages, prohibée; pénalité.

Emprisonnement à défaut de paiement.

4. Lors de la distribution d'annuités, intérêts ou rentes entre les membres d'une nation, tribu ou peuplade de Sauvages, nulle personne ayant moins d'un quart de sang sauvage et néo après la passation du présent acte, n'aura droit de partager dans ces annuités, intérêts ou rentes, après qu'un certificat à cet effet aura été donné par le ou les chefs de la tribu ou peuplade en conseil assemblés et approuvé par le surintendant-général des affaires des Sauvages.

Distribution des annuités, etc.

5. Nul Sauvage ou nulle personne de sang sauvage qui sera convaincu d'un crime punissable par l'incarcération au pénitencier ou autre lieu de détention, ne pourra, pendant la durée de son emprisonnement, partager dans les annuités, intérêts ou rentes payables à sa nation, tribu ou peuplade; et lorsqu'un Sauvage sera convaincu d'un crime punissable par l'emprisonnement dans le pénitencier ou autre lieu de détention, les frais de justice encourus pour procurer sa conviction et faire exécuter la sentence prononcée pourront être payés par le surintendant-général des affaires des Sauvages, à même toute annuité ou tous intérêts afférant à ce Sauvage ou à sa peuplade ou tribu, selon le cas.

Exclusion des Sauvages convaincus de crimes.

Comment les frais doivent être payés.

6. La quinzième section de la trente-unième Victoria, chapitre quarante-deux, est amendée en y ajoutant le proviso suivant: "mais toute femme Sauvage qui se mariera à un autre qu'un Sauvage, cessera d'être une Sauvage dans le sens du présent acte, et les enfants issus de ce mariage ne seront pas non plus considérés comme Sauvages dans le sens du présent acte; pourvu aussi que toute femme Sauvage qui se mariera à un Sauvage d'une autre nation, tribu ou peuplade cessera d'être membre de la nation, tribu ou peuplade à laquelle elle appartenait jusque là, et deviendra membre

Proviso ajouté au 31 V., c. 42, s. 15.

Quant aux femmes sauvages se mariant à d'autres Sauvages.

32-33 Vict. Cap 7

membre de la nation, tribu ou peuplade à laquelle appartient son mari; et les enfants issus de ce mariage seront membres de la tribu de leur père seulement."

Pouvoir du
surintendant
général ou cas
de désertion.

7. Le surintendant-général des affaires des Sauvages aura le pouvoir de suspendre le paiement des annuités ou intérêts afférant à un Sauvage, après s'être pleinement convaincu que ce dernier s'est rendu coupable d'avoir abandonné sa femme ou ses enfants, et il pourra en appliquer le montant au soutien de la femme ou des enfants ainsi abandonnés.

Quant aux
Sauvages
nécessiteux.

8. Le surintendant-général des affaires des Sauvages pourra, dans les cas où les personnes malades, infirmes, âgées et nécessiteuses ne sont pas soutenues par la nation, tribu ou peuplade à laquelle elles appartiennent, prendre sur les fonds affectés à chaque nation, tribu ou peuplade une somme suffisante pour secourir ces personnes.

Les biens des
Sauvages
passent à
leurs enfants,
pour leur vie
seulement.

9. Survenant le décès d'un Sauvage occupant, en vertu d'un permis, quelque lot ou morceau de terre, les droits et intérêts qu'il pourra y avoir passeront, conjointement avec ses biens et effets, à ses enfants, à condition par eux de pourvoir au soutien de leur mère, si elle vit; et ces enfants n'auront que des droits viagers dans ce lot qui ne sera ni transférable ni saisissable par voie de procédures judiciaires; mais si un Sauvage décède sans laisser d'enfants, le lot ou morceau de terre, ainsi que les biens et effets en question, retourneront à la couronne pour le bénéfice de la nation, tribu ou peuplade de Sauvages, après qu'il aura, au préalable, été pourvu au soutien de la veuve (s'il en est) du Sauvage décédé.

Election des
chefs.

10. Le gouverneur pourra ordonner que les chefs de toute nation, tribu ou peuplade de Sauvages seront élus par les membres du sexe masculin de chaque bourgade sauvage, ayant atteint l'âge de vingt-et-un ans révolus, aux temps et lieu et de la manière que le surintendant-général des affaires des Sauvages pourra prescrire; et ils seront en ce cas élus pour trois ans, à moins d'être démis par le gouverneur pour malhonnêteté, intempérance ou immoralité, et ils seront dans la proportion d'un chef et deux chefs subalternes, pour chaque deux cents âmes; mais toute tribu comptant trente membres pourra avoir un chef; pourvu toujours, que tous les chefs à vie continueront d'agir comme tels jusqu'à leur décès ou résignation, ou jusqu'à ce qu'ils soient démis par le gouverneur pour malhonnêteté, intempérance ou immoralité.

Leurs devoirs
quant aux
chemins, etc.

11. Le chef ou les chefs de toute nation, tribu ou peuplade de Sauvages seront tenus de faire mettre et maintenir en bon état les chemins, ponts, fossés et clôtures dans les limites de leur réserve, conformément aux instructions qu'ils recevront de temps à autre du surintendant-général des affaires des Sauvages; et lorsque, de l'avis du surintendant-général des affaires des Sauvages, ils ne

seront

seront pas mis ou maintenus en bon état, il pourra faire faire les travaux aux frais de la nation, tribu ou peuplade de Sauvages, ou de tout Sauvage en particulier qui se trouvera en défaut, selon le cas, et ordonner que le coût en soit payé sur ses annuités ou autrement.

12. Le chef ou les chefs de toute nation, tribu ou peuplade de Sauvages pourront faire, sujets à ratification par le gouverneur en conseil, des règlements relatifs aux objets suivants:—

Règlements
qu'ils feront.

1. A la salubrité publique;
2. Au maintien de l'ordre et du décorum dans les assemblées de la tribu réunie en conseil général, ou en d'autres occasions;
3. A la répression de l'intempérance et de l'immoralité;
4. Aux mesures à prendre pour empêcher les bestiaux de commettre des dégâts sur la propriété d'autrui;
5. A l'entretien des chemins, ponts, fossés et clôtures;
6. A la construction et réparation des maisons d'école, salles de conseil et autres édifices publics appartenant aux Sauvages;
7. A l'établissement de fourrières et à la nomination de gardiens de fourrières.

13. Le gouverneur-général en conseil pourra, sur le rapport du surintendant-général des affaires des Sauvages, ordonner l'émission de lettres-patentes concédant à tout Sauvage qui, à raison du degré de civilisation qu'il aura atteint et de la réputation d'intégrité et de sobriété dont il jouit, semblera mériter de devenir propriétaire de terre, un droit viager dans la terre qui lui a été ou pourra lui être assignée dans la réserve appartenant à la nation, tribu ou peuplade dont il est membre; et, en pareil cas, ce Sauvage aura la faculté de la transmettre par testament à aucun de ses enfants, et s'il meurt intestat quant à ces terres, elles passeront à ces enfants, suivant les lois de la partie de la Puissance du Canada dans laquelle elles sont situées, et les enfants auxquels telle terre est ainsi léguée ou passera, en jouiront en pleine propriété.

Droits viagers
dans certaines
terres.

14. Si un sauvage émancipé possédant quelque terre en vertu des treizième et seizième sections du présent acte, vient à mourir sans laisser d'enfants, cette terre retournera à la couronne pour le bénéfice de la nation, tribu ou peuplade à laquelle lui, son père ou sa mère appartenait; mais s'il laisse une veuve, elle aura, au lieu du douaire auquel elle n'aura pas droit, la terre en question, sa vie durant, ou jusqu'à ce qu'elle convole en secondes noces; mais lorsqu'elle mourra ou convolera en secondes noces, la terre retournera

Où retournera
la terre, s'il
n'y a pas
d'enfants.

retournera à la couronne pour le bénéfice de la nation, tribu ou peuplade à laquelle lui, son père ou sa mère appartenait.

Quant aux
veuves et aux
filles non-
mariées.

15. La femme ou les filles non-mariées d'un Sauvage décédé qui, en conséquence de l'opération des treizième et seizième sections du présent acte, pourraient être privées de tous les bénéfices provenant de la terre du mari ou du père, auront, lors de la distribution périodique des annuités et intérêts ou autres revenus afférant à la nation, tribu ou peuplade du mari ou du père, et tant qu'elles continueront à résider sur la réserve appartenant à la nation, tribu ou peuplade et qu'elles resteront en viduité ou non-mariées, droit de recevoir deux parts de ces annuités et intérêts au lieu d'une.

Droits des
Sauvages con-
cernant
l'émancipa-
tion.

Émancipation
des Sauvages.

16. Chaque Sauvage devra, avant l'émission des lettres-patentes mentionnées dans la treizième section du présent acte, déclarer au surintendant-général des affaires des Sauvages, les nom et prénom sous lesquels il désire être émancipé et connu par la suite; et après avoir reçu les lettres-patentes, sous ces nom et prénom, il sera considéré comme émancipé, et il sera dès lors connu sous ces nom et prénom, et sa femme et ses enfants mineurs non-mariés seront considérés comme émancipés; et à compter de la date de ces lettres-patentes, les dispositions de tout acte ou loi établissant une distinction entre les droits et obligations légitimes des Sauvages et ceux des autres sujets de Sa Majesté, cesseront de s'appliquer au Sauvage, ainsi qu'à sa femme et à ses enfants mineurs déclarés émancipés comme il est dit ci-haut, lesquels ne seront plus réputés des Sauvages dans le sens des lois relatives aux Sauvages, sauf en ce qui se rattache à leur droit de partager dans les annuités, intérêts et rentes afférant à la nation, tribu ou peuplade à laquelle ils appartenaient, et sauf aussi que les douzième, treizième et quatorzième sections de l'acte trente-et-un Victoria, chapitre quarante-deux, et la onzième section du présent acte, s'appliqueront à tel Sauvage ainsi qu'à sa femme et à ses enfants.

Concession de
terres, etc.

17. Lors de la concession de terres en vertu d'un permis d'occupation, et de l'émission de lettres-patentes conférant la propriété de terres aux Sauvages, la quantité de terre occupée ou devant être occupée en vertu d'un permis ou cédé par lettres-patentes, devra être, sauf dans les cas spéciaux communiqués, par rapport, au gouverneur en conseil, dans la même proportion, autant que possible, quant à la quantité totale de terre contenue dans la réserve, que l'est le nombre de personnes auxquelles ces terres sont concédées en vertu de permis d'occupation ou de lettres-patentes, par rapport au nombre total de chefs de famille de la nation, tribu ou peuplade de Sauvages, et de membres du sexe masculin de la même nation, tribu ou peuplade n'étant pas chefs de famille, mais âgés de plus de quatorze ans, dans la réserve.

Tuteur aux
enfants mi-
neurs.

18. Si un Sauvage émancipé en vertu du présent acte laisse en mourant un enfant âgé de moins de vingt-cinq ans, le surin-

tendant-général des affaires des Sauvages nommera un tuteur ou gardien (selon le cas) à cet enfant, pour administrer sa propriété et ses droits, jusqu'à ce qu'il ait atteint l'âge de vingt-et-un ans; et la veuve de ce Sauvage, si elle est en même temps mère de cet enfant, recevra la part de ce dernier dans le produit des biens du Sauvage durant la minorité de l'enfant, et aura droit de résider sur la terre laissée par ce Sauvage, tant que, de l'avis du surintendant-général, elle vivra respectablement.

19. Tout Sauvage qui se représentera faussement comme émancipé en vertu du présent acte, et qui ne le sera pas en réalité, sera passible, sur conviction devant un juge de paix, de l'incarcération pour un terme de pas plus de trois mois.

20. Les terres qui, dans les réserves affectées aux Sauvages, seront transmises à un Sauvage émancipé par lettres-patentes, ne pourront pas, tant que les droits viagers de ce Sauvage continueront d'exister, être saisies à la suite de procédures judiciaires, ni non plus être hypothéquées, vendues, échangées, transférées, louées ou cédées de toute autre manière.

21. Les Sauvages non-émancipés auront le droit d'intenter des actions pour le recouvrement de leurs créances, ou pour la réparation des torts qui pourront leur être infligés, ou pour contraindre à l'exécution des obligations contractées avec eux.

22. Le sous-secrétaire d'Etat sera, sous le secrétaire d'Etat du Canada, chargé de l'exécution des devoirs officiels attribués au secrétaire d'Etat par le dit acte, et du contrôle et de la direction des officiers, commis et serviteurs du département, et il exercera tous les autres pouvoirs et devoirs que le gouverneur en conseil pourra lui assigner.

23. Le chapitre neuf des Statuts Refondus du Canada est par le présent abrogé.

24. Le présent acte sera interprété comme ne faisant qu'un seul et même acte avec l'acte trente-et-un Victoria, chapitre quarante-deux.

CAP. VII.

Acte concernant la charge d'Imprimeur de la Reine et les impressions publiques.

[Sanctionné le 22 Juin, 1869.]

SA MAJESTÉ, par et de l'avis et du consentement du Sénat et Préambule de la Chambre des Communes du Canada, décrète ce qui suit :

1. Le gouverneur en conseil, par commission sous le grand sceau du Canada, nommera l'imprimeur de la Reine pour la Puissance

10.

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Letter Book, Vol. 23.
Indian Department.
14 Sept. 1869 - 25 June 1870.
Page 352-3.

Depart. of the Secy. of State for the Provinces,
Indian Branch, Ottawa 10th March 1870.

To Chiefs Alorahishon
and Joseph Taironhiote
Iroquois Indians of
Caughnawaga.

With reference to the representations made by you this day I have to inform you that it is not intended by the Department to commit the moneys received as Rents on account of the Caughnawaga lands to the hands of any one individual Indian. Mr. DeLorimier is the responsible Agent who receives the rents and divides moneys or supplies when that duty has to be performed.

With regard to the reported Petition from Thomas Ka-ra-to-ton for a Patent none such has been received and the Indians need be under no apprehension that the Government will issue any Patents for the Lands in Caughnawaga without ample notice to them being previously given.

With regard to the sale of spirituous liquors by a Nephew of Thomas Karatoton Mr. DeLorimier will be communicated with.

Should any considerable number of the Indians resident in the Seigniorship of Sault St Louis desire to surrender their lands for sale they should unite in a proposition to do so, addressed to the Superintendent General of Indian Affairs and express therein the terms upon which they will be prepared to surrender their lands.

With regard to the question of holding an Election of Chiefs Mr. DeLorimier has reported that of late years Chiefs were allowed to retain office unless found to be from bad conduct unworthy to retain that position.

I am &c.

(Sgd.) Joseph Howe.

CERTIFIED A TRUE COPY.

G. M. Matheson

In Charge of Records
Department of Indian Affairs.

(15)
1870/03/10

Letter Book, Vol. 23.

Indian Department.

25 Sept. 1866- 25 Sept. 1867.

Page 476.

Department of Sec. of State
for the Provinces.

Indian Branch

Ottawa 27th. Apl'. '70.

E. N. DeLorimier, Esq.,

Indian Agent,

Laprairie, P.Q.

G 489/70 Sir:

I have to request that you will inform me why the six White persons mentioned below have not been removed from the Caughnawaga Reserve they having been reported by you as occupying land without authority thereon.

Narcisse Desparois.

Jacob Picard.

Charles Baubrin.

Alfred Peras

Thos. Cooper

Frances Honaeth.

I am Sir,

(Sgd.) Joseph Howe.

CERTIFIED A TRUE COPY.

G. M. Matheson

In Charge of Records
Department of Indian Affairs.

NAC RG 10 Vol. 10025 Reel E-11,059

1870/04/27

16

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RAPPORT
DU
COMMISSAIRE DES TERRES DE LA COURONNE
DE LA
PROVINCE DE QUEBEC.

POUR
les 12 Mois expirés le 30 Juin 1871

IMPRIME PAR ORDRE DE L'ASSEMBLÉE LÉGISLATIVE.



MONTREAL
DES PRESSES A VAPEUR DE "LA MINERVE."
1872

1871/10/31

MPK-08-1995 11:58

MICK-SEIGNEURY OFFICE

Rapport du Commissaire des Terres de la Couronne de la Province de Québec pour les 12 mois expirés le 30 juin 1871. Montréal: Presses à Vapeur de "La Minerve", 1872. 35 Victoria, Documents de la Session (No. 2), A. 1871, p. 41

35 Victoria. Documents de la Session (No. 2) A. 1871

BUREAU DU CADASTRE,
Montréal, 31 Octobre 1871.
E. E. TACHÉ, ECR.,
Assistant-Commissaire.

Monsieur,
Le trois d'Avril dernier j'avais l'honneur de vous transmettre le Plan et Livre de renvoi du Quartier Ste. Marie, Cité de Montréal. Cet envoi complétait le cadastre de la Cité.

Depuis cette époque nous nous sommes occupés du Cadastre de cette partie de la paroisse de Montréal qui se trouve en dehors des limites de la cité, dans le comté d'Hochelaga et qui contient au-delà de cinq mille lots à numérotter et désigner.

Les Plans et Livres de Renvoi de trois villages incorporés compris dans le périmètre de cette partie de la paroisse de Montréal, sont achevés. Ces trois villages sont : le village d'Hochelaga, qui compte cent soixante-quinze numéros et désignations ; le village de la Côte La Visitation, deux cent onze ; le village de la Côte St. Louis, trois cent quarante trois. Pour être parfaits il n'y a plus qu'à comparer les Plans avec les livres de Renvoi.

Tous les encadrements du terrain restant à cadastrer dans cette partie de la paroisse de Montréal, sont faits, et nous avons recueilli, à peu de chose près, tous les renseignements dont nous avons besoin pour continuer et compléter l'ouvrage dans le bureau ; en sorte que j'ai tout lieu de compter que je serai en mesure de vous livrer dans le cours du printemps prochain, le cadastre de cette partie du comté d'Hochelaga, qui contient à elle seule, les cinq sixièmes au moins, des lots à numérotter et désigner dans tout le comté.

J'ai l'honneur d'être,
Monsieur,
Votre obéissant serviteur,
(Signé) J. B. VARIN.

APPENDICE No. 18.

SYNOPTIQUE des travaux du Bureau du Cadastre, District de Montréal.—J. B. VARIN, Ecr., Directeur.

LOCALITÉ.	Superficie des Terrains Cadastrés.		Nombre de parcelles dési- gnées au Livre de Renvoi.	Date de l'Envoi au Département des Terres de la Couronne	Date de la Procla- mation.	Epoque de laquelle doivent compter les 18 mois accordés pour renouveler l'Enregistrement.
	Arpents.	Pieds.				
COMTÉ DE LAPRAIRIE.						
age de Laprairie.....	154	.....	314	9 Mai 1867.	28 Juin 1867.	2 Novembre 1867
oïse de Laprairie.....	29173	.....	676			
o de St. Philippe.....	25227	.....	392			
o de St. Isidore.....	14724	.....	303			
o de St. Jacques-le-Mineur.....	18824	.....	408			
o de St. Constant.....	22466	.....	406			
o de St. Louis.....	15035	.....	1			
	125603		2502			
COMTÉ DE CHAMBLY.						
le de Longueuil.....	661	.....	349	31 Décembre 1867.	28 Dec. 1866	10 Mai 1869.
le de Boucherville.....	135	.....	160	3 Février 1868.		
le de Boucherville.....	21446	.....	322	do do do		
le de St. Hubert.....	16260	.....	199	22 do do do		
le de St. Joseph de Chambly.....	27391	.....	364	do do do		
le du Canton de Chambly.....	223	.....	121	9 Mars do		
le du Bassin de Chambly.....	888	.....	133	do do do		
le de St. Bruno.....	16867	.....	491	27 do do do	25 April do	
le de St. Antoine de Longueuil.....	16820	.....			
	103411					

35 Victoria. Documents de la Session (No. 2) A. 1871

1872/05/20

464

Private

Hon. Sec. of State

Sec. of State

I have the honor, to in close, my long standing
account, as Indian Agent from the 22nd Oct 1850 to
17th May 1872 both days inclusive.

It appears that I have no right to expect
the remuneration for my 35 years in the Indian
Department according to the Act 35 Vic. Chap 3 & 4.

In consequence, I beg the liberty to state
that as you have the power in hand, to be so good
and in justice to allow me a special salary for
my long service.

I was appointed by Sir John Colborne as
Interpreter for baughnawagh, on the 26th August 1839 with a
salary \$480 and rations, and in 1841, I was appointed again
for the reigning of Vaut St Louis, at a commission of \$1000
per Cent. At the reduction of the Indian Department, on the
first of July 1845, I had the honor to be selected by Col
D. C. Rapier to remain in the Department, as Interpreter at
a salary of \$400 per annum, when Col D. C. Rapier left
for England in 1858, he was so kind as to recommend me
(without my knowledge) as a fit person to the appointment
of Commissioner of Indian Land for the Province of Quebec
which commission I received in March of the same year.

In 1868, by Act 31 Vic. Chap 42 the Commission of
Indian Land was substituted to the Hon Sec of State.

I hope Sir that you will take my application under
your consideration, and that justice will be rendered to
me.

I have the honor to be

Sir

La Prairie this

22nd May 1872

Your obedient servant

Edw. Rich. Lorne

Agent

1872	By amount brought forward	✓	106 96 1/2
May 16	For having been to Baughnawaga to distribute ...		
	one hundred dollars (\$100.00) to the peace and		
	Infirm Indians (on official Check No 3316.) of		
	that village	✓	3 60
May 29	For having been to Baughnawaga to hold an		
	Council from a petition and complaint against		
	the Grand Chiefs.	✓	3 60
Feb 1	For having been to Baughnawaga for the above		
	Council		3 60
3	For having been to Baughnawaga to hold an other		
	Council as above	✓	3 60
March 4	Having been notified by J. P. Pominville Esq. L. C.		
	to be in Montreal on the 4 of March to attend the Court		
	in the suit of Charles Boudrie and others	✓	4 85
May 16	For having been to Montreal to draw an official Check -		
	No 3798 of fifty hundred dollars (\$200.) in favour		
	of the Indians of the Lake of the Two Mountains to enable		
	them to buy food grain.	✓	4 85
May 17	For having been to the Lake of the Two mountains		
	to distribute the sum of Two hundred dollars (\$200)		
	to buy food grain.	✓	6 70
		✓ P.D.	137 76 1/2

La Prairie this
22 May 1872

J. P. Pominville

Ed. N. de Lormier
Agent

Due by Indian Department, to Ed. M. de Lormier as
Indian Agent, for travelling and other expenses, from
the 22 Oct. 70 to

1870			3	C
Oct	22	For having been to Montreal to draw on the Bank of Montreal on official Cheque No. 2212 for Twenty Dollars, in favour of the Indian woman Karon, in her name a Blinawman.		
		Same day I drew from the above Bank, on official Cheque No. 2285, for one hundred Dollars, to be distributed to the Poor and aged Indians of Caughnawaga.	4	85
Nov	2	For having been to Montreal to draw on the Bank of Montreal on official Cheque No. 2309, one hundred Dollars to be distributed to the Poor and infirm Indians of the Lake of the two mountains.		
		Same day on official Cheque No. 2370, for one hundred and fifteen Dollars to be distributed amongst the Indian tribes of the Lake of the Two mountains.	4	85
	7	For having been to Caughnawaga, as per order to not by the Chiefs to repair or clean a water course at Caughnawaga by demand of Repphaud Desond and others, by a letter addressed to Hon Sec of State dated Caughnawaga Oct 23, 1870.	3	60
	8.9.10	For having been to the Lake of the Two Mountains to distribute to that tribe \$217. on official Cheque No. 2309, for one hundred Dollars, and on official Cheque for one hundred and fifteen Dollars, on official Cheque No. 2370.	19	55
By amount Carried Over			26	95

Indian Affairs. (RG 10, Volume 1854, File 354)

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

1870

		By amount brought forward	26 85
Nov 12		For having been to Montreal to draw from the Bank of Montreal on official Cheque N° 2203, for Two hundred Dollars (\$200) to pay for repair of the Indian Church at Baughnawaga	4 85
Dec 27		For having been to Baughnawaga to distribute to the Poor & infirm Indians of that Village One hundred Dollars on official Cheque N° 2285	3 60
1871			
Jan 27		For having been to Baughnawaga, as per Order to take the Census of that Village	3 60
April 26		For having been to Baughnawaga, to help Mr. Vancomenot to distribute money to that Village	3 60
May 27		For date ditto ditto	3 60
28		For date ditto ditto	3 60
Aug 3		For having been to Montreal to draw on the Bank on Cheque N° 2788 for Two (\$200) in favour of the Indians of the Lake of the Two Mountains for the	4 85
		Same day I drew from the Bank Fifty Dollars on official Cheque N° 2801 to be distributed to the Poor and infirm Indians of the Lake of the Two Mountains	
14		For having been to the Lake of the Two Mountains to distribute the above sums	15 81 1/2
16		For having been to Montreal to draw from the Bank on official Cheque N° 2800, one hundred Dollars	

		By amount brought forward	17
May 25		For having been to Montreal to draw on official Cheque N° 2860 for two hundred Dollars (\$200) in favour of the Chief of Baughnawaga for repair of Bridges and Public Roads	4
July 12		For having been to Baughnawaga to distribute to the Poor Indians of that Village \$100 drawn on official Cheque N° 2800	
		Price to Cartier & Co. Rimouski for transport of a Mail of Blankets from Government from the Village of Leprapain to my residence	
Oct 14		For having been to Baughnawaga to distribute to the Poor and infirm Indians of that Village 17 Blankets	
Oct 31		For having been to Montreal to draw on official Cheque N° 3316 for One hundred Dollars (\$100) in favour of the Poor and infirm Indians of that Village	
		The same day on official Cheque N° 3317 \$50 in favour of the Poor and infirm Indians of the Lake of the Two Mountains	
Nov 24		For having been to the Lake of the Two Mountains to distribute \$50 on official Cheque N° 3317 to the Poor and infirm of that Village	
9		For having been to Montreal to deliver all the documents to F. S. Boninville & Co. having reference to the Land	

Copy of a Report of a Committee of the Honorable
the PRIVY COUNCIL, approved by His
Excellency the Governor General in Council
on the 13 May 1873.

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1873/05/13

On a Memorandum, dated
5 May 1873, from the Hon. W. Aiken
Acting Secretary of State for the Province
recommending the appointment of Mr.
Joseph-Eulide Rosano Pinsonneault,
as Agent for Indian Affairs, in the
Seymour of St. Louis and the Lake of Two
Mountains, in the room and place
E. M. De Lormier, Esquire, resigned.

The Acting Secretary of
State submits that the salary of the
Agent shall be \$400 per annum, and
that he shall reside at La Prairie,
where the Department will endeavor
to obtain a residence for him. That
this arrangement will offer the
resigned

To the Honorable

The Secretary of State

Sec. Sec. Sec.

Province

Indian Affairs. (RC 10, Volume 1896, File 1802)

ELIC ARCHIVES
LIVES PUBLIQUES
CANADA

1873/05/13

required facilities for suppressing the sale of liquor without license, and the disposing of it to Indians, of which the Chiefs have continually complained. That it will also enable the Agent to prevent squatters assuming unauthorized possession of Indian lands; and likewise to detect and punish the cutting of wood without license.

The Committee advise at the above mentioned appointments made as proposed by the Acting Secretary.

Certified
W. A. M. Smith

No. 1802

INDIAN BRANCH.

OFFICE of the SECRETARY of STATE,
FOR THE PROVINCE.

1873

Order with account

May 14/76 Ottawa

Attestation for S. B. R.
General Agent
for the Province of Ontario
of the Province of Ontario
of the Province of Ontario
of the Province of Ontario

See list of the 15

of the Province of Ontario
of the Province of Ontario
of the Province of Ontario
of the Province of Ontario

1802
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Laigheungyit February 1874

To the Hon. the Minister
of the Interior and Chief
Superintendent of Indian Affairs

Sir

We the undersigned members
of the Iroquois Tribe of Indians
resident in the Territory of Missouri
St. Louis, possessors of farms and
other real property therein, respectfully
but earnestly request that, in accordance
with your letter dated 31st December
1873, in answer to a petition from
several members of the said tribe, you
will be pleased to have a survey made
of the lands of the said Territory and
Reserve to establish division lines
between

depend on the different properties, a measure of
the utmost importance to the inhabitants
in general.

cap. de vie a ne l'ave

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St. Louis, Mo. 1890

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- Long Diamond

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Ministry of Education

Monday 16th June 1880

Route 100, near 1000

- Pierre-Henri Martin

- *Chlorophyllum* *Chlorophyllum* *Chlorophyllum*

- Der Herr Herr Herr

Henriques Henriques

Shirley Agnani

Wm. Henry George de la Roche

467

35

o. 8.)

A. 1875.

33 Victoria

Sessional Papers (No. 8.)

A. 1875.

ONET,
ELLETTE,
CKAY,
MITRAS,
DUELLETTE,
FLARNE,
IANLLIN,
LAMMAND,
NOMME,
AMMAND.

Sal. eds, of the Lakes Qu'Appelle

your address, dated September
me certain petitions with regard

towards the Government of our
have expressed for myself.

that you have taken along the
Canada in Ottawa, and I have
errior who is here with me.

the government will, with great
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to regard the rights of actual
possessors of the Roman Catho-
ted men who follow the Half-
west should be recognized by
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Indians, it will be necessary to
view of leaving the other lands

ghts that the other subjects of
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ories, your views on the chase,
and provisions for the regula-
rtance to the Half-breeds, the
th-West Council will be
at. It is the wish of the

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rment in Ottawa are able to
capable of executing the laws
om time to time, or those that
rs as a Local Legislature may
e willing to give the power of
lf-breeds and others in these
ositions towards the Indians,
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gate a spirit of contentment

you all prosperity,

nt,
ALEXANDER MORRIS.

REPORT

OF THE

DEPUTY SUPERINTENDENT GENERAL

OF

INDIAN AFFAIRS.

8-1

874/06/30

River Desert, with a view to the same being divided by survey into village lots, and leased for their benefit. This it is proposed to do at an early date, when it is expected that their present income will be thereby considerably increased.

The remaining Indian bands on the Lower St. Lawrence, and elsewhere in the Province, have no revenue, but are assisted in the spring and autumn out of grants from the Parliamentary appropriation towards their support. The amount hitherto voted, though in former years it was probably sufficient to meet the cases of distress among these Indians, is found to be now quite inadequate for that purpose, owing to the scarcity of game, and the restrictions as to fishing under the present law—the two sources which have hitherto furnished the Indians with their chief means of support. It is hoped that the Parliamentary appropriation will be increased to such an extent as will enable the Department to relieve the pressing wants of these poor Indians in a more liberal manner than it heretofore has been in its power to do.

Turning to the Saguenay District, the Agent of the Montagnais band at Lac St. Jean, in the County of Chicoutimi, who had hitherto resided at some distance, was ordered to take up his residence on the reserve, whereon a house has been built for him, in which accommodation is provided for a school (now in operation.) It is hoped the Indians will be induced by the precept and example of the agent, who is a practical farmer, to resort to agriculture as a means of procuring a livelihood. To further this object a yoke of oxen has been purchased for them, and money for seed, grain, &c., is provided every spring.

With regard to the lands in the Township of Viger, surrendered several years since by the Amalacite Indians, to be sold for their benefit,—as the Department had no regularly appointed agent there, and one was required to collect moneys already due, to dispose of unsold land, and to attend to the interests generally of those Indians, it was decided to appoint as agent there Mr. George Deschenes, of St. Epiphane; and an effort is being made to collect these Indians (who have been scattered in various directions since the surrender of their lands) and to concentrate them on a location in the Township of Whitworth, County of Temiscouata, which it is proposed to purchase for them, with some of their own money, from the Quebec Government.

Mr. J. E. R. Pinosmeault has been appointed at Canajoharie in the place of Mr. Edward N. De Lorimier, resigned. The residence of the present agent is on the reserve, while the former resided some miles distant therefrom. The change will, it is trusted, conduce to the welfare of the Iroquois band. The proximity of this reserve to Montreal, and the number of people of all descriptions from the country in rear of it, who are obliged to pass through it in order to cross the river at this point, renders the presence of a trustworthy agent highly necessary. The collection of the rents from the tenants of the Indian lands, the distribution of their moneys among the Indians, and supervision of the affairs in general of the band, comprise the agent's duties. Steps were taken in the spring to repair the roads leading to and through the reserve. This was done at the cost of the Indians, being paid for by the Department from their funds. This much needed work was effected economically and satisfactorily, in accordance with arrangements made by Mr. Penner, an officer of the Department, who was sent to the locality for that purpose.

In consequence of trespasses committed by white men upon the reserve of the Huron band at Lorette, measures were adopted to protect it from intrusion, and with this object a proclamation was issued by the Governor General extending thereto the 18th to 22nd sections of the Act 31 Vic., cap. 42, and a local agent and two forest bailiffs were appointed.

The attempt has been made by purchasing nets for them to induce the Micmacs of Restigouche to engage in seine fishing, but poor success has as yet attended the effort; the Indians evidently have an objection to this style of fishing, preferring to hire a man to do it on shares for them, to doing it themselves.

As regards the subject of education, I have to report that none of the Indian schools on the several reserves in Quebec have been suspended, and the attendance thereat appears to be not less than in previous years.

The establishment of a new school at Lac St. Jean has already been noticed.

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A. 1875.

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BOTT,
Agent.

33 Victoria.

Sessional Papers (No. 8.)

A. 1875.

Nos. 9-10.

CAUGHNAWAGA AND LAKE OF TWO MOUNTAINS, P. Q.,

23rd November, 1874.

Sir,—I have the honor to send you, herein, the report on Indian matters coming under my supervision of the Indians of Caughnawaga and Lake of Two Mountains, separately for the year ending 30th June, 1874, according to your circular* of the 28th August last.

I have the honor to be, Sir,
Your obedient servant,
J. E. R. PINSONNEAULT,
Indian Agent.

The Honorable
The Minister of Interior,
Ottawa.

REPORT ON THE CAUGHNAWAGA INDIANS FOR THE YEAR ENDING 30TH JUNE, 1874.

1. Number of the Band, 1,557; but eighty-two of this number are half-breeds whom the Band will not recognize.
2. Number of habitations:—263 houses, 80 barns, 95 stables, and 36 other buildings.
3. Area, 30,000 acres.
4. No sub-agent.
5. Produce:—4,050 bushels oats; 490 bushels barley; 188 bushels wheat; 220 bushels peas; 115 bushels buckwheat; 550 bushels Indian corn; 4,570 bushels potatoes; 2,300 bushels apples; 120,000 bundles hay.
6. Ploughs, harrows, hoes, mowing machines, scythes, horse-rakes, other rakes, vehicles of various kinds.
7. 359 horses; 416 cattle; 15 sheep; 313 pigs.
8. \$1,300 distributed.
9. No seed grain distributed.
10. This Band is making improvements in agriculture; their goods are increasing; and civilization advancing.
11. Sufficiently moral.
12. Children under 15, 519; children attending school, 145.
13. Number of schools, 1; teachers, 2.
14. Under the Roman Catholic Denomination.
15. Branches taught: reading, writing, grammar, arithmetic, geography.

REPORT ON THE LAKE OF TWO MOUNTAIN INDIANS FOR THE YEAR ENDING 30TH JUNE, 1874.

1. Number of the Band, 547. The augmentation of 32 arises from some families having returned from voyaging.
2. Number of habitations: 110 houses, 19 barns, 38 stables, and 15 other buildings.
3. Area 16,000 acres.
4. No sub-agent.
5. Produce: 1,600 bushels oats; 200 bushels peas; 305 bushels wheat; 400 bushels Indian corn; 40 bushels buckwheat; 1,300 bushels potatoes; 45,600 bundles hay.
6. Ploughs, harrows, hoes, scythes, rakes, vehicles of various kinds.
7. 65 horses, 120 horned cattle, 9 sheep, 110 pigs.
8. \$325 distributed.
9. No seed-grain distributed.

*See page 12.

Bazile

28 juillet 1874

Messieurs

M. le Ministre

J'accuse la réception
de votre lettre du 25 du
Courant au sujet
des intérêts des terres
du Bureau de la Terre Supérieure
le 30 juin dernier
pour la Commission
→ Station des Lacs et
Ventes de la Supérieure
du South-West
et j'en ai refusé de
vous payer parce
- que vous n'avez pas
d'instructions du jour.
- maintenant si c'est eff.

Vous êtes en conséquence
requis par la présente
d'aller au dit Bureau
et en demandant le
payement, montrant
au Commissaire la
présente, comme votre
autorité.

Ceci pourra à l'aveu
- nir être considéré comme
autorisation suffisante
pour la renouveau de
votre position.

Le Secrétaire

Indian Affairs. (RG 10, Volume 1936, File 3693)

ARC ARCHIVES
IVES PUBLIQUES
CANADA

1874/07/28

1875/06/17

472

To: The Superintendant General of Indian Affairs, Ottawa.

The Humble Request of the undersigned chiefs of the Iroquois Tribe established at Sault St. Louis, the Province of Quebec of respectfully therewith

That since over twenty years the Iroquois tribe of Sault St. Louis, County of Laprairie, Province of Quebec have always had reasons to complain because many of the members have every year illegally sold for their own private benefit and account firewood logs and much timber taken and cut on the Reserve. The common property of the whole tribe such as mentionned on the original deed of Grant as mentionned 29th May 1680 with great prejudice and damage of the other members of the said tribe.

1st That on the 28th January 1859 and later on the 14th March 1862, and on the 9th January 1863, and last of all on the 10th March 1870 Your Petioners have addressed themselves to your Department but no decisive step or measure has been yet taken and adopted to stop those causes of troubles and the said tribe has the same reasons of complain still.

3rd That in March 1862 the Honorable George E. Cartier, as his predecessor in 1859 was of opinion that the best means of putting an end to these complaints of the said Tribe would be a Public sale of the Reserve of Sault St. Louis. The said Mr. Cartier suggested at the same time a new division of the Reserve between the members of the Tribe, or the Cession by the said Tribe, of the Reserve to the Government in order to emigrate onto an another place of Canada or the United States. But as the members of the Tribe were not unanimous on the best mode to adopt, it was understood that those of the Indians who would be willing to remain at Sault St. Louis might buy there some lots or farms, the Government being bound to give them credit for their share out of the Product of the Sale of the Reserve and as to those who would prefer to emigrate to a foreign country they were to receive in cash a proportionate amount of the price of said sale.

4th That on the 25th January 1863 at the demand of Honorable Mr. Sicotte a general election of the members of the said tribe took place at Caughnawaga to know their opinion upon those different modes of deciding the question and that the majority of the votes taken at such election were in favor of a public sale of the Reserve under the condition expressed in the letter of Mr. Cartier of March 1862 above

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1875/06/17

mentioned.

5th That on the 10th March 1870 the Honorable Joseph Howe, the then Secretary of State for the Provinces did declare in a letter addressed to Joseph Taionronhiote, one of the undersigned as follows, Should any considerable number of the Indians resident of the Seigniory of Sault St. Louis desire to surrender their land for sale they should write in a proposition to do so, addressed to the superintendent General of Indian Affairs and expressing therein the terms upon which they will be prepared to surrender their land.

6th That the great majority of the members of the said tribe viz over eight hundred are ready and desirous to surrender their land to the government of the Dominion of Canada for the price of twenty five dollars currency an acre.

Therefore your Petitioners pray that you be pleased
whether the Government is prepared to accept the cession of the land of such a considerable number of the said Tribe under these conditions and if the answer be in the affirmative what would be the required form to effectuate that cession.

The whole however respectfully submitted to your considerations.

And your Petitioners as in duty bound will pray.

Caughnawaga, 17th June 1875.

Present à la signature des Chefs Sauvages
de Caughnawaga,

J.E. Pinsonneault,
Agent des Sauvages.

Francis Atoharishon
Joseph Tsio...niote
Joseph Kontaronti
Thomas A. Sennase

1875 (17th June)
Petition from four chiefs
requesting to sell the whole
Reserve at \$25 per acre


 JUL 6 1875
 OTTAWA
 The Superintendent General of Indian Affairs
 Ottawa

and the demand of the Government.
These of the League were established in
1848. Among the friends of the League

... of

That we are not hereby giving the Indians the right to our country of up above, nor are we, but, always the Indians are to remain in our country. I am every year illegally sold for their own private benefit and account, the wood, logs and much timber taken and sold to the Indians, the common property of the whole tribe, such as mentioned in the Agreement of Dec. 21st 1830, dated 29th May 1830. The great population and advantage of the Indians, the Indians of the said tribe.

1. That on the 27th January 1859, and later on the 1st March 1862, and on the 6th January, 1863, and lastly on the 1st March 1870, your Petitioners have addressed their cases to you. It pains me to see no decisive step or measure has been yet taken or adopted to stop those causes of trouble and the consequent battle and wearisome complaint still.

March, 1862: the Honorable George C. Carter, as his predecessor in 1839 - was of opinion

Public
Sale

expressed that the best means of putting an end
to these long claims of the said Indians, which have
been the cause of the expense of a great deal of money
The said Mr. Macleod, in a speech at the same time
expressed his opinion of the necessity between the mem-
bers of the tribe, or to express by the said tribe,
of the expense to the Government in order to
bring into another place of Canada, and the
United States, and in the opinion of the tribe
and a unanimous opinion on the best mode to adopt
in this matter, and that those of the Indians who
would be willing to remove to the United States
might bring there some lots of furs, the Govern-
ment would be bound to give them credit for them
and out of the product of the sale of the furs
and as to those who would prefer to remain
in a foreign country, they would be given such a
proportionate amount of the price of said
furs.

That on the 25th January 1870 at the demand
of the right Hon. Mr. Macleod a general election of
the members of the said tribe took place at
Longhouse, to know their opinion upon
these different means of deciding the question
and that the majority of the said tribe at
such election were in favour of a Public Sale
of the furs under the said conditions expressed
in the letter of Mr. Macleod of March 1862
above mentioned.

That on the 10th March 1870 the Honorable
Joseph Howe, the then Secretary of State for
the Dominion of Canada in a letter addressed
to Joseph Taborant, one of the undersigned,
to follow. Should any considerable
number of the Indians resident in this
territory
Leaving

Seigneurs of Saint John, there to
 consider them as in fact they should
 write in a proposition to be addressed to
 the Superintendent General of Indian Af-
 fairs and especially therein the terms upon
 which they will be prepared to consider
 their claims.

It is that the cost of agents of the Indians
 of the said tribe, viz. about eight hundred an-
 nually and desiring to ascertain them under the
 Government of the Dominion of Canada
 for the purpose of being put down as a
 band.

The Government has decided that
 the same should be done and that the
 Government should pay the expenses
 of the same of each year and the same
 to the said Indians as they are
 required to move to in the same way, which
 would be the same as to be paid to that
 effect.

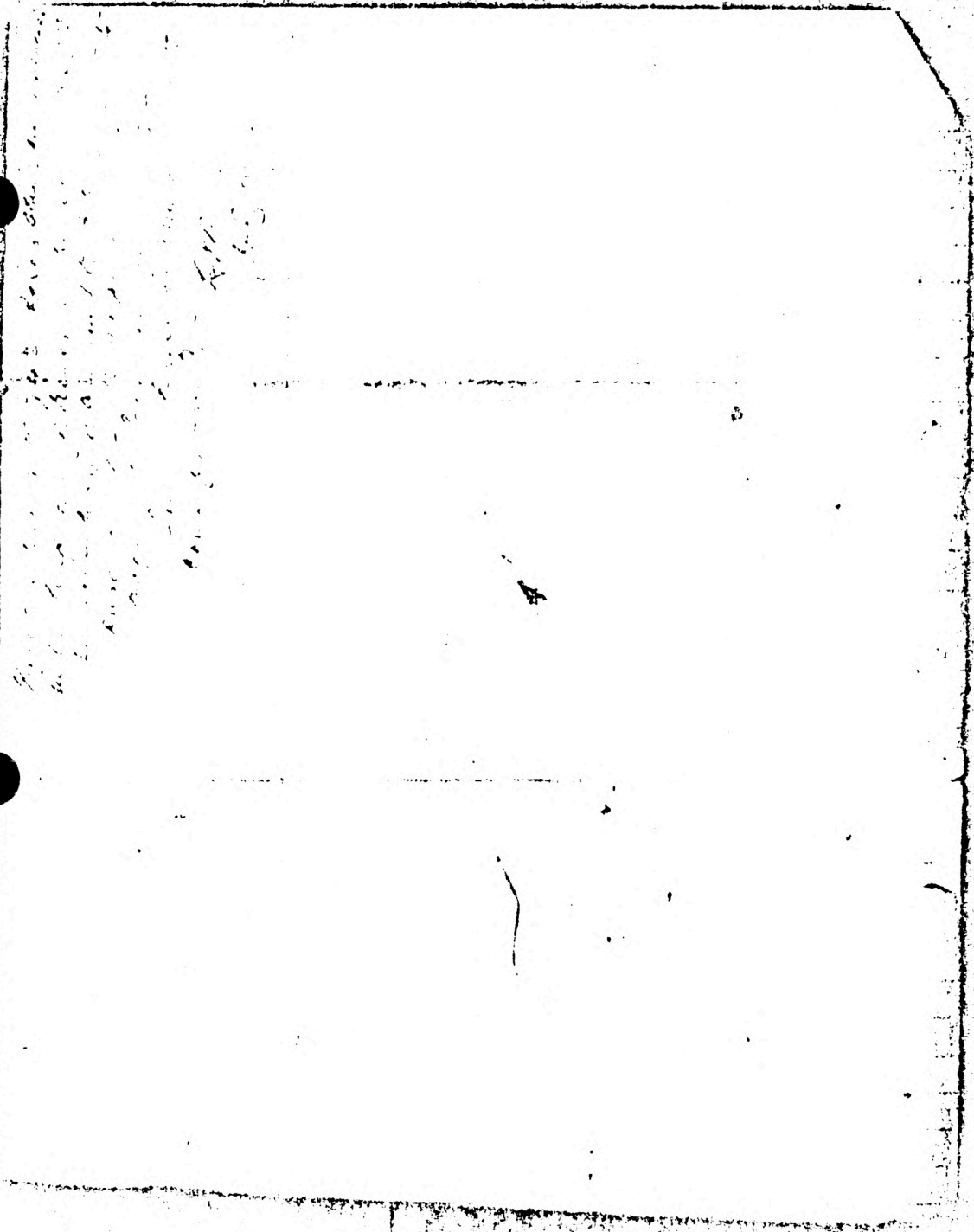
The same has been respectfully submitted
 to the Government.

And it is now submitted to the
 Government.

Caughnawaga, 17th June 1875

Present for signature
 of Chiefs Sauray &c
 Caughnawaga
 J. E. Desnoy
 Agent for Sauray

Francis Heharishen
 Joseph Lioani
 Joseph Montarontie
 Thomas & Lunnar



Handwritten notes in the top left corner of the page, partially obscured by the frame. The text is faint and difficult to decipher but appears to be a list or set of instructions.

Indian Affairs. 1961. Volume 1961. File 5129

ERIC ARCHIVES
LES PUBLIQUES
CANADA

875/07/07

474

Memo on a Petition from four of the Chiefs of the Iroquois of Caughnawaga who state they utter the sentiment of 800 of their people in applying to the Government to purchase their Reserve at Caughnawaga from them at the rate of \$25.00 per acre.

The area of the unconceded portion of the Reserve is about 15,743 acres. To redeem this quantity of land at \$25.00 per acre, \$393,575.00 would be required.

On the 25th of February, 1871, Mr. George Austin, P.L.S., reported the land along the River front to be worth \$100.00 per acre and elsewhere on the Reserve \$40.00 per acre.

There are very valuable stone quarry on the Reserve concerning an area of about four hundred acres and of a thickness of at least 30 feet, the estimated yield of which would be two million four hundred and twenty thousand toise suitable for cut stone which in Montreal would realize probably \$32.00 per toise. while inferior stone limited to making foundation of houses would probably bring \$8.00 per toise.

The Reserve is very favourably situated being opposite Lachine with which there is constant communication by steamer during the regular season of navigation and twice a day during the winter as the ice never takes at this point. Caughnawaga is the terminus of the Caughnawaga and Plattsburg R.R. and all the traffic by that line for Montreal passes through this place for transportation by steamer to Lachine.

signed: Vankoughnet, D.S.G.I.A.
Indian Branch
July 7th, 1875.
Indian Affairs
CRG 10, Volume 1963, File 5029

1875/07/07

1875 (July 7th)

There are 7 chiefs of the band of
at 1057

Heard on a petition from four
of the chiefs of the band of
Cayman, who state that they
want the Government of 800 of their
people in applying to the Government
to purchase their Reserve at Cayman
from them at the rate of 25 ¢
per acre.

The area of the surveyed
portion of the Reserve is about
15,743 acres. It would take this
quantity of land at 25 ¢ per acre
\$393,575 ¢ would be required.

On the 25th February 1875 Mr
George J. Austin R.F.S. reported
the land along the River front
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stone quarries on the Reserve,
covering an area of about
four hundred acres, and of a
thickness of at least 30 feet, the
estimated yield of which would
be two million four hundred
and twenty thousand tons. Suitable
for cut stone, which no Montreal
would realize probably \$32 ¢ per
ton, while inferior stone suited to
making foundations of houses would
bring \$8 ¢ per ton.

The Reserve is very favorably
situated being opposite Lac Beauport
with

with to which there is constant communication
by Steamers during the ^{spring} season of
navigation, and twice a day during
the winter as the ice runs to here
at this point. Caupluawaga
is the terminus of the Caupluawaga
& Hattowag R.R. and all the traffic
by that line for Montreal & passes
through this place, for transportation
by Steamers to Lachine.

R. L. Langdon
R. L. Langdon

Indian Branch
July 7th 1875

475

39 Victoria.

Sessional Papers (No. 9.)

A. 1876

ANNUAL REPORT
of THE DEPARTMENT of the
INTERIOR for the year ended
30th June 1875

PART I.

REPORT
OF THE
DEPUTY SUPERINTENDENT GENERAL
OF
INDIAN AFFAIRS.

1875/12/09

Nos. 9 and 10.

INDIAN AGENCY,

CAUGHNAWAGA, P. Q., 9th December, 1875.

The Honorable

The Superintendent-General of Indian Affairs,
Ottawa.

SIR,—I beg to submit the following Report on the various subjects of interest in my Agency for the past year.

The whole tribe, which is Iroquois, resides in the village, there being no dwellings on any other part of the Reserve.

The men are chiefly engaged in navigating steamers and rafts over the Lachine Rapids: some cultivate land, and others voyage to the United States. The women are chiefly occupied in bead work, and some of them go to the United States to sell those wares.

The roads in the Reserve were repaired in 1874; and in the spring and autumn of the present year the sum of \$205.44 was expended for the same purpose, and the roads are now in excellent condition. These works were done under direction of the Department, with funds of the tribe. To make the repairs more durable, drains should be made at each side of the roads.

About 200 toises of stone have been taken out of the quarry situated about half a mile from the St. Lawrence, under a lease to Mr. John Donnelly, of Montreal, contractor for the aqueduct there. His lease having recently expired, the same quarry has been let to Messrs. McNamee, Gaherty & Frechette, contractors for widening the Lachine canal. The stone in this quarry is of very superior quality.

Another quarry has been let to Mr. François Barbeau, contractor for the erection of a church at St. Isidore. This quarry is about three miles from the St. Lawrence, and the stone in it is of an inferior quality to that in the one above referred to.

I have been told that the Indians have found some indications of the existence of iron ore in a part of the Reserve near the village, but in such small quantities that I am unable to surmise whether it is likely to prove considerable or not.

The forests in this Reserve now consist chiefly of the Sugaries, where many Indians and Half-breeds make sugar every year. The wood is exposed to pillage by the Whites; and some Indians who have sold the wood of their own land, now want to destroy the sugaries of those who have preserved them.

There is in these forests wood, of other descriptions than maple, in sufficient quantity for the use of the Indians for many years.

In spite of the repeated fines imposed during the past year for the sale of intoxicating liquor in this place, there are still three or four taverns kept by Indians, where strong drink continues to be sold, from which great disorders constantly arise.

The number of children attending the school under the charge of Mr. and Mrs. Fletcher has largely increased during the past two years.

LAKE OF TWO MOUNTAINS.

The greater part of the Indian population of this place are engaged in agriculture: some voyage to the North-West. The chief occupation of the women is in bead-work.

They are of the Iroquois and Algonquin Tribes.

As these Indians have no Reserve, they have acquired, by purchase or otherwise from the gentlemen of the Seminary of St. Sulpice, farms of greater or less extent in this Seigniory.

The Indians have no common right (*communauté*) in the forest of this place—each has his own land, each his own wood. Formerly the gentlemen of the Seigniory permitted them to take wood from their forest without payment, but as a part of this tribe have changed their religion from the Catholic to the Protestant, they have no longer permission to take wood without paying for it.

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 ^{Preamble.}
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 Short title
Indian Act, 1876*;" and shall apply to all the Provinces, and <sup>and extent of
Act.</sup>
to the North West Territories, including the Territory of
Keewatin.

2. The Minister of the Interior shall be Superintendent- <sup>Superintend-
ent General.</sup>
General of Indian Affairs, and shall be governed in the
supervision of the said affairs, and in the control and manage-
ment 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 <sup>Meanings at-
signed to
terms in this
Act.</sup>
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 <sup>Irregular
Band.</sup>
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;

Secondly. Any child of such person;

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

1876/04/12

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

As to illegitimates.

(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.

see S.C. 1879,
c. 34, s. 1.

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 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.

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

7. The term "special reserve" means any tract or tracts ^{Special Reserve.} 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. ^{Indian lands.}

9 The term "intoxicants" means and includes all ^{Intoxicants.} 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.} 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. ^{Agent.}

12. The term "person" means an individual other than ^{Person.} 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 ^{Reserves subject to this Act.} and held for the same purposes as before the passing of this Act, but subject to its provisions.

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 dis-
possessed.

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.

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

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 In-
dian: 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.

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.

Indians in
Manitoba,
British Co-
lumbia or N.
W. Terri-
tories, &c.,
having made
improve-
ments.

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.

Who only
may settle in
thereon.

Certain
conveyances,
&c., void.

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

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 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:

Costs of removal.

Proviso: 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 persons 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.

Warrant to arrest.

Power to remove persons unlawfully occupying.

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

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

see S.C. 1879,
c. 34, s. 2.

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.

Penalties for offences by trespassers.

Levying penalties or imprisonment of offender for non-payment.

Application of fines.

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

e S.C. 1879,
34, s. 3.

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.

Punishment
of Indians so
trespassing.

Or removing
timber, &c.

Name of
offender need
not be men-
tioned 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 prop-
erty is taken
from a band
for improve-
ments.

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.

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

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 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.

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.

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

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-

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.

Proviso.

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.

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.

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

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 therein, on what proof made.

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

- 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.
- Their effect.**
- Proviso.**
- If a subscribing witness be dead, &c.** **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.
- Proof on application for patent.** **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
- Proviso.**
- Con. Stat. U. C., c. 80.** *"Act respecting claims to lands in Upper Canada for which no patents have issued."*
- Duty of Superintendent in case of fraud.** **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.
- Cancelling patent.**

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

Obtaining
possession
after such
cancellation,
in case of
resistance.

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,

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 writ
of possession.

Execution.

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.

Enforcing
payment
of rent.

Proceeding
for.

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.

Notice re-
quired by
law, how to
be given.

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.

Cancelling
patents issued
by mistake.

New patents.

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

- 40.** 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.
- 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 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; 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.

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

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.

Punishment
of agents
giving false
information
as to lands.

Penalty.

Recovery.

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.

Punishment
for prevent-
ing sale.

Misdemeanor,
fine and im-
prisonment.

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.

Licenses to
cut timber,
how granted.

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.

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

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 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-
vendication 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.

License must
describe the
lands: its
effect.

Further
rights of
holders as to
trespassers.

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

Return to be
made by
licensees.

Punishment
for evasion.

Timber to be
liable for
dues.

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

Sale of timber
seized after a
certain time.

Balance of
proceeds.

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.

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.

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.

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.

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, for-
feiture.

Penalty if
timber is re-
moved.

How recover-
able.

Proof.

1876, c. 18, cont'd.

32. 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.

may command assistance or assistance.

felony

33. Any officer or person seizing timber, 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 timber so seized: 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, is guilty of felony, and liable to punishment accordingly.

Officer seizing

conveying away without authority to the starting.

34. 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;

onus of proof that dues have been paid.

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.

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

When to be
deemed con-
demned.

Sale.

How seizures
may be tried
and determin-
ed.

Security may
be ordered by
bond.

If timber be
condemned.

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:

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 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 here-
before.

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 invest-
ment of In-
dian funds.

And the man-
agement
thereof; ex-
penses how
payable.

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

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 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; Votes at election of chiefs.

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.

Proviso: 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.:

see S.C. 1879, c. 34, s. 4.

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

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.

Lands 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 wrongs.

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.

Pawns for intoxicants not to be held.

1879,
34, s. 5.

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, 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

Presents not to be taken for debts.

Nor sold in certain provinces, &c.

Except with assent of Superintendent-General.

Penalty for contravention.

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.

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

DISABILITIES AND PENALTIES.

Indian may not have homestead in Manitoba and N. W. Territories 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 undergoing punishment by imprisonment, 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 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.

Payment of annuity may be refused to Indian deserting 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

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

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

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
Penalties and application.	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
Of Commanders of vessels furnishing the same.	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
Penalties and application.	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
Imprisonment in default of payment.	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
Punishment of Indian making, selling or having	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
	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
any intoxicant.

Exception.

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

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

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

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.

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

Indians intoxicated may be arrested and imprisoned until sober.

And fined.

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

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.

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,

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 thereupon.

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.

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

ee S.C. 1879,
. 34, s. 6.

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.

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 de-
clare name
chosen; and
to be known
by it.

Wife and
minor child-
ren enfran-
chised.
Effect of such
enfranchise-
ment.

Proviso as to
children at-
taining ma-
jority before
their father's
probation ex-
pires.

Proviso as to
children
found un-
qualified,
or being
married.

Case of In-
dian dying
before expira-
tion of proba-
tion or failing
to qualify.

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.

89. 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.

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

As to children of widows probationary or enfranchised. **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.

Rules for allotting lands to probationary Indians. **91.** 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.

Proviso: as to power of Band in this behalf.

As to Indians not members of the Band, but permitted to reside on their reserve. **92.** 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 and councils of the band. Proviso.

93. 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.

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.

94. Sections eighty-six to ninety-three, both inclusive, of this Provision as to Indians in

British Columbia, N.W. Territories or Keewatin.

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 Territory 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.

1876, c. 18, cont'd.

MISCELLANEOUS PROVISIONS.

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

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 wilful false swearing in any such affidavit shall be perjury.

Perjury.

Certified
copies of
official papers
to be evi-
dence.

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.

Governor in
Council may
exempt In-
dians from
operation of
any sections
of this Act:—
and again
remove such
exemption.

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.

Governor to
appoint offi-
cers, &c., to
be paid out of
monies appro-
priated by
Parliament.

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.

Acts and
parts of Acts
repealed, viz:
S. 56 of c. 61,

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

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

Statutes for Upper Canada, and so much of chapter eighty-one of the said 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 and thirty-third years of Her Majesty's reign, chaptered six, 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.

see S.C. 1880, c. 28, s. 112 for repeals.

Signature du Sault
exemple de ce document pour le mois

Nom	Superficie en arpents	Nom du Censitaire	Salaires Censitaires l'arpent
St. Pierre	20	Razil Maricelli	
St. Pierre	30	Antoine Goyer	
St. Régis	152 1/2	Edmond Jasselin	
"	152 1/2	Eusèbe Girvais	
St. François	90	Narcisse Lefebvre	
"	90	"	
"	112	Isaï Lefebvre	
St. George	60	George Gouyon (père)	
St. Régis	86	George Gouyon (fils)	

St Louis
 5 Dec 1877 avec J. B. L'Esperance

Service	Nombre d'années	Montant payé	Salut	Remarque
11. Actes 1877				
52 1/2 ans	1	05	1876	1 ^{er} "
2 95 3 "	3	55	1875	1 ^{er} "
1 54 5 "	7	70	1870	8 "
1 54 4 "	6	16	1869	8 "
2 40 6 "	14	40	1876	19 "
2 40 5 "	12	00	1876	19 "
2 53 5 "	12	90	1876	19 "
1 53 2 "	3	06	1876	24 "
2 54 2 "	5	08	1876	24 "
✓ 71		20		

Cyrt des Sauvages

Campbellsburg 2 Mars 1877

A Monsieur le
Général

Monsieur

J'ai l'honneur de vous
envoyer ci-joint une traite et certifi-
cat de dépôt pour le montant de
\$47.50. que j'ai retiré des fonds
de la Seign. du Sault St. Joseph.
Je vous envoie aussi un tableau résumant
la nature de ces paiements

J'ai l'honneur à être
Monsieur
Votre dévoué

J. E. Desmarais

Chlorine 2 1/2

LM

gms

Contingence de la
vente de partie de
l'entreprise, et
certaines autres
sur la somme de
Mille et 500
francs. Les
deux tiers de la somme
de la vente de la
partie de l'entreprise
seront versés à
la vente de la
partie de l'entreprise
et les deux tiers de la
somme de la vente de la
partie de l'entreprise
seront versés à la
vente de la partie de
l'entreprise.

Bitte nicht nur die
 Güter und die
 Formen der Sache
 sondern auch die
 inneren und äußeren
 Eigenschaften berücksichtigen.

2nd Paris Fe.

MEMORANDUM.

Department of the Interior,
Indian Branch,

To Mr. Lashby Esq. re.

Subj. of the Minister of Justice Ottawa, July 4th 1878

The accompanying file of papers, now referred to the advisability of a revision of the Cadastre, and the preparation of a new Rent Roll, of the lands within the Signiory of Sault Ste Louis belonging to the Seigneur of Sault Ste Louis, and occupied by Whitesmen as "Censitaires" - information on the following points is respectfully solicited:-

1. Is the work of revising said Cadastre and preparing a new Rent Roll one which should be entrusted to a Notary; - or would any intelligent educated person be competent to do the same satisfactorily?

2. If the answer to the latter portion of the above question be in the Affirmative, does the Minister of Justice consider that Mr Louis Chesneau of Langhorne has the requisite ability for the work; and if not will he kindly recommend a suitable person?

3. What remuneration should be

(2)
MEMORANDUM.

Department of the Interior,
Indian Branch,

To _____

Ottawa, _____ 187

paid (a) to a notary, if considered
advisable to employ or (b) to a
non professional, if the work can
be done by such.

The area of the lands occupied
by Censitaires is 14,257 acres. and
the number of Censitaires may be
stated at 500.

A. H. H. H. H.
D. S. G. H.

31

42 Victoria.

Sessional Papers (No.7.)

A. 1879

ANNUAL REPORT

OF THE

DEPARTMENT OF THE INTERIOR

FOR THE

YEAR ENDED 30TH JUNE,

1878.

Printed by Order of Parliament.



OTTAWA:

PRINTED BY MACLEAN, ROGER & CO., WELLINGTON STREET.
1879.

1878/12/31

REPORT
OF THE
DEPUTY SUPERINTENDENT-GENERAL
OF
INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
INDIAN BRANCH,
OTTAWA, 31st December, 1878.

To the Right Honourable

Sir JOHN A. MACDONALD, K.C.B.,

Superintendent-General of Indian Affairs.

Sir,—I have the honor, in accordance with the regulations of the Department, to submit the following Report on Indian Affairs for the year, as regards the financial data contained therein, ended the 30th June, 1878, and in respect to matters of more general interest for the year ended this day.

The condition of the Indians settled on Reserves within the older Provinces is encouraging.

More inclination for, and greater progress in agriculture is observable among them.

Intemperance has become of more rare occurrence; and the physical health of the several Bands during the present year has been for the most part good.

In the newer Provinces and more remote Territories of the Dominion, Indians have not yet learned the value of agriculture. As, however, the game and fish on which they now rely for subsistence (notably the buffalo in the North-West and the salmon in British Columbia) become scarce, they must turn their attention to tilling the soil or raising stock to enable them to live.

And as there is every indication of these Indians at an early date being deprived of the staples of life above referred to, it becomes incumbent upon the Government to adopt early and energetic measures to prepare them for the change in their mode of living and sustaining themselves and families, which must inevitably take place, when they can no longer kill sufficient buffalo and fish wherewith to feed themselves and families.

Instructions in farming, or herding and raising cattle (as the character of the country inhabited by the different Tribes may indicate to be best) should be furnished to the Indians, and in such manner as will effectually accomplish, within the shortest period, the object sought for, namely, to make them self-supporting.

The Indians should be encouraged by precept, and, when necessary, by pecuniary aid to erect houses and barns.

The use of the tent and wigwam should be discouraged as much as possible, and every effort should be made to induce them to abandon their old habits of life and to adopt those of the White man.

And inasmuch as the fund at the disposal of the Department, for relief purposes in the Province of Quebec, was insufficient to admit of any augmentation to the usual grants, His Excellency was pleased, by Order in Council of the 21st November last, to sanction additional relief to the extent of \$2,000, being contributed, under a special warrant of His Excellency, in anticipation of the Supplementary Estimates for 1878-9, to be submitted to Parliament at its next Session.

Additional relief has accordingly been extended to the Indians at points where it was most needed.

A number of the Indians at Caughnawaga have applied for enfranchisement. It is desirable to afford every facility to Indians to enable them to take advantage of the clauses of the Indian Act which provide for their enfranchisement under certain conditions; and as a necessary preliminary in the case in point, the Reserve must be surveyed, and a fair proportion of land allotted to each individual applicant, who may be considered by the Band worth of enfranchisement, the Act requiring as a first step towards the carrying out of its provisions, that the Band shall allot a fair proportion of land within the Reserve to each applicant; said allotment to be approved by the Superintendent-General of Indian Affairs.

It having become necessary, in consequence of changes made in the proprietorship of many of the lots leased to the White people within the Seignior of Sault Ste. Louis, which belongs to the Iroquois of Caughnawaga, to rectify the various holdings as shewn on the cadastre of that Seignior, instructions were given in September last to the Agent to have this service done. No report however respecting the work has as yet been received.

Small-pox having made its appearance at Caughnawaga and at the Lake of Two Mountains early in the season, the spread of that loathsome disease was promptly checked by the general vaccination of the Indians at each of those places.

NOVA SCOTIA.

The two Reserves in the County of Cape Breton, near Sydney, containing respectively 23 and 536 acres of land, and which are referred to in my report of last year, were surveyed during the past season, and steps have been taken to have the same regularly transferred by the Provincial to the Dominion Government for the use of the Indians.

It was considered advisable, in the interests of the Indians of this Province, to subdivide the former Agencies, each of which included several counties, into smaller districts, with a view to closer supervision being exercised over the Indians in each county.

The following appointments to Agencies were accordingly made by Order in Council of the 23rd May last:—Mr. G. E. Beckwith, of Cornwallis, was appointed Agent for Kings County, at a salary of \$25.00 per annum; the Rev. Thomas Butler of Caledonia, for Queens County, at \$37.50 per annum; the Rev. E. I. McCarthy, of Chester, for Lunenburg County, at \$37.50 per annum; the Rev. D. O'Connor, of Bedford, for Halifax County, at \$33.33 per annum; Dr. McLean of Shubenacadie, for Hants and Colchester Counties, at \$33.33 per annum; Dr. A. F. Clarke of Parsboro, for Cumberland County, at \$33.33 per annum; Rev. Mr. McKenzie, of Christmas Islands, for Cape Breton County, at \$100 per annum; Rev. Donald McIsaac, of River Inhabitants, for the County of Inverness, at \$50 per annum; Rev. A. F. McGillivray, of Grand Narrows, for Victoria County, at a salary of \$50 per annum.

NEW BRUNSWICK.

The timber which I stated in my Report of last year it was proposed to sell on certain Reserves in this Province, was brought into the market and sold fairly, considering the state of the timber trade.

The distance of the Reserves on the Tobique River, in the County of Victoria, and at the confluence of the Rivers Iroquois and St. John, in the County of

well; on the north shore of Lake Superior, they live chiefly by fishing and hunting, and, having reasonable good hunting grounds, have no difficulty in providing the necessary supplies.

They are anxious to be provided with locations for settlement. This seems to be the more reasonable, as they have quite a large sum to expend in the construction of roads, the erection of school houses, &c.

A large number have been vaccinated, which seems to have given general satisfaction. Generally speaking they are healthy. Consumption seems to be the prevailing disease; this circumstance arises, I suppose, from their exposure to the inclemency of the weather, on their hunting excursions.

In matters of religion they are mostly Roman Catholic, except those at Michipicoten, who are connected with the Canada Methodist Church, and, are one of the most prosperous Bands under my supervision.

I have the honor to be,

Sir,

Your obedient servant,

AMOS WRIGHT.

No. 9.

(Translation.)

CAUGHNAWAGA, 27th September, 1878.

The Honorable

Superintendent General of Indian Affairs,
Ottawa.

SIR,—I have the honor to submit the following report in reference to the affairs of the Indians of Caughnawaga as required by your circular of the 14th August last. I send you a Tabular Statement as complete as it has been possible for me to fill it.

There are many good agriculturalists, in this village, and it is remarked that the lands are as well cultivated as in no matter what Canadian Country. The harvest of Indian Corn which is never wanting here, is in abundance this year, but as every where else they have harvested much less hay and potatoes than of late years. I believe that I ought to remark that the work of the quarries, which, however, has been very little this summer, has deterred and disgusted some few of the Indians from farming, and in waiting from day to day to be employed at the quarries, they have lost considerable time which they could have employed either in farming or in the shanties of the Province of Ontario.

The Village is not in as flourishing a state as it ought to be.

In conformity with your orders all persons resident without permission upon the Reserve have been notified to leave, and I think that it would be advantageous to the Tribe that the law should take its course in many of these cases, for there are strong and robust Indians who are better pleased to take tenants than to farm themselves, to spare themselves labor and to live in indolence. Dissensions exist in this Village which cause me to anticipate great misfortune; we have already witnessed the death of the unfortunate Meloche whose barns were burned the 11th May last and who perished in the flames; he was without contradiction the model of the farmers, and many Indians followed his example. There are still certain troubles which exist concerning the leasing of lands of this Reserve to whites; quite lately, near St. Marguerite, the barn of a poor Iroquois was burned with all his crop.

There are many Indians who desire enfranchisement and the division of their lands.

I am proud to tell you that the sale of wood to whites is completely stopped; drunkenness has greatly decreased in the village; there are still drinkers but very few drinking places, for out of twenty-two cantines which were here, I cannot count more than one, and I have this cause pending before the Court. They buy liquor at Lachine in spite of the watchfulness of Mr. Caisse, special constable, who I have strictly notified to watch the sellers so as to punish them. There are also many places at Montreal where the Indians procure whiskey, but it has been impossible for me to obtain sufficient proof to institute proceedings.

The children rarely go to school, consequently they scarcely know how to read and write, and strange thing, the parents do not appear anxious to send them there. The population is all Catholic.

I have the honor to be, Sir,

Your obedient servant,

G. E. CHERRIER.

Indian Agent.

No. 10.

QUEBEC,

LAKE OF TWO MOUNTAINS AGENCY,

OTTAWA, 16th September, 1878.

Honorable Superintendent General of Indian Affairs,
Ottawa.

Sir,—In compliance with instructions received in your circular of the 14th August last, I have the honor to transmit for the information of the Department, along with the Tabular Statement, the following report on Indian Affairs, within this Agency for the year ended the 30th June last.

As this is my first annual report since my appointment to this office here, it would be somewhat difficult for me to furnish the Department with full information on all matters of interest relating to the Agency. I will, therefore, confine myself to the narrative of a few leading facts connected with the Band under my supervision.

The men are principally occupied in shantying and farming, especially the latter, in which they appear to take great pleasure and delight. Some of them engage also in hunting and fishing at certain periods of the year, but to a limited extent. During the winter and spring seasons, a number of them are likewise employed in manufacturing snowshoes, moccasins, axe-handles, and lacrosses, which, particularly the last, they ship in large quantities to purchasers in the Cities of Quebec, Montreal and Toronto.

The women spend the greater portion of their time in making all kinds of fancy baskets, bead-work, bark-work and other small wares which they dispose of in Montreal and the surrounding villages, receiving in exchange therefor either money, clothing or provisions, and in this way render valuable assistance in maintaining themselves and their families.

I have found upon frequent enquiries, that the Indians here prefer agricultural pursuits to almost any other, and I am led to believe that they are quite sincere in what they affirm in this respect, from the fact that those of the Tribe who occupy and cultivate lands on the Reserve are most industrious and hard working men, and many of whom would rank as first class farmers among their more enlightened white brethren, while those who do not as yet possess any lands are extremely anxious to have such provided for them in order that they may be enabled thereby to make better provision for their families.

480

38
Victoria.

Sessional Papers (No. 4)

A. 1880

ANNUAL REPORT
OF THE
DEPARTMENT OF THE INTERIOR
FOR THE
YEAR ENDED 30TH JUNE,
1879.

Printed by Order of Parliament.



OTTAWA:

PRINTED BY MACLEAN, ROGER & Co., WELLINGTON STREET.
1880.

1879/08/29

43, Victoria
Sessional Papers
no-4 A. 1880

Translation.

No. 10.

CAUGHNAWAGA AGENCY,
PROVINCE OF QUEBEC,
29th August, 1879.

To the Honorable
The Superintendent General of Indian Affairs,
Ottawa.

SIR,—I have the honor to transmit, with the tabular statement, the following report on the condition of the Indians in this reserve for the past year:—

During the whole year great poverty has existed amongst them, caused by the scarcity of money, consequent on the crisis which exists throughout all the country.

Last winter many families had hardly enough for a meal a day, but it was such that they suffered from hunger for any length of time, for the women by doing hard work for small wages by the day, procured for their husbands what was absolutely necessary for their support. Many among them still hold to the idea derived from their ancestors, that it is the woman who should work for her husband and family.

They see that what was formerly their principal source of revenue, the beaver trade, does not sell so well. They are also seldom engaged to run the St. Lawrence boats on rafts, and receive smaller wages for this difficult and dangerous service.

About a third of the men went every spring to pass several weeks in the Province of Ontario to make rafts, but there again they are paid much less than in the past.

A great many of them seeing all that was formerly a source of revenue exhausted, have devoted themselves to agriculture, and this spring particularly, they planted a good deal of Indian corn.

There are some of them as industrious as the *habitants* in the neighboring parishes, if not more so, but the greater number give themselves to cultivation in a very restricted and imperfect manner, being in want of means, animals and agricultural implements.

Nevertheless, many can be instanced who, having nothing some years ago, have been enabled by their labor to procure cattle and clear up considerable pieces of land in a way fitted for cultivation.

The land tenure question in this village is a source of serious difficulty, requires readjustment, if disorder, ill-will, and perhaps bloodshed, is to be avoided.

The Indians do not wish to recognize the rights of certain half-breed families to the enjoyment of their seigniory.

These families not having obeyed the injunction ordering them to leave the Indian territory, rigor was resorted to, not only in threatening to expel them, but in going to the greatest excess. This spring they had to deplore four successive fatalities, due, without any doubt, to malevolence, and of which these half-breed families were the victims.

The list for the Seigniory, of Sault St. Louis has been completed, and now the difficulty which existed to collect the *cens et rentes* will no longer occur, as all the errors in the *cadastre* have been corrected in a satisfactory manner, both for the Government and the *censitaires*.

Drunkenness is more rare than formerly on account of the decrease in the number of taverns and the scarcity of money, and it is consoling to say that for some years many inveterate drunkards have become temperate.

The school does not produce all the good results which might be expected. Many children who attended regularly can read and write in English, but cannot converse in this language. If these children should travel, later on, in the United States, and remain there some time, they would retain a great deal of the knowledge of English which they have acquired at school, and could, in a short time, speak this language fluently, but the greater number do not attend school regularly. The parents are generally negligent on this subject, in spite of the advice given them by the missionary.

Moreover, they do not, or will not, make any sacrifices to procure for their children the books, paper, and other articles necessary for learning at school. The Indians are all Catholics, or at least they do not know who, so far, are openly and publicly followers of the religion of a certain Protestant minister who is established amongst them without having been called by any one.

The morality of the band is satisfactory, or at least they cannot say that it presents here more scandalous actions than take place elsewhere.

There is nothing at present to remark in the health report. The number of deaths have diminished considerably since this winter and last autumn. Many deaths occurred from diphtheria, which carried off a great many children. Now there is no contagious disease here. A man died lately of cholera.

It is to be wished that when those contagious diseases declare themselves, the chiefs should take measures to prevent entrance into infected houses, and even to prevent the corpse to be brought into the church for funeral service; but the Indians are carried away by the desire to enter, in crowds, houses where there are sick persons, no matter what kind of sickness is there, that these measures could only be carried out with difficulty.

These are the principal details that I can furnish upon the actual state of the band and tribe. In some respects there has been an advance, and in others it is stationary.

I have the honor to be, Sir,

Your obedient servant,

GEO. E. CHERRIER,

Indian Agent.

No. 11.

QUEBEC.

LAKE OF TWO MOUNTAINS AGENCY,
Oka, 25th August, 1879.

To the Honorable
The Superintendent General of Indian Affairs,
Ottawa.

SIR,—I have the honor, in accordance with instructions contained in your printed circular of the 23rd July last, to submit, for the information of the Department, with the tabular statement, the following report on Indian Affairs within this Agency, for the year ended the 30th June last.

There is no material change to report in the condition of the band. The crops of the last year fell far below the average, especially the potato crop, which was almost completely destroyed by the bug.

The prospects for an abundant harvest this season, however, are, I am pleased to announce, most encouraging, both the root and grain crop being likely to produce an unusually large yield. This fact is most pleasing to the Indians for they are in such indigent circumstances as to need all the assistance they can possibly obtain as far from this as from every other source to keep starvation from their doors.

They are constantly complaining that the quantity of land now occupied and cultivated by them on this reservation is insufficient to supply their requirements.

They appear more and more anxious to abandon their nomadic life, and to become permanently in agricultural pursuits, the market for their goods having become so dull as to exclude all hope of their being able to maintain themselves exclusively from the income derived through the sale of their industries. Hence their anxiety to secure and settle on lands.

1871 09 08
 Indian Affairs. (RG 10, Volume 2093, File 15,676)
 From office Montreal 8th September 1871



Sir

Would you kindly inform me under what Statute, the limits of the Indian reserves, were established, and if not by Statute I would feel obliged if you would let me know the date of the order in Council, so that I may refer to the official Gazette.

I have the honour to be
 Sir

Your obedient servant

The Honourable
 The Secretary of State
 Ottawa

C. E. Schiller
 Secy of the Interior
 per Chas. D. D. D.

1871/09/08



15,676

Ottawa.

117

16/9/79
C. E. Schiller Esq
Clerk of the Crown
Montreal
Quebec

Sept 17 '79

Sir

Yours letter of
the 10th inst
addressed to the
Secretary of State
in which you
ask for information
as to the Statutes
under which the
limits of Indian
Reserves were
established and if
not by Statutes
the date of the
order in Council
establishing such
Reserves. I am
pleased to
reply to you
to request that
you will inform
me of what part-
icular Reserve or
Reserves you
refer to with a view
to the information
ought for by you
being furnished.

Yours
Truly

Crown office 10237

Montreal 18th September 1879

Return to

Sept 17/79 Sir

In reply to your letter
No. 15,676. I would beg to state,
that the Indian reserve. Requested
information about, is the one known
under the name of "Sault St. Louis",
Commonly called "Caughnawaga"

I have the honor to be
Sir

Your obedient servant
C. E. Schiller

L. VanKoughnet Esq. Clerk of the Crown -
Deputy Superintendent General
of Indian affairs.
Ottawa -

Indian Affairs. (RG 10, Volume 2093, File 15,676)

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

C. B. Scheller Esq.
Clerk of the Crown

Montreal

Quebec

Sept. 29. 79

Sir

Enclosed by your letter
of the 18th instant I have to
inform you that the
Squire of Saint-Louis
was vested in the Troquois
Indians under the Super-
-vision of the Indian Dept.
on the 15 April 1762 - The terms
and conditions of the title
or declarations are con-
tained in the Letters Patent de-
termined dated 9 December
1827 - I am Sir

1879 / 09 / 27

Indian Affairs. (RG 50, Volume 2093, File 15,676)

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

The Seignior of Sault-St Louis, was granted to the Jesuits in the year 1660, 'Pour contribuer à la conversion, instruction et subsistance des Iroquois.' This concession was made by two separate instruments; the first from Louis XIV, dated 29th May, 1680, confirmed the grant to a front of two leagues; the second from the Compté de Frontenac, dated 31st of October, 1680, made an addition to that front of one league and a half or thereabouts, by a depth of two leagues. The title deeds contain a clause to the effect, 'que la dite terre nommée le Sault appartiendra toute défrichée à Sa Majesté lorsque les dits Iroquois l'abandonneront.'

The Seignior continued under the Superintendence and management of the Jesuits until the 15th April, 1762, when it was entirely and exclusively vested in the Iroquois, under the Supervision of the Indian Department. The terms and conditions of the new titles or declarations under the Letters Patent de Genies, dated 19th December, 1827, are such as are usual, and have been stipulated in the grants made in the Seignior heretofore belonging to the late order of Jesuits in this Province.

Caughnawaga 10th April 1880

The Hon

The Minister of the Interior,
Ottawa

Sir,

I have the honor to send you a resolution of the Chief in Council praying you to have the lines drawn around the Signory of Sault St Louis

The Chief say that many Whites are asking to have some works done & as there is no defined line it is difficult for the tribe to execute these works; it is important & merits consideration

G. E. Morris.

It has also been resolved in Council to ask the Superintendent Genl. of Ia, if it would not be advisable that the lines of our property and of the Canadians which adjoin ours should be revised; because it has been reported for many years that these neighbors have encroached on our land

To Williams Hall

12 April 1880

20.131

Baymanaga / 1500



Honorable Ministre
de l'Interieur
Ottawa

Monsieur

J'ai l'honneur de vous
transmettre une résolution des Chefs
Assemblée en Conseil vous priant de
faire tirer les lignes autour de la
Séigneurie des Sauts St Louis.
Les Chefs disent que plusieurs blancs leur
demandent des travaux et vu qu'il n'y
a pas de ligne précise, c'est difficile
pour la tribu d'exécuter ces travaux.
C'est une affaire assez importante
qui mérite d'être considérée.

J'ai l'honneur d'être
Monsieur

Votre obéissant serviteur

Geo. E. Cherrie
Agent des Sauvages

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—

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.

see S.C. 1882,
c. 30, s. 1.

see S.C. 1883,
c. 6, s. 1.

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

6. The term "reserve" means any tract or tracts of land **Reserve.** 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 **Special Reserve.** 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 por- **Indian lands.** tion of a reserve which has been surrendered to the Crown.

9. The term "intoxicants" means and includes all spi- **Intoxicants.** rits, 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 Su- **Superinten-
dent-General.** perintendent-General of Indian Affairs.

Agent. 11. The term "agent" includes a commissioner, super-
intendent, agent, or other officer acting under the instruc-
tions of the Superintendent-General.

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

**Superinten-
dent-General
of Indian
Affairs.** 3. The Minister of the Interior shall be the Superin-
tendent-General of Indian Affairs.

**Department
of Indian
Affairs.** 4. 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 Su-
perintendent-
General
of Indian
Affairs, his
powers and
duties.** 5. The Governor General in Council may, by commis-
sion under the Great Seal, appoint a Deputy of the Superin-
tendent-General of Indian Affairs, who shall be charged
under the Superintendent-General with the performance of
his Departmental duties, and with the control and manage-
ment 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.** 6. Schedule A of the "Canada Civil Service Act, 1868," is
hereby amended by adding thereto the words "Depnty of
the Superintendent-General of Indian Affairs."

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

Division of present business, and of officers and employees of Department of the Interior between it and the Department of Indian Affairs.

7. 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.

8. 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.

9. 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, with such powers and duties as may be provided by Order in Council. The Governor in Council may 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 an Indian of any band but her own, or with a non-treaty Indian.

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

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

As to half-breeds in Manitoba.

see S.C. 1884, c. 27, s. 4.

Withdrawal from treaty.

Half-breeds of Caughnawaga 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 Caughnawaga, 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 sub-division into lots of reserves may be authorized.

16. 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 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.

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

Effect of such
ticket limit-
ed.

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 pro-
vided for.

Minority of
children.

Proviso: as to
persons in
charge of
minors.

Widow and
no child

Location
ticket must
be obtained.

Proviso: care
of minors.

Proviso:
Powers of
Superinten-
dent-General.

C. 1884,
S. 5.

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

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.

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:

see S.C. 1881, c. 17, s. 8.

Warrant to Sheriff for removal.

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.

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

e S.C. 1884,
27, s. 6.

Removal and
punishment
of persons
returning

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

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, to
arrest and
commit to
gaol.

Limitation of
imprison-
ment.

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
imprison-
ment.

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.

1880, c. 28, cont'd.

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.

see S.C. 1882, c. 30, s. 2; S.C. 1884, c. 27, s. 7.

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.

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.

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

Punishment
of Indians so
trespassing.

Or removing
certain
things.

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 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, 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.

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

What description shall suffice.

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.

Sheriffs, etc., to assist Superintendent-General.

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.

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

S.C. 1881,
17, s. 9.

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

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

used in proceeding in certain cases.

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.

Case of lapse of title to reserves held in trust.

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

Surrender of Special Reserve to Her Majesty in trust.

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.

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

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.

Powers of the Superintendent-General.

Proviso as to the amount of such labour.

Band to cause roads to be put and kept in order.

Power of the Superintendent-General.

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.

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

see S.C. 1884,
c. 27, s. 8.

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.

Provisions
respecting
sale or lease
of reserves.

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:—

Conditions
precedent for
validity of
release or sur-
render of a
reserve.

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:

Assent of
band.

Proviso.

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.

Proof of as-
sent.

38. 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.

No intoxicant
to be intro-
duced at any
council or
meeting of
Indians held
under the
next preced-
ing section.

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.

Act not to
confirm
invalid
releases or
surrenders.

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

Certain Indian lands to be held by the Crown for the same purposes as heretofore. **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;—
Evidence of possession. 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.
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
Entries therein on what proof to be made. 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 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 Commission*," being chapter twenty-five of the Revised Statutes of Ontario.

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

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

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 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 error or improvidence, the Exchequer Court of Canada, or any superior court of law or equity in any Province may, upon petition, 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.

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.

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

Punishment
of agents
giving false
information
as to lands.

Penalty.

Recovery.

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.

Punishment
for prevent-
ing sale.

Misdemeanor,
fine and im-
prisonment.

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.

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.

As to error in
description.
etc.]

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.

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,

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 cut 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.

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

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, 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.

Sale of seized timber after a certain delay.

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.

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.

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

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

All to be
deemed 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 obstruct-
ing 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 with-
out 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.

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

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

validity of seizure, etc.

Delivery on security given.

Bond to be given, etc.

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.

Punishment of attempts to evade payment of dues.

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.

Indian moneys to be dealt with as heretofore.

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.

Governor in Council may direct how Indian funds shall be invested and managed and payments made therefrom.

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.

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

Proceeds of
sales to be
paid to the
Receiver-
General.

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.

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.

Governor in
Council may
provide for
election of
Chiefs.

see S.C.
1884, c. 27
s. 9.

Proviso: as
to number.

Proviso: as
to present
life chiefs.

Further
proviso, as to
them.

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:

How and by
whom Chiefs
may then be
elected.

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.

Proviso: if
the band has
a Council.

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.:—

Chiefs to
make
regulations
for certain
purposes.

see S.C.
1884, c. 27
s. 10.

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;

Religious
denomina-
tion of school
teacher.

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

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 ponds 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 ;

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.C. 1884,
11.

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

Proviso.

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. Proviso.

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

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.

see S.C. 1882, c. 30, s. 4.

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 pawned 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 contravention.

Presents, etc., unlawfully 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 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:—

Indians may not have homesteads in

Manitoba, the North-West Territories or Keewatin, except as specified.

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

(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.

See S.C. 1884,
c. 27, s. 12.

Indian
undergoing
imprisonment
for crime not
to receive
share of
annuity
while so im-
prisoned.

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.

Payment of
annuity may
also be
stopped in
cases of an
Indian hus-
band desert-
ing 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.

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
unbelieving
Indian may
be received
on his solemn
affirmation.

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

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. Perjury.

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.

see S.C. 1881, c. 17, s. 10; S.C. 1884, c. 27, s. 13.

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

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

Penalties and their application.	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.
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.	

Fine or imprisonment, or both.

Evidence of Indians.

Proviso.

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

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.

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.

see S.C. 1881, c. 17 s. 11.

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

see S.C. 1882,
c. 30, s. 5.

Intoxicated
Indians may
be arrested,
imprisoned
until sober;
and fined;
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.

see S.C. 1884,
c. 27, s. 14.

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.

see S.C. 1884,
c. 27, s. 15.

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.

To what
judges only
appeal shall
lie from con-
viction under
any of the
next preced-
ing seven
sections.

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.

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

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. see S.C. 1884, c. 27, s. 16.

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 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.

Patent after certain period of probation. see S.C. 1884, c. 27, s. 17.

Proviso: as to ss. 36, 37.

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

S.C. 1884,
27, s. 18.Enfranchised
Indian to
declare name
children; and
to be known
by it.Wife and
minor
children also
enfranchised.Effect of such
enfranchise-
ment.Proviso as to
children
attaining
their majority
before their
father's
probation
expires.Proviso as to
children
found unqual-
ified; 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 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 probation-
ary or enfran-
chised
widows.

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

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 as-franchisee, etc.

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.

see S.C. 1884, c. 27, s. 19.

Proviso 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.

see S.C. 1884, c. 27, s. 20.

Proviso.

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

exemplary
conduct.

If such Indian
be a married
man or
widow.

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

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.

Provision as
to Indians in
British Col-
umbia, Mani-
toba, 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

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

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

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 Parlia-
ment.

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.

see S.C. 1881, c. 17; S.C. 1882, c. 30; S.C. 1883, c. 6;
S.C. 1884, c. 27.

MEMORANDUM.

To _____

Department of the Interior,

Ottawa,

187.

Re P.L.S. Walbank's telegram to Indian Dept.

I would reply-

"Write to Crown Land Dept Quebec
for the Field Notes and govern yourself
both by them and by the sworn testimony of
residents."

17/8/80

W.P.S.

20131

MONTREAL TELEGRAPH COMPANY.

[Rk. No 2]

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JAMES DAKIN, PRESIDENT.

SIR THOMAS ALLEN, TREASURER.

Send the following Telegram, without repeating it, subject to the above terms and conditions.

To Mr. L. Walbank, Esq. 17 Aug. 1880

P.L.S.
Campana, O.A.

Write to
Crown Land Department Quebec
for Field Notes and govern yourself
by them and sworn testimony of residents.

W.P.S.

Indian Affairs. (RG 10, Volume 2409, File 20,131)

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1880/08/17

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TERMS AND CONDITIONS.—All messages are received by
 this Company for telegraph transmission, subject to the terms and conditions
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 have been approved by the sender of the message.
 JAMES BARRIE, Sec. SAMUEL ALLEN, Pres.

Sent by St. L. & O. Call 4-2
 Check St. L. & O.

488

No. 40 Time 10:30 Ottawa, Aug 17, 1880
 By Telegraph from Caughnawaga
 To Gen. Supt. Genl. Indian Affairs

I find the plan furnished
 me incorrect please for-
 ward the field notes or
 shall we examine the
 residents on site to
 ascertain the old land marks
 answer immediately we await
 a reply before proceeding
 further

Wm. Leach
Superintendent
Call

Indian Affairs. (RG 10, Volume 2109, File 20,131)

PUBLIC ARCHIVES
 ARCHIVES PUBLIQUES
 CANADA

Poor Copy

1880/08/17

489

22,800

Crestmawaga

Aug 23 29



The Hon^{ble} the C^{pt} General of Indian Affairs
Ottawa

Dear Sir,

We duly received your telegraph in reply to ours of the previous date & immediately wrote to Quebec for a copy of the field notes of the Indian Reserve, but to date have received no reply from them. So that we are almost at a standstill. as the plan furnished us by your Dept does not agree with the titles granted by the Government. In such cases how shall we act? We have had George E. Cherrier Esq Your Agent very often on the line with us & find him of great service in obtaining the Farmer's titles. We have seven (7) men engaged by the month working on the survey who in consequences of the disagreement between titles & plans are comparatively idle. We shall expect the Dept to direct to pay the expenses we have been put to through said cause.

We are Dear Sir

Your Obedt Servant

Dubman Wallbank

P. L. Curriers

P. Please bear in mind that this is written in the words—

490

J. A. P. BULMAN, A.A.

Memorandum.

From

BULMAN & WALBANK

Architects, Civil Engineers, Provincial Land Surveyors and Valuers.

To

Honble Supt Indian Affairs,
Ottawa

214 St. James Street,

Montreal

Sept 1st 1880



Dear Sir: We wrote you on 23rd Aug last re boundary survey at Caughmanaga but to date have received no reply from you. We have been waiting in the bush for field notes from Quebec which have not yet arrived. We find the plan furnished us to verify our work by, does not at all agree with the actual measurements, nor with the titles granted by the Government & Saguenay chiefs to the farmers on the Boundary. We have therefore commenced a traverse survey of the reserve showing the present position of fences, walls & supposed boundaries &c. which we will forward for your inspection & information as

J. A. P. BULMAN, A.A.

Memorandum.

From

BULMAN & WALBANK

Architects, Civil Engineers, Provincial Land Surveyors and Valuers.

To (2)

214 St. James Street,

Montreal

188



as an early a date as possible. We find that as a rule the farmers have encroached on the Indians & are doing so every spring we would advise the placing of intermediate marks on the longer lines, for example the Chauguay line is some six or seven miles long with only a stone boundary or corner commencement & finishing so that if the farmers are not made remove their fences immediately when the undergrowth comes up next spring our new line will be obliterated.

We are Dear Sir

Your Obedt Servant
Bulman & Walbank

1880/09/01

491

214 St. James Street Montreal
Sept 7th 1880

No 20,131

To Honbl. Sup^t General of Indian Affairs
Ottawa

Dear Sir,

We are in receipt of your favours of the 1st 2nd inst in reply to ours of previous dates. We have received a letter from the Crown Lands Department Quebec informing us "that the field notes of the Creme are not to be found of record in that Department." We are of opinion that there never existed any Government field notes, as we think the Plan furnished us to verify our work by was compiled from other plans &c. We will be glad to receive instructions how to act from you. We have ordered our staff to return to town immediately & will prepare plans of our field work which we will forward to you for accompanied with a report of the present state of the reserve when we will await further instructions from you before placing the stone boundaries. In our opinion a complete survey of the whole reserve is necessary & could now be done very cheaply in connection with our survey.

We are, Sir,

Your obedient servant
Rutman Malbank
P. Surveyor

20/31

492

Messrs. Bulman & Malbaird

R. L. Surveyors

214 St. James St.

Montreal

Sept 8th 1880

S. G. Allen,

Enclosed is the receipt
of your letter of the 7th Inst.
reporting that the Crown
lands Dept. is unable to
furnish you with the
field notes of the Caigwa-
waga Reserve, and stating
that in your opinion
no such field notes ever
existed, but that the plan
of which a copy was
furnished to you, was
compiled from other
plans &c &c.

I regret I have to
state that the plan of
record in this Office, a
copy of which is in your
hands, was compiled by
the Crown Lands Dept.
It would therefore be
advisable, previous to
your transmitting
any plan of survey
to this Office, for you to

Agents 12
In your reply refer to
N.D.



to complete *seuil*
as far as possible and
proceed to Quebec, taking
your plan with you &
a copy of the *ouie* sent
you by this Dept. with
you and on your
arrival there compare
it with the plan of record
in that Dept. - You probably
have already consulted
the cadastral plan of the
locality.

Upon your return
to Montreal, after having
made your plan as
correct as possible, you
should proceed to the
River and place
the stone boundaries, in-
dicating on the plan the
position of each.

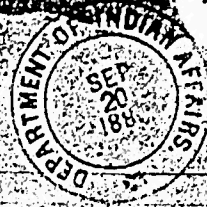
When this has been
done, your report, plan &
field notes should be
transmitted to this office
but not prematurely.

Yours
J. A. T.

No 20,131

493

PROVINCE DE QUÉBEC.



put by
Département des Terres de la Couronne,
Québec, Sept 17th 1880

To The Supt. General of Indian Affairs }
— Ottawa }

Dear Sir,

Pursuant to your instructions of the 8th Instant, I proceeded to Quebec on Tuesday last, taking with me my plan & the one furnished me by your Agent at Caughnawaga. On my arrival here Mr. Sacke being absent from town I interviewed Mr. Fletcher, who gave me all the information he possessed with respect to the said plans. Mr. Sacke having returned yesterday I interviewed him, & he very kindly placed the Cadastre of the Reservation of Caughnawaga at my disposal.

71/60/0001

PROVINCE DE QUÉBEC.

Département des Terres de la Couronne,

Québec,

188

(please) where I am at present examining
correcting, tracing, & comparing
the various plans of record here.
(which work I hope to complete
tomorrow) On my arrival
at Montreal I shall report to
you the result of my labours
here, in full — Mr Lache
refers me to Beaucharnois for
the field-notes of a portion of
the western boundary of the
reserve, which are the same
as that of Châteaugay — There
are no field notes to be had
here —

I am

Dear Sir

Your Obedt Servant
Wm. McMillan
P. Surveyor

23570

214 St James St
Montreal20th Sept 1880

No 20,131

To

The Hon. Supt General Indian Affairs
Ottawa

Dear Sir

Our Mr. Walbank arrived here from Quebec yesterday having carefully examined, compared, and traced the various plans of record so be found there relating to the Oaugh-nawaga reserve. He has examined three different sets of plans, no two of which agree. He finds one plan which agrees exactly in the commencing and closing points with the plan prepared by us, but differing in detail and there being no field notes with which to verify the plotting of the work.

The Plan furnished us to verify our work by, we can satisfactorily prove to be totally incorrect and altogether valueless.

The only remedy we see is to make a complete survey of each farm on the eastern portion of the reserve, as we are informed that there has never been an actual survey of the reserve made, the existing plans being the result of compilations of surrounding properties.

We have carefully examined the
Cadastre

Cadastral Plans, but they too, although approaching correctness are far from exact.

Previous to altering the existing lines or boundaries three or four questions present themselves, viz. Is there prescription against the reserve? Have you ever been notified that a bornage was about to be made by any or all of the farmers?

You are aware that an *ex parte* bornage does not hold good in law therefore it will be necessary for you, if you wish the stones we intend planting and which are now on the ground to be legal, to protest each proprietor before we proceed with his boundary line. We enclose a small tracing of one portion of our survey, the black line shows the actual position of the fences, green lines &c and the red lines the boundaries as per the titles. Pinsonnault is the man who protested us when establishing the red line on sketch.

Awaiting your early instructions.

We are

Dear Sir
Your obedient Servants
Bulman & Hall
P. L. S. S. S.

20181

Messrs Bulman & Malbaun

D. L. Lurvey pro

214 St. James St.

Montreal

Sept. 25th 1880

Gentlemen,

I beg to acknowledge
the receipt of your letter of the
20th inst. reporting the result
of Mr. Malbaun's inspection
of the records relative to the
Caughnawaga Reserve in the
Crown Lands Dept at Quebec

And with reference to your
suggestion that a complete
survey of each farm on the
Eastern portion of the Reserve
should be made I have to
request that you will
inform me what is the area
of the land between the fences
of the settlers and the lines
which in your opinion

should form the boundary
of the Reserve, also the value
approximately of said land.

In reply to the questions
asked in your letter I have
to state that there is no
prescription against the
Reserve as it is held by
the Crown in trust for the
Indians and there can be
no prescription against
the Crown. As to the bed of
my knowledge no notice
was ever given to this Dept.

Please enclose with
the minutes of settlement
whose lands adjoin
the Eastern boundary
of the Reserve

Agents A.
In your reply refer to
A.D.



Ottawa
18
that a ~~large~~ boniface was
about to be made by all
or any of the farmers
whose lands adjoin the
Reserve.

Our receipt of a reply to
the first part of this letter
the question of authorising
the placing of the stone
boundaries of the Reserve
will receive further
attention I am
Sincerely
Yours

23542



496

214

St James St
Montreal28th Sept 1890

No. 20,131

To
The Hon. Supt. Genl. of Indian Affairs }
Ottawa }

Dear Sir,

We beg to acknowledge the receipt of your favor of the 25th inst and in reply have to state that with our present information we are unable to give exact figures as to the area of land occupied by the settlers, the property of the Indians, but roughly speaking they have encroached at least (20) twenty arpents about (7) seven of which are well wooded with maple and the remaining portion is under a state of cultivation with the exception of a small strip about 35 feet wide by about 5 arpents long which is covered with undergrowth.

Commencing at the river St. Lawrence there is a gradual encroachment for about a mile with an average width of about 35 feet.

The soil with exception of that in the immediate vicinity of the village of Caugh-na-waga is very rich, and in some places is covered with a foot or more of decayed vegetable matter and would make excellent farming land, but a large quantity of it is lost owing to the present division of the reserve.

With respect to the value we would

state that there has been only one farm within the last year in the market from that locality which was a sale by authority of justice and it realized fifty dollars per arpent which we consider if anything under value.

The number of settlers whose farms reach the limits of the reserve is (30) thirty three almost all of whom are well to do French farmers.

Trusting this information may be of service to you. We remain

Dear Sir
Your obedient Servant
Bulman & Hallbank.
P.L. Gwynne

20131

Messrs Pulman & Malbank

R. P. Surveyor

214 St James St

Montreal

7. 10. 88.

Gentlemen Oct 9 88

With reference to your
letter of the 28 ultimo &
previous correspondence
relative to encroachments
by white settlers on the
Indian Reserve at Cough
mawaga, I shall be obliged

if you will furnish to me
at your early convenience
with a description of the

encroachments to make
by each settler with a
view to notices being
served upon them
individually by the
Dep. of Justice to the latter.

I am

498



Ottawa 30 Dec 1880

Sir

I have the honor to forward you a ^{Statement} bill showing in detail the business where capital has not as yet been paid off. And, I am directed by the Hon the Minister of Finance to state that as the government are paying 6% interest on the unpaid capital it is extremely desirable that the account should be closed and in view thereof I have to request that you will be good enough to advise me fully of the liability of the government in the matter. And, if from circumstances the whole of the capital could not be repaid whether in full or in part

Stoughton

James Edmund Stoughton
Secretary
— Dist.

J. A. Stoughton

Deputy Minister of Justice

*Names of Signatories and amount of Capital
paid, 31st Dec. 1880*

Montreal

<i>Cadastre No.</i>	<i>Names</i>	<i>Amount</i>
5	<i>Brothier</i>	10.09619
20	<i>Boucherville</i>	4.59457
24	<i>D.</i>	31
29	<i>Bonchevin</i>	4.02366
38	<i>Clauss</i>	462
41	<i>D'Aillebert</i>	1.998
42	<i>do</i>	1.55533
44	<i>do</i>	1.26133
45	<i>D. Levy</i>	38.36766
48	<i>D. Ramoy (S)</i>	5.00023
49	<i>do</i>	2.23933
50	<i>do (A)</i>	734
51	<i>do</i>	1.58433
58	<i>Hebert</i>	6833
63	<i>Ile Renot</i>	2.895
64	<i>do Iuf</i>	1.82231
66	<i>Ile St Rene</i>	6465
72	<i>Lacolle ou Beaupre</i>	7.41798
73	<i>Laurau</i>	9.34833
78	<i>Lavallue</i>	4.16466
79	<i>D. J. S. S. S.</i>	3.66766
80	<i>Bonome de Loriguel</i>	76.006
81	<i>Montel</i>	4.6712
83	<i>do</i>	4.0566
86	<i>Mille Isles</i>	6.40066
94	<i>Petite Nation</i>	19.529
96	<i>Primeau</i>	2.1466
<i>Carrefour</i>		204.42265

1880/12/31

<u>Brought Forward</u>		204452	65
101	Brought Forward	14627	19
103	Sabrevois	29502	
108	St Denis	6442	48
116	Sault Ste Marie	10039	33
129	Vercheux	741	

265774 65

St. Lawrence

8	Baie du Frere	36	
11	Barcel	2167	66
26	Grosbois (Est)	495	86
49	Maskinonge	702	66
50	ds	163	06
51	ds	312	75
52	ds	47	66
63	ds	47	66
63	Ormville	639	33
70	St Francois du Lac	1000	
72	St Marie	2677	33
	St Roches Bejato	97	32

838729

Quebec

8	Argenteau	2761	66
51	Quibert Gallon	258	63
10	Beaufort	7468	66
92	Bic	5224	66
4	Gouffe	988	54
84	Ormville	36	33
7	Ile d'Orleans	1894	88

St. Lawrence

1863336

	<i>Brotherhood</i>	18633	36
7.74	<i>St. Jean</i>	130	33
4.74	<i>do</i>	262	66
3.89	<i>do</i>	66	
89.9	<i>do</i>	47	
89.5	<i>do</i>	52	
89.13	<i>do</i>	39	66
45	<i>Joliet</i>	1.100	34
83	<i>Kamomaska</i>	33.568	33
30	<i>Lacherrothie</i>	2.332	33
148	<i>La Crosse</i>	63	66
64	<i>L'Epiney</i>	20	
189	<i>L'Essard</i>	2.292	66
	<i>Lachineville</i>	1.597	66
88	<i>de Parc</i>	16.833	66
94	<i>L'Essard ou Lamollais</i>	981	46
95	<i>L'Epiney et L'Herbier</i>	1.835	77
69	<i>Lafrenaye</i>	407	
78	<i>Thomceau</i>	1.087	33
91	<i>Nicholas River</i>	2.546	41
96	<i>Pachot</i>	509	46
97	<i>Peiras ou Metis</i>	548	33
63.1	<i>Riviere du Sud</i>	54963	47
77	<i>Reanne</i>	2.400	
93	<i>Rumowski & St. Barnabe</i>	1.914	60
87	<i>Riviere du Loup</i>	1.680	06
93.5	<i>Rumowski & St. Barnabe</i>	4.987	
14	<i>St. Joseph ou L'Epiney</i>	8	
44	<i>St. Etienne</i>	1.323	33
46	<i>St. Edouard</i>	1.635	05
48.1	<i>St. Marie S.O.</i>	23	
47.1	<i>do A.O.</i>	694	66
47x48	<i>do Banalite</i>	954	34
	<i>Lornard</i>	1.981	70
		102395	15

	<i>Westford</i>	102,595	153
49.4	<i>St. Joseph</i>	254	66
61	<i>St. Valles</i>	182	65
70	<i>St. Claire</i>	16	61
76	<i>St. Jean St. Joli</i>	5,483	89
104	<i>St. Anne des Monts</i>	57	33
43	<i>Villemarie</i>	941	33
86	<i>Verbois</i>	12,456	
		121,987	62

<i>Recapitulation</i>			
<i>District of Montreal</i>		265,774	65
<i>St. Lawrence</i>		8,387	29
<i>Quebec</i>		121,987	62
		396,149	56

*Treasury Department,
Ottawa,
31st Dec. 1880.*

Report on the Caughnawaga Indian
Survey

23701

214 St James Street
Montreal
December 31st 1880

To the Hon. Supt. General of Indian Affairs
Ottawa

Dear Sir,

Pursuant to your instructions of August 3rd authorizing us to establish the boundaries of the Indian Reserve at Caughnawaga and to place stone Bournes at the various change in direction: our work to be verified by the Plan in possession of your Agent at Caughnawaga (Said plan being the one on which our estimate for the work was based and was on view in the office of Senator Pomeroy at Montreal for the convenience of Surveyors wishing to tender.) We beg to report that on the 12th of August we proceeded with our staff to the said reserve for purposes aforesaid, where on the ground having obtained all the Plans, Documents and instructions in possession of your Agent, we commenced our operations at the Southern portion of the Reserve and after spending considerable time in measuring the line separating Cote St Catherine and Cote N. W. River (St. Regis) from said Reserve which we found would not agree with the Plan furnished by your Agent. Consequently we deemed it advisable to telegraph you for further instructions, to which we received the following

and verifying

1880/12/31

reply signed by Robt. Sinclair. "Write Crown
 Land Dept. Quebec for field notes, and govern
 yourself by them and sworn testimony of residents"
 On receipt of which we immediately wrote to
 Quebec requesting them to forward the field
 Notes, without delay and we proceeded mean-
 while to take the sworn testimony of residents.
 Receiving no reply from Quebec we again
 addressed you Aug 23rd informing you of their
 delay and seeking further information. Your reply
 to which was dated 1st and 2nd of Sept. and
 contained a copy of reply from Dept. Crown
 Lands Quebec to your Department, informing you
 that they were using all despatches possible. Conse-
 quently, we decided on making a complete
 traverse survey of the whole reserve according
 to the Plan furnished us by your Agent and
 the sworn testimony of the residents, which work
 was completed on Sept. 7th, but the difference
 between the actual measurements and the Plan
 was so great, and finding the majority of the
 residents ready and willing to swear anything
 advantageous to them, we did not feel justified
 in placing "stone boundaries", and so ordered our
 staff to return to Montreal and plot the field
 work we performed. On our return to Montreal we
 received a communication from Quebec, informing
 us that there were no field notes of record there.
 On Sept. 8th we received instructions from
 you to prepare our plans &c and proceed
 to Quebec taking copies with us and compare
 our Plans with those of record there.
 Pursuant to which our Mr. Wallbank proceeded
 on September 14th the result of which was
 reported to you on Sept 20th after which
 several communications were sent to and from

instructions.

Field Notes
 to C. L. Dept. Quebec
 12 Sept. 1880

our office and on Oct 15th we received instructions from you to employ the services of a Notary and make a title survey of each farm. Acting as aforesaid we proceeded to St Constant and employed the services of F. E. Arnold N. P. to prepare and serve protests on about (32) thirty two of the interested parties for the sum of (\$60.00) Sixty Dollars, the said work to be performed as we required it, and after having allowed the time required by law to elapse from serving said protests, we commenced a title survey of each farm touching the Southern portion of the Reserve. The work before us was not an easy or pleasant task as the ground had been in possession of the families of the settlers for over (100) one hundred years and they were loath to give us any information respecting its limits. Nevertheless it afforded us pleasure to be able to inform you that on Dec 3rd we completed our field operations and have placed stone Piquets and prepared Procs-Verbaux for each farm, with the exception of a portion of one Joseph Leduc's farm, the reason for this omission being that the titles in possession of the owner was of too recent a date viz. 21st Dec 1878. and further the testimony of the residents was against it, we did not feel justified in placing a Boundary stone as it would enter very considerably into the reserve. Therefore we have delayed determining this point until such time as the owner furnishes us more substantial proof to bear out the said title. The field work being completed on Dec 3rd we again returned to Montreal and have since been engaged in filing our field notes and preparing our Plans.

copies of which we send herewith. In conclusion we would suggest the straightening of the Southern boundary and the dividing into farms, lots, roads &c of the whole reserve, which when done would gain a large quantity of land at present wasted owing to the manner in which the land is divided among the Indians. Our opinion has frequently been asked in reference to permitting Indians to dispose of their lands to whites.

In discharging the above duties ample means have been afforded us to judge the matter. Our opinion is that if the Indians had the right of disposing of their land, that in five years the whole reserve would be in the hands of the white. It might be beneficial to give rights to sell or exchange their lands with each other (with certain restrictions) and so by degrees educate them into the manners and customs of the more civilized people.

This is respectfully submitted
by your obedient Servant
Bulman Wallbank

An Act to amend "The Indian Act, 1880". S.C. 1881, c. 17. (44 Vict.)

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

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

CHAP. 17.

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

[Assented to 31st March, 1881.]

Enacted. H^{is} Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enact as follows:—

Proviso. 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 land or irregular land, 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*.

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.

Superintendent may direct seizure of unlawfully possessed land. 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.

Chap. 17. *The Indian Act, 1880, amendment.* 41 VICT.

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 Municipal Magistrate, sitting at a justice court or other place appointed in that behalf, for the exercise of the duties of his office, shall have full power to do all that 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 Municipal 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 situated.

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

"23. If any person or Indian other than an Indian of the band, without the licence of the Superintendent General (which licence, however, he may at any time revoke) settles, encloses, or builds upon, or occupies, or uses any such land or marsh; or builds, erects, improves, 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 appoint 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 building upon, or occupying, or being illegally in possession of the same, or to notify each person or Indian to cease using as aforesaid the said lands, marshes, roads or allowances for roads; and such person shall as aforesaid 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

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

1881/43/51

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 case is an ordinary suit.

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

New section. Sheriff, &c. to assist in such removals. "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 directed 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 30 of 41 V., c. 28, amended. 30. Section thirty of the said Act is hereby amended by adding after the words, "or non-trustworthy Indian," in the ninth line thereof, the words, "or of any person, or upon any other part of the reserve or special reserve, or of any exchange with, hereto, supplied or given in any manner on any reserve or special reserve, any kind of interest—"

Section 91 of 41 V., c. 28, amended. 91. 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.C. 12, c. 17, Indian Commissioner, &c. to be ex officio Justice of the Peace. S.C. 1881, amended by S.C. 22, c. 27, S.C. 1884. 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 41 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, Kewatin and the North-West Territories or an Assistant Indian Commissioner for Manitoba and Kewatin, 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.

19/8/01
Memo: for the Hon. the Minister
of Justice, relative to right of
Government to pay balance
of Depositional indemnity within
without Consent of Signers.

The law ~~referred~~ relating to
payment of the Capital in-
-demnity for Depositional rights
is to be found in Consolidated
Statutes L.C. Cap 41.

The right of Government to
order the new constitutions is
clearly established by sec 51
and sub-sec 2 of sec 52
which are as follows:

51. "Every new constitution
" established by virtue of this Act
" shall always be renewable,

1881/06/08

"but

" But if the Seignior be entailed
" (substituted) or held by a tutor,
" Curator, or usufructuary pro-
" -prio (usufruct), and
" an opposition be filed and
" there in force, the rents and
" arrears only shall be received,
" subject always to the exception
" in the next following section &c.

Sub sec 2 of sec 52. " And
" in every Seignior the Seignior
" thereof shall have the right to
" receive the capital of the rents
" constituted such rents
" may be redeemed without the
" consent of the Seignior by
" payment : &c

Under the above clauses
there is no difficulty whatever
as to payment without consent

Midempais. The difficulty
felt at the outset in 1874
when the first Payments
were made was as to that
class of claims comprising
entailed & contingent or
reversionary rights, the
payment of which is governed
by sec 52.

~~It was~~ Before advertizing to
that section it may be well
here to explain that the law
(by sec 41) obliged all persons
having such entailed or
reversionary rights to file
an opposition for their pro-
-servations within six months
from the final deposit of the
Schedule a Cadastral made

in each case by the Superior
Commissioner.

The sec 52. wh. governs the
redemption of this class of rights
provides substantially —

— ^{1st} That where an opposition
has been filed on the ground of
entail, (substitution) &c interest
only shall be paid to the person
entitled to the rents of the
dignity & the capital shall
be paid at the expiration of
the substitution or other tenure
in trust to the person pointed
out by the judgment of the
Court; with the proviso that
the Court might order the in-
vestment of the capital before

the expiration of the substitution
a tenancy in trust.

Besides this class of rights,
numerous transmissions have
taken place since the making
of the Cadastral of 1808 for
~~has been effected by~~ testamentary
or other transmissions &
assignments by signers of
their individuality.

In all cases therefore
where the present owner of
the rights is the same
person as the person men-
tioned in the Cadastral
and where he holds absolutely
propre propriétaire & not
as grevé de substitution or
tutela &c. there can be no
difficulty about the rights

of the to be known as accept
his capital

In the 2nd class, viz.
that of Contingent or
ordinary rights we would
appear to be bound to await
the judgment of the Court
where an opposition has been
filed.

Where Contingent rights exist
and no opposition has been
filed to secure ^{them} it has not
been, although some diversity
of opinion has existed on this
^{amongst the different countries}
point - the proper to dis-
regard such.

The mode therefore adopted
of settling these claims

was

was to send a Circular thro'
the Finance Dept. calling
on the recipients of interest
to send in their titles for
examination with a view
to payt. of capital.

The total capital was
some \$3,000,000. of
which over \$2,500,000 have
been paid upon examination
of the titles by this Dept. or,
in some few cases, its Agents.
There now remains unpaid
something under \$400,000.

as shown by the accompany-
ing Schedule. ~~In some cases~~
with respect to this last
sum a balance, (I may
say that of the last bulk

Of cases the parties have
not dealt in their titles.
In some cases there are
substitutions & preferred
by oppositions as required by
the Statute.

To distinguish to what
class the unclaimed balance
belongs, I propose to recom-
mend, subject to the Ministry
approval, that a circular

be sent to all ^{the} parties in-
forming them positively that

no interest will be paid
say, after the close of the
next fiscal year & asking
them to rectify in their titles

Res. ^{bb}
this ^{course}
be adopted
8/6
8/7

for examination, this Committee
has no objection, and have
the effect of bringing in the
remaining titles in a short
date. & if it did not a short
bill might be introduced
next session providing for the
deposit of the balance in the
Superior Ct. to be distributed
à qui de droit.

abstracted. If the Minister of P. approve
of these views I will prepare
at once a report embodying
them.

A.P.

8.6.81.

503

1887

No.

13

THE DEPARTMENT OF JUSTICE

Finance Dept

Unpaid
Reigning

Department of Justice

Ottawa, June 9th 1881.

Upon the reference by the
Department of Finance for opinion
relative to the right of Government to
pay balance of Signiorial indemnity
with or without consent of Signioris.

I have the honor to report as
follows:—

The law relating to payment
of the capital indemnity for Signiorial
rights is to be found in Consolidated
Statutes c. 6. Cap. 11.

The right of Government
to ^{redeem} the perpetual constitutions is
clearly established by Sec. 51. and
Sub. Sec. 3. of Section 54 which
are as follows:

51. "Every perpetual constitution —
established

"established by virtue of this Act,
"shall always be redeemable, but if
"the Signior be entailed (Substituted)
"or held by a tutor, curator or usufructuary proprietor (usufructuary) and
"an opposition be filed and then in
"force, the rente and arrears only
"shall be redeemed, subject always to
"the exception in the next following —
"Section V."

Sub Section 3 of Section 52.
"And in every Signior the
"Signior, whereof shall have the right
"to receive the capital of the rente
"constituted to be established under
"this Act, such rente may be redeemed
"without the consent of the Signior —
"by payment" &c.

Under the above clause —
there is no difficulty whatever as to
payment

payment without consent of the Signers.
The difficulty felt at the outset in 1874
when the first payments were made was
as to that class of claims comprising
entailed, contingent or reversionary
rights, the payment of which is
governed by Sec. 52.

Before advertng to that
section, it may be well here to explain
that the law (by Sec. 41) obliges all
persons having such entailed or
reversionary rights to file an opposition
for their preservation within six months
from the final deposit of the schedule
or casastro made in each case by
the Superior Commission.

The Sec. 52 which governs
the redemption of this class of rights
provides substantially that where no
opposition has been filed on the ground
of

of entail, (Substitution) &c. interest
only shall be paid to the person entitled
to the rents of the Signiory, and the
capital shall be paid at the expiration
of the Substitution or other termancy
in trust to the person nominated out by
the judgment of the Court; with the
proviso that the Court might order
the investment of the capital before
the expiration of the Substitution or
termancy in trust.

Besides this class of rights,
numerous transmissions have taken place
since the making of the Ordinance
viz. testamentary or other transmissions
and assignments by Signiories of their
indemnity.

In all cases therefore, where
the present owner of the rights is the
same person as the person mentioned in
the

the Catastro and where he holds absolutely jure proprietario and not as fiene de Substitucion or tutor &c there can be no difficulty about the right of Government to force him to accept his capital.

In the 2^d class viz: that of contingent or pecuniary rights we would appear to be bound to await the judgment of the Court where one has been filed.

Where contingent rights exist and no opposition has been filed to secure them, it has not been thought proper to disregard such.

The mode therefore, adopted of settling these claims, was to send a circular thro' the Finance Department calling on the recipients of interest to send in their titles for examination
1850

with a view to payment of capital.

The total capital was some \$3,000,000. of which over \$2,500,000 have been paid upon examinations of the titles by this Department, or in some few cases, its agents.

There now remain unpaid something under \$400,000, as shown by the accompanying schedule.

With respect to this last sum or balance, in the vast bulk of cases the parties have not put in their titles. In some cases there are substitutions &c preserved by operation as required by the statute.

To distinguish to what class the unclaimed balance belongs, I recommend that a circular be sent to all the parties informing them — positively that no interest will be paid after

after the close of the next fiscal year,
and asking them to send in their
titles for examination, together with
a certificate of the Prothonotary showing
what oppositions exist to the payment
of the capital. This course would
have the effect of bringing in the
remaining titles in a short date -
and if it did not a short Bill -
might be introduced next session
providing for the deposit of the
balance in the Superior Court to be
distributed a qui de droit.

D. W.!

15

enc

27 June 81

Sir:

In conformity to a Memoir of the Treasury Board of the 15th instant, approved by the Governor in Council on the 18th instant, I have the honor herewith to enclose a draft of a Circular to be sent by your Department to the remaining recipients of interest on the Imperial United Constituted.

I have the honor to be

Sir

Yours obediently, &c.

A power...

J. M. Courtney
 Deputy Minister
 of Finance

W. D. M.

1881/06/27

Circular

Draft

Department of Finance

Ottawa June 1881

To _____

I am directed to inform you that Government has decided to pay off on or before the 1st January next, the balance remaining in its hands of the capital of the United States representing the original indemnity for actual rights, and that no interest will be paid on such capital after that date.

To facilitate an early settlement of all remaining claims, I am to request that you will send in within the shortest

possible

possible delay, the documentary
evidence establishing your propri-
-ety or other right - as the case may
be - to any portion of the indemnity,
together with a certificate of the
Prothonotary of the District in which
the Cadastre was deposited showing
what opposition, if any, exists to
the payment of the indemnity due
for such injury.

In default of compliance
with this intimation, steps will be
taken to relieve Government from
the payment of any further
interest after the date mention-
ed.

Yours &c

By the Minister of Finance

Extract

Indian Department

Ottawa, 2nd July 1881

Original m
30,613
G

I have the honor to enclose
a Circular respecting payment
of the principal of the same
signing, to which I beg leave
to invite your attention.

I have the honor to be
Yours obedient servant

Wm. J. Courtney,
D. M. S.
Supt. Genl. Indian Affairs

30,612

Department of Finance

OTTAWA



L. H. Thompson

Sir

I am directed to inform you that Government has decided to pay off on or before the 1st January next, the balance remaining in its hands of the capital of the *rente* constituting representing the seigniorial indemnity for casual rights, and that no interest will be paid on such capital after that date.

For which letter dated 19th Nov 1877

To facilitate an early settlement of all remaining claims, I am to request that you will send in, within the shortest possible delay, the documentary evidence establishing your proprietary or other right—as the case may be—to any portion of the indemnity, together with a certificate of the Prothonotary of the District in which the *Cadastre* of the Seignior in respect of which you claim was deposited, showing what oppositions, if any, exist to the payment of the indemnity due for such Seignior.

In default of compliance with this intimation, steps will be taken to relieve Government from the payment of any further interest after the date mentioned.

I have the honor to be, *Sir*

Your obedient servant,

W. L. Mackenzie
Deputy Minister of Finance

Indian Affairs. (RG 10, Volume 2146, File 30,612)

506

30,612

G.E. Cherin, Esq.
Indian Agent,
Campnewaga, R.C.

July 18th 1881.

Sir,
A request having been made by the ~~Deputy~~ Minister of Finance that this Dep^t should furnish it with a Certificate for the ~~Prothonotary~~ of the District in which the Cadastre of the Township of Saint-Louis is deposited, showing what portions, if any, exists to the payment of the indemnity due the Indians for such Township, there is request that you will obtain the Certificate in question at your earliest convenience & forward the same to this Department.

I am, &c.

Wm. H. O'Connell, please write similar letter to Henry Paget, the Agent for the Huron Indians of St. Thomas and request him to leave no time in forwarding the certificate required.

Wm. H. O'Connell

Indian Affairs. (RG 10, Volume 2146, File 30,612)

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

1881/07/16

507

N^o 30612 Laughmawaga 25 Jan 1881

Le Honorable Ministre des Indes

Affaires de Sauvages

Ottawa

Monsieur

J'ai l'honneur de vous trans-
mettre le certificat que j'ai obtenu du Pro-
tonaire du District de Montréal concernant
le cadastre de la Seigneurie du Saint-Louis.

J'ai l'honneur d'être

Monsieur

Votro obéissant serviteur

Geo. C. Cherrier

Agent des Sauvages

par

In reponse to letter of the
Min. of Finance & state that the
lands in the Seigneurie of Saint
Louis are held for the
progras of Laughmawaga under
Letters Patent de Courrier dated 19th
Sept 18 27. I enclose Certif of the
Protonaire for the district of

Indian Affairs. (RG 10, Volume 2146, File 30,612)

1881/01/25

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

that there is no opposition to
the payment of the
indemnity due for said
Seignior

AM

aug 1/81

Indian Affairs. (RG 10, Volume 2146, File 30,612)

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

30.612

Jm. Courtney Esq.
 Deputy Minister
 of Finance.
 Ottawa.

August 30th 1881.

Sir,
 I have the honor to
 acknowledge the receipt of your letter
 of the 26th, and with regard
 to the information called
 for by the Circular
 enclosed herein, I have the
 honor to inform you
 that the land in
 the Seigneurie of Sault Ste
 Louis in the Province of
 Quebec are held by
 this Department for the
 Indians of Caughnawaga
 under Letters Patent
 de Fermes dated the
 19th Decr. 1827.

A Certificate of the
 Prothonotary for the District
 is enclosed herewith, as
 requested, showing that
 there is no opposition to
 the payment of the
 indemnity due for
 said Seigneurie.

I have the honor to be,
 Sir, your obedient servant,
 Jm. Courtney

509

Dept of Indian Affairs
Ottawa 29th Oct '81

*Ind. Affairs
Ottawa
29 Oct '81*

In the Matter of the Seignior
of the Sault Ste Louis and with
reference to previous correspondence
in respect of the Capital indemnity
due for lands & tenures and other
casual rights therein I have
now the honor to request that
the sum of ten thousand and
thirty nine dollars and thirty
three cents (\$10,039.³³/₁₀₀) be
paid in to this Department to be
placed to the credit of the Sault
band of Indians resident on the
Caughnawaga Reserve in accordance
with the recommendation of the
Department of Justice

Yours &c

*Wm. Courtenay Esq
The Hon.
The Minister of Finance*

The Hon. Secy of Finance

Indian Affairs. (RG 10, Volume 2146, File 30,612)

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

1881/10/29

MEMORANDUM

Auditor



Ottawa, 14 Nov 1881

Indian Affairs Dept

Sir,
An entry warrant was passed yesterday in
debiting Indian Trust Funds - Income of 600,000
plus 29.25 less and 200.79 deb being the amount of
the right for the Pinguoy Nant 60 funds

Yours faithfully,
John D. [Signature]

MEMORANDUM

Department of Indian Affairs,

Ottawa, 188 .

-10,039.33- 4 Nov 31 Sep
5
12 / 50 1,96.65
41.83 1 mo
\$ 83,66.25
J. L. H.

Indian Affairs. (RG 10, Volume 2146, File 30,612)

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

511

W. M. Wallcut, Esq. 36826
 PROVINCIAL LAND SURVEYOR, CIVIL AND SANITARY ENGINEER
 Architect, Palmer, & Co.
 Montreal, Sept. 16, 1882
 Dear Sir,
 I am in receipt of your letter of the 14th inst. regarding the
 purchase of the Indian Reserve called on me yesterday. Respecting the
 purchase of the land for the purpose of giving up, asking to have the Eastern boundary
 made straight at present very crooked, straightened. I have no doubt
 that the Government will be glad to do so. The value of the land lost in so doing
 will be a good deal more than the value of the land gained. I will be glad to
 advise you in any way I can.
 Very respectfully,
 W. M. Wallcut

Indian Affairs. (RG 10, Volume 2170, File 35,825)

1882/02/18

PUBLIC ARCHIVES
 ARCHIVES PUBLIQUES
 CANADA

MONTREAL PRIVATE SANITARY OFFICE:
ROOM 18.

W. McLea Wallbank, B.A.I.

35825

(LATE BULMAN & WALBANK.)

PROVINCIAL LAND SURVEYOR, CIVIL AND SANITARY ENGINEER.

Architect, Valuer, &c.,

ENGINEER FOR ST GABRIEL
DRAINAGE WORKS

214 ST. JAMES STREET.

Montreal, P. E. S.

1882.

A. J. Macdonald Esq.

Deputy Superintendent General
Indian Affairs

Received

Sir,

I am sorry to hear that the Commission of the Indian Reserve called on me to draw up a report which has been going up as a result of the recent survey lines drawn at present on the St. Lawrence. They are waiting upon the Government for the value of the land lost in so doing. Will you kindly inform me to whom such a report should be addressed and vice.

Yours very truly

W. McLea Wallbank

All respects

Re: That under the conditions
concerning the proposed straightening
of the boundaries of the Indian
land the proposition could not be given
effect to - and that any petition
in relation thereto should be addressed to the
Department of the Interior
H. H. July 20/82

Indian Affairs. (RG 10, Volume 2170, File 35,825)

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

1882/02/16

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1882

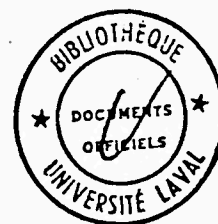
DEBATES
—OF—
THE SENATE
—OF THE—
DOMINION OF CANADA,
1882.

REPORTED, EDITED AND PUBLISHED

—BY—

A. & GEO. C. HOLLAND,
OTTAWA.

FOURTH SESSION—FOURTH PARLIAMENT.



OTTAWA:

PRINTED BY A. S. WOODBURN, ELGIN STREET.

Debates of the Senate of the Dominion of Canada, 1882, April 3,
1882, Pp. 236-237



1882/04/03

in this country. The arrival of this Indian Chief from the other side of the line was the cause of great uneasiness and alarm in the North-West as it was known that he and his band were a portion of the Sioux tribe, one of the most barbarous of the Indian tribes on this continent. When he settled on Canadian territory he was, naturally, living under the protection of the British flag so long as he paid due regard to our laws. However, it will be remembered, that those Indians were the cause of a great deal of trouble to the authorities on both sides of the line, and Sitting Bull and his band were looked upon as a plague in that country. Inducements were held out to him to return to the United States, which he refused to entertain, and promises were made to him by the officers of the mounted police that he would receive protection from the United States authorities if he and his people would return to their reservation. These Indians were the cause of a great deal of trouble and expense to our Government as they were in destitute circumstances. Buffalo were scarce, and Sitting Bull and his followers were sometimes forced by hunger to cross the line to find food, and on this side there was constant danger of collision between them and our own Indians. At this time a French Canadian, Mr. Legare who had been a most successful trader in the North-West for many years was appealed to by Major Crozier of the mounted police for assistance to induce Sitting Bull and his band to remove to their own country. I will quote an extract from a letter published in the "*Manitoba*" a French paper published in Winnipeg. It is from a letter dated Wood Mountain, 20th April 1881, from Major Crozier of the mounted police to Jean Louis Pare. The Major after setting forth what he wants from Legare in reference to Sitting Bull and his band concludes by saying:—

"I shall, of course, remunerate you for any trouble you may have in the matter, and not fail to let the Government know what a great assistance you have been."

My object in moving this resolution is to ask the Government what remuneration Mr. Legare has received for the assistance he rendered to the authorities,

HON. MR. GIRARD.

the appeal was made to him to assist the authorities, he, by his own efforts, induced Sitting Bull and all his followers to go with him to the American side. During the six or seven days he was on that mission, he was exposed to great danger and risk of life, but Sitting Bull and his followers were delivered safely by him to the guardian at Fort Buford, on American territory. I think such a courageous act should be acknowledged in some tangible way by the Government, because I do not hesitate to say that this man Legare has accomplished what the mounted police and the American and Dominion Governments could not succeed in doing; and that without shedding a single drop of blood or spending one dollar of money. Such an act should be rewarded in some way, and I should like to ascertain if any acknowledgment has been made, by the authorities, of those services. The occasion may arise again when such services will be required, and if they are properly acknowledged now, we may rely upon it that those to whom application may be made in the future will promptly respond; otherwise the possibility is that it may be treated with indifference.

HON. SIR ALEX. CAMPBELL—I did not know beforehand that my hon. friend proposed to call attention to the services of this Mr. Legare, or I would have informed myself as to what information the Government had in their possession in regard to his services and their value. I shall, however, make inquiries, and when the papers come down I shall reply to the hon. gentleman as he deserves, as I am quite sure he does not refer to this matter without some good foundation for doing so. I have never seen any reference to these services of Mr. Legare in any of the correspondence that has come under my notice; but if there is any correspondence on the subject it will be brought down.

CAUGHNAWAGA INDIANS.

INQUIRY.

HON. MR. TRUDEL inquired:—

Does the Government intend to introduce any measure for the emancipation of the Caughnawaga Indians, and of the other In-

or four years several documents have been read to this House, and many facts have been stated in the newspapers of Montreal showing that the Indians of Caughnawaga, or at least a part of them, have reached such a degree of civilization that some of them have succeeded in attaining good positions both in trade and commerce; a proportion of them have also received a liberal education and are in every respect highly qualified to enjoy the rights and franchise of British subjects.

It is admitted by every body that the position in which they are kept prevents them from conducting their business successfully, and in other respects is a serious drawback. The press of the Province, French and English, and especially the newspapers of Montreal, take a deep interest in those Indians and recommend that they be emancipated. It has been shown that some of those Indians have extensive farms which they cannot cultivate, because they cannot depend upon Indian labor and are not allowed to employ white men. It has also been shown that children in several of these families have been educated in the convents and seminaries of the Province, but on their return home, their parents are prevented from putting them under the care of civilized persons to complete their education. This state of things retards the progress of civilization among them. My inquiry embraces other Indians besides those at Caughnawaga, because there may be others whose emancipation should no longer be delayed.

HON. SIR ALEX. CAMPBELL—It is not the intention of the Government to introduce any measure further to provide for the emancipation of the Indians of Caughnawaga or other tribes. My hon. friend knows, I presume, that there does exist now in the Indian Act a provision which he may think, perhaps, insufficient, for the enfranchisement of Indians by which an Indian who desires to be enfranchised, and to whom the Indians of his tribe are willing to assign a piece of land, may be examined by the superintendent of Indian Affairs and, if he is reported fit to be given the rights and privileges of a citizen, he is enfranchised; and there is

or has been licensed to preach, and perhaps in some other cases, can be enfranchised. I do not know whether further provision is necessary or not: it has not been represented to the Government, so far as I know, that these provisions are insufficient. They certainly meet a good many cases. It is not the intention of the government to amend the Act this Session.

THE EASTER HOLIDAYS.

MOTION.

HON. MR. BELLEROSE moved that when this House adjourns on Wednesday next it stand adjourned until Wednesday the 12th instant, at 8 p. m.

HON. MR. HAYTHORNE thought such an adjournment extremely inadvisable and unnecessary.

HON. MR. ALMON suggested that if these adjournments were considered desirable it would be better immediately after the adoption of the address in reply to the speech from the throne every session, to adjourn for a fortnight, and the members from the maritime provinces need not come to the capital at all until the Senate reassembled and were ready to attend to the public business.

HON. SIR ALEX. CAMPBELL said there must be an adjournment at Easter, and he thought there was no objection to the motion. If he thought it would prolong the session one hour he would be very reluctant to consent to the adjournment.

HON. MR. KAULBACH thought there was plenty of business to be attended to, and was opposed to the motion.

HON. MR. READ was satisfied that the public business would not be delayed by the adjournment.

HON. MR. CARVELL concurred in the opinion and would not object if the motion read "from Wednesday to Wednesday inclusive."

The motion was agreed to.

our population although as a general thing we extend a hearty welcome to strangers who come to settle in this country. The arrival of this Indian Chief from the other side of the line was the cause of great uneasiness and alarm in the North-West as it was known that he and his band were a portion of the Sioux tribe, one of the most barbarous of the Indian tribes on this continent. When he settled on Canadian territory he was, naturally, living under the protection of the British flag so long as he paid due regard to our laws. However, it will be remembered, that those Indians were the cause of a great deal of trouble to the authorities on both sides of the line, and Sitting Bull and his band were looked upon as a plague in that country. Inducements were held out to him to return to the United States, which he refused to entertain, and promises were made to him by the officers of the mounted police that he would receive protection from the United States authorities if he and his people would return to their reservation. These Indians were the cause of a great deal of trouble and expense to our Government as they were in destitute circumstances. Buffalo were scarce, and Sitting Bull and his followers were sometimes forced by hunger to cross the line to find food, and on this side there was constant danger of collision between them and our own Indians. At this time a French Canadian, Mr. Legare who had been a most successful trader in the North-West for many years was appealed to by Major Crozier of the mounted police for assistance to induce Sitting Bull and his band to remove to their own country. I will quote an extract from a letter published in the "*Manitoba*" a French paper published in Winnipeg. It is from a letter dated Wood Mountain, 20th April 1881, from Major Crozier of the mounted police to Jean Louis Pare. The Major after setting forth what he wants from Legare in reference to Sitting Bull and his band concludes by saying:—

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CAUGHNAWAGA INDIANS.

INQUIRY.

HON. MR. TRUDEAU inquired:—

Does the Government intend to introduce

dian tribes still existing within the limits of the former Provinces of Canada?

He said: In the course of the last three or four years several documents have been read to this House, and many facts have been stated in the newspapers of Montreal showing that the Indians of Caughnawaga, or at least a part of them, have reached such a degree of civilization that some of them have succeeded in attaining good positions both in trade and commerce; a proportion of them have also received a liberal education and are in every respect highly qualified to enjoy the rights and franchise of British subjects.

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HON. SIR ALEX. CAMPBELL—It is not the intention of the Government to introduce any measure further to provide for the emancipation of the Indians of Caughnawaga or other tribes. My hon. friend knows, I presume, that there does exist now in the Indian Act a provision which he may think, perhaps, insufficient, for the enfranchisement of Indians by which an Indian who desires to be enfranchised, and to whom the Indians of his tribe are willing to assign a piece of land, may be examined by the superintendent of Indian Affairs and, if he is reported fit to be given the rights and privileges of a

also a provision that any person admitted to a degree in a university or is an attorney at law, or who has taken holy orders or has been licensed to preach, and perhaps in some other cases, can be enfranchised. I do not know whether further provision is necessary or not: it has not been represented to the Government, so far as I know, that these provisions are insufficient. They certainly meet a good many cases. It is not the intention of the government to amend the Act this Session.

THE EASTER HOLIDAYS.

MOTION.

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HON. MR. CARVELL concurred in the opinion and would not object if the motion read "from Wednesday to Wednesday inclusive."

40

46 Victoria

Sessional Papers (No. 5.)

A. 1883

DOMINION OF CANADA.

ANNUAL REPORT

OF THE

DEPARTMENT OF INDIAN AFFAIRS

FOR THE

YEAR ENDED 31ST DECEMBER,

1882.

Printed by Order of Parliament.



OTTAWA:

PRINTED BY MACLEAN, ROGER & CO., WELLINGTON STREET.
1883.

1882/08/28

The Right Honorable
The Superintendent-General of Indian Affairs,
Ottawa.

SIR,—The following are the chief matters of interest to be referred to since the date of my last Report concerning the Indians of this tribe.

The harvest was good and many of the Indians saved enough grain to provide for the requirements of their families. This year I have not been obliged to go elsewhere to obtain seed grain because many of the Indians had it to sell in the village.

Some of them have even been able to buy cattle and agricultural implements; but a greater number of them, for lack of these helps, and also for want of the necessary land, have been unable to realize their wish of sustaining themselves by agriculture. Even those who have a small piece of land, or at least many of them, seeing the uncertain position proprietors occupy and foreseeing that a day will come when the antiquated system of possession in community will be done away with and the lands be divided, desire to wait for further developments before devoting themselves to agriculture, therefore the majority of the villagers and of the tribe generally are highly delighted with the good idea of the Department of proceeding with the subdivision of the reserve, in the hope that they will by this means be encouraged to work, each one on his own land, without the fear of being turned off. If any have changed their minds since then it will be those Indians who, knowing themselves to be lazy and idle, fear that they would be unable to keep their lands, or actuated by a mean jealousy against those whom they call rich, a jealousy which makes them think that with money they would be able to obtain possession of lands. But there is no use in being troubled at the remarks of persons who, no matter what measures the Government take, even should it act in accordance with their wishes, are, by the force of circumstances, destined to remain poor through their own idleness, intemperance, or want of talent and energy.

The trade in bead-work is progressing favorably and gives large profits to many families. One may see in different parts of the village neat and pretty new houses.

The bead-work and shantying will doubtless for some time remain for those who cannot succeed in agricultural pursuits, and thus one may say that under the new system, as well as under the old one, all those who wish may gain a livelihood.

It is an undoubted fact that the zeal and energy with which Constable Lefort performs his duties has greatly contributed to put a stop to disorder in the village. There is now not a single tavern, the stillness of the night is now no longer disturbed as formerly by drunken shouts or broils. The girls and women of bad repute are more guarded than formerly.

Education has made but slow progress on account of the slight importance attached to it by parents and the irregular attendance of the children at school. No master could succeed under such conditions.

"The prizes given by the Department have had the effect of attracting many children to the school; however many of them came to receive their books and have not returned since. Perhaps it would be wiser to give books to those only who attend school regularly, and inform them of this decision at the beginning of the school year."

Some of the well-to-do Indians place their children in colleges and convents, where the progress made by them shows that, as regards talents and ability, they are not inferior to other races.

The moral law of the band is good.

The statistical details are prepared with as much carefulness as it has been possible for me to bestow on them, for most of the time, being absent, it is not easy to obtain more particular information from the women who only attend to the bead-work, &c., and are not aware of the quantity of grain, &c., harvested by their husbands.

The population has increased this year, as up to the present time the births exceed the number of deaths by twenty-three.

The quarries on the reserve have a wide-spread reputation which promises much for the future, for persons have come from Montreal, St. Anne, Carillon and Yamaska, to look for stone, who consider it of the finest quality for all kinds of work.

Mr. McLean Walbank, P.L.S., deserves that special mention should be made of the manner in which he has performed his duties. He is exceedingly hard-working and intelligent, and his moral example is admired by the men of the tribe, who have great confidence in him.

These are the points to which I wish to draw the attention of the Department.

I have the honor to be, Sir,
Your obedient servant,

G. E. CHERRIER,
Indian Agent.

PROVINCE OF QUEBEC,
ST. REGIS AGENCY,
DUNDEE, 24th August, 1882.

The Right Honorable
The Superintendent-General of Indian Affairs,
Ottawa.

SIR,—I have the honor to transmit, for the information of the Department, the tabular statement for the year ended the 30th June last, together with this Report. The increase in population during the year ended is 38, the largest increase of any year for some time.

I have no casualties to report, and the general health and prosperity of the reserve has been in keeping with previous years.

What seems to agitate the Indian mind most, at present, is getting back the lands in Dundee whose leases have expired. In April last a Dominion Land Surveyor was sent here by the Department to go over the special reserve, to note in what condition the extent of the land they now occupy was, and also to inspect the lots in Dundee the term of lease for which had expired, and to report to the Department. I can state that the inspection of their lands, etc., was as thorough as it was possible to be in the time and by the method taken; and I have every confidence that the report will be impartial and conscientious.

What to do to better the Indians' condition is a question somewhat difficult to solve. If they would do what lies in their power to help themselves it would lessen the expense and responsibility of those who have them in charge. If you were to pass through the village at most any time you will see a large number of able-bodied young men loitering about, probably pitching coppers, when they might be earning good wages when laborers are so scarce.

The Indian school at the Chenail was just opened when my last report was written. It has the largest attendance of any of the schools in operation, and is doing as well as could be expected. The St. Regis school continues in the same condition as far as attendance is concerned, in spite of all the efforts of the teacher to induce the parents to send their children. The Cornwall Island school is sparsely attended of late, but this is owing to a Protestant school being in operation on the Island. The Protestants would have continued to send their children to the first school irrespective of religion, if there had been an Indian teacher continued, as they considered it to be a great advantage to have a teacher that could speak both languages; but no Roman Catholic Indian teacher could be got, and the Reverend Father who has charge of the mission would not allow the members of his church, under certain penalties being enforced, to send their children should any one but a Roman Catholic be employed as a teacher, therefore, as the majority of the Islanders

RETURN B—Continued.

No. 43.

46 VICTORIA.

Cr.

Dr.

HERONS OF LORETTE in Account Current with the Department of Indian Affairs.

	Capital.	Interest.		Capital.	Interest.
	\$ cts.	\$ cts.		\$ cts.	\$ cts.
To Balance, 30th June, 1882.....	394 20	180 59	By Balance, 30th June, 1881.....	384 20	153 71
	384 20	180 59	Interest on invested capital.....		26 88
				384 20	180 59

L. VANKOUGHNET,
Deputy Supt. Gen. of Indian Affairs..DEPARTMENT OF INDIAN AFFAIRS,
OTTAWA, 30th June, 1882.ROBERT SINCLAIR,
Accountant.

Sessional Papers (No. 5.)

RETURN B—Continued.

No. 44.

Cr.

Dr.

IROQUOIS OF CAUGHNAWAGA in Account Current with the Department of Indian Affairs.

	Capital.	Interest.		Capital.	Interest.
	\$ cts.	\$ cts.		\$ cts.	\$ cts.
To the following payments:—			By Balance, 30th June, 1881	11,512 69	463 67
Salaries.			Land sales and stone dues.....	11,149 32	
E. Ricard, Constable		183 00	Rents collected		505 51
Louis Shetchaeinton, Organist		62 50	Iroquois of St. Regis, for transfer of M. Garrautt's		
Pierre Murray, Interpreter		54 00	salary, charged in error		72 00
Moise Lefort, Constable		111 00	Interest on invested capital.....		1,144 63
P. Tirivirite, Gate Keeper.....		30 00			
M. Orivakete do		9 00			
Saiswisakeren do		4 00			
Sundry Payments.					
N. V. Burtin, commutation in lieu of supplies.....		236 10			
Law expenses in connection with liquor traffic		379 35			
Cost of measuring stone	16 14	156 66			
Labor on the roads.....		27 50			
Relief to sick and needy		30 00			
Costs in the case of Queen vs. De Lorimier.....		36 00			
Bailiffs fees in various cases under the Indian Act.....		176 00			
Alterations to Policeman's uniform		5 00			
Material and labor on bridges.....		66 34			
School books supplied		42 60			
Ward for school		32 00			
Expenses of a seizure of timber at Doncaster		84 36			
Cost of pair of handcuffs lost on a prisoner.....		13 30			
Repairs to bridge at La Tortue.....		2 59			
Premium of insurance on mill at La Tortue.....		24 00			
Sundry small accounts		4 50			
Cost of a survey on the Reserve	1,354 63				
Carried forward.....			Carried forward		

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CARTER & CARTER,
 Advocates,
 Barristers, Attorneys, Solicitors, &c.
 P. BOX 429.
 EDW. CARTER, Q.C., D.C.L.
 G. W. F. CARTER, B.C.L.

40175

Montreal, 20 Nov 1882

*Mr. Sturges
 Pleasing
 for the
 Dear Sir*

I send you
 the number of the Common
 Pleas Rept. you kindly lent
 me. Many thanks. -

In the year 1863
 or 1864, the heirs of one
 Francis Mackay, petitioned
 the Government, Chief Justice
 Darnley being then Atty Genl,
 to be placed in possession
 of a certain tract of land
 at Campmanawaga, acquired
 by the late Francis Mackay

1882/11/20

CARTER & CARTER,
Advocates,

Notaries, Attorneys, Solicitors, &c.

P. O. BOX 429.

EDW. CARTER, Q.C., D.C.L.
G. W. F. CARTER, B.C.L.

Montreal,

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"from a Ruif Delarou, but
which the Govt took possession
of, and handed over to a
tribe of Indians. -

What is wanted
is to trace these documents
and ascertain in what
Department they are now.
One of my clients is a
professional man and
he thinks they will be found
in the Dept of the Minis-
ter of Justice, as they
were placed before the Atty
Genl Dacres. - The title
deeds accompanied the Police
Will you kindly make en-
quiries - Yours very truly
Edw. Carter

40.175.

Edward Carter, Esq. Q.C.

D.C.L.

Advocate General

Montreal, Q.C.

Decr. 5 1882

Sir, I have the honor to
ack. the recd. of yr. letter
of the 30th ult., and to
inform you that the
undermentioned documents
are preserved in this Dept.
relating to the claim of
Francis Mackay & land
on the Canbywaga Reserve
viz:—

1. Copy of Deed of Sale, by Dame
Theresa Kingston De La Roche-
telle, born de St. Deschamps
to Francis Mackay, ^{202/96}
of the District
of the District
dated 21 April 1764.

2. Affidavit of Jean Mackay, Sr.
dated 25 June 1821.

3. Petition from Emile Mackay
and others, dated 22 Jan'y 1863.

I have the

1882/12/05

Report & Opinion
(Ind. Aff.)

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Recovery of owners of lands in the Indian
Vignons of Sault St. Louis or Longuepoint
Indian Reserve.

The first Indian land in 1648 was
granted the Vignons of La Prairie de
la Madeleine for the express purpose
of sustaining their mission among
the Iroquois and of inducing the
latter to settle their families and
become civilized. One of the representations
that the land was not suitable for crops
and that the Iroquois were going
away that obtained from Louis XIV.
by Louis Rattier, Paris dated 27th May
1660, all concessions of the Vignons of the
Sault, then leagues in front by the river
despite they had been established there
since 1676 having permission from the
Sovereign Council of New France (Montreal
to the King. Correspondence officielle
des Gouverneurs. Archives des Papiers 29)
After setting out the above mentioned
representations the official words of
the grant are as follows:—

"à ces causes devant contribuer
"à la conversion & instruction
"des dits Iroquois et traiter fa-
"vorablement les dits Exposants
"Nous leur avons fait & faisons
"donc par ces présentes, Vignes
"des terres, prairies, des la dite

1882/12/28

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lequel, nommée le Haut-.....
 "à la charge que les dits terres
 "nommées le Haut-.....
 "franchises de toutes dépenses,
 "lorsque les dits Indiens la-
 "bandonneront"

By another concession from the Comte
 de Montmorency, the Governor-General of
 the Nouvelle France, dated 31st (October
 1680, an additional frontage of about
 one league and a half was added. The
 grant after receiving the terms of the
 Letters Patent of the 2nd May 1680 and
 the request of the Indians for a further
 concession:-

"Ce qui leur donnerait encore)
 "plus de lieu d'y attirer les
 "Indiens et autres sauvages,
 "d'en augmenter les nombres et
 "d'étendre par ces moyens les
 "lumières de la foi et de l'é-
 "vangile"

Sur ce, follows:-

"Nous ont voulu, du pourvoir...
 "Et pour faciliter encore d'as-
 "surer aux dits Indiens
 "Pères de la Compagnie de
 "Jésus les missions des Con-
 "vertis les noms qu'ils pren-
 "nent depuis un long temps
 "et aussi dans des lieux pour
 "la conversion et instruction
 "des dits Indiens et
 "autres sauvages, leur avons
 "donné, accordé et concédé
 "donc"

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"domains, accords et concessions"
 "J'ai ces présentes les dis. restant"
 "des terres"
 "Je suis sub. J'ai les dis"
 "Roisins des terres aux terres"
 "Charges charges et exemptions"
 "J'ai les dis. des terres"
 "J'ai les dis. des terres"

These two concessions are to be found in the collection of "Pièces et Documents Originaux" published at Quebec by the Queen's Printer in pursuance of an address to the Legislature in 1851. It may be here noted, that as therein printed, the concessions by Montcalm misquote the date Louis Potent, making them of March 29th instead of May 29th. Copies of the concessions could easily be made, and should, I think, be of record in the Department of Indian Affairs.

The language of these grants is peculiar. It differs from that of all other grants in Canada to the Indians, which invariably contains words conveying full and unconditional ownership. I do not quote these other grants here, as it would take much space for no great end, but I have examined them all as given in the "Pièces et Documents Originaux" and as referred to in the "Edits et Ordonnances." There the form of grant would seem to be a gift out-right, and it

it not for the conditions attached, showing the intent of the Crown was the direct itself of the property. In the French law as it was then and is still in the Province, in the principle that "donner et retenir" not being such a conveyance as to be effectual and the Jesuits could take no property thereby. The expressed consideration upon which the grants were made, show clearly that there was no intention to give the Jesuits any property in the land. Nor can there be considered as vesting the land in the Jesuits in trust for the Iroquois, who are not mentioned as parties nor given any real interest. Their true interpretation is evidently according to their plain language that the Jesuits were to enjoy the occupation and possession of the Sault St Louis so long as the Iroquois should remain there, for the purpose of converting and instructing them. When the Iroquois should leave the Sault the land was to return to the King without any allowance for improvements, for this is the import of the words "soutenir de friche" at the most then this was a simple licence to occupy not amounting to a lease.

That no Seigniorial rights were here conferred, is proved by three considerations.

Consideration

1st The absence of any of the custom
any expressions in the constitution of a
feud. There is a "don" made, not a
"concession" or "feud". The obligation to
pay "redevance" to render "for it homage"
to "tenir fief et lieu" &c and warranty. There
is any "droit de justice" given. And
there is one "banal" clause.

2nd The difference between these
grants and others made to the French
wherein the "droit de Seigneurie" was
conveyed. In these latter the language
varies much as to extent but is
uniformly clear and precise of
effect.

3rd The implication from the
words in these grants forbidding
Henchmen to keep cattle on the
lord's land.

Had it been intended that the
Indians should own the land, doubt-
less the same form of grant would
have been used as in the case of
the Indians of Sologne many years
before.

(Piece et documents Seigneux I. f.)

That it was not likely that Crown had
any such intention (may be inferred
from the fact that at first year later
than this, in 16, the grants to
the Indians was revoked and their
lands were erected into a Seigneurie
with

wish the Jeune as Seigniors; because the
 experiment of new grants to the Indian
 had been found unsuccessful. (Ibid. 2. p.)
 But it is clear that, at this point, a
 beneficial ownership was all that Jeune
 could claim, and the Expenses would
 have to be stretched to allow
 even that.

In point of fact the Jeune
 eventually treated this land as they
 did the lands really belonging to them
 and notwithstanding the implied
 prohibition of settlement - they white men
 granted much of the in course in the
 ordinary way and under the ordinary
 charges. I have examined a large num-
 ber of the "title deeds" or declarations
 of title that were furnished in the
 years ¹⁸²⁸ 1829, 1830 and 1831 by the Certificates
 that actually in possession of lands, to
 the Commissioner appointed under the
Royal Letters Patent of Terrier of date
 19th December 1827. It is and many cases
 in which small grants from the Jeune
 and set up. In that return of Cen-
surmances occupying land within
 the Seignior, that was made in 1762
 of which, I shall have occasion to
 speak hereafter, these grants from
 the Jeune are also mentioned, the
 earliest one dating back to 1709.

The assumption of Seigniorial
 rights by the Jeune does not seem
 to

to have incurred the enmity of the French Government on the head of no any trouble for some time - The number of the bourgeois (baptized and permanently settled) at Saint-Etienne was small, as many passengers. The relations between the two peoples attest, but as they became more civilized, being always keenly alive to their rights, disputes arose between them and the white settlers Ansitans of the Joints. Towards the middle of the eighteenth century complaints were frequently made by them and the pretensions of the Joints must have been formally brought under the judicial notice of the Intendants. No decision was apparently had; in fact the Joints must have relied upon the ground of prescription right as they did in the case of certain lands within the city of Besançon, which they possessed in somewhat similar manner by occupancy; over which they claim also to have Seigneurial rights and from which they were not ousted until 1758 by an ordinance of the Intendant Bigot-Eudes (Ordonnances II. 597) notwithstanding their claim of possession on good faith for over eighty years and their assertion that their possession had been ratified by several Intendants -

8. Rated on ground most roads by
the Indian themselves, a. appears by
the Tires marks and by the Return
above

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above quoted, with the effect of increasing the troubles between them and the Jesuits and of causing much confusion in the Seignior. My authority for the latter statement is the judgment formerly to be cited. The outbreak of the Seven Years War again checked the legal settlement of these disputes and the French regime ended without any decision being had.

By the 40th article of the Capitulation of Montreal (6 Sept. 1760) it is provided that:

"The Savage or Indian Allies
of His Most Christian Majesty
shall be maintained on
the lands they inhabit if they
choose to reside there."

During the military occupation of Canada by the British and before the signing of the definite treaty of peace in 1763, the quarrels between the English and the Jesuits broke out again and culminated in a formal complaint by the former of the military authorities administering justice in the District of Montreal. The Indians alleged that the Seignior of the Sault had been granted to them by Louis XIV, that the deed of concession had been in the possession of one of their chiefs but had been obtained by fraud by the Jesuits by whom it was withheld; that the Jesuits unlawfully asserted seigniorial rights and assumed

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to grant lands, they concluded for the benefit of the Indians and the acknowledgment of their own title. The suit was regularly conducted and counsel were heard on both sides upon formal pleading and evidence. The judgment which is by General Thomas Gage, Lieutenant Governor of the District of Montreal, assisted by his military Council, the duly constituted court of last resort under the provisional government, is to be found at page 80 of an old folio record entitled "Jugements rendus par le. Officiers de milice Chien par son Excellence le. administrateur la Justice, et decisions rendues par le Appel" among the Archives deposited in the vaults of the Little Office in the Court House at Montreal. At page 67 of another old folio record in the same place entitled "Registre des Audiences de l'annee 1761-1762 par le. Honneur de son Excellence le. General Gage. Commencee le 25 Aout 1762 et finie le 12 Juillet 1762" is the following entry:-

X

"L'Ordre de son Excellence Monsieur le. Gouverneur du 19 Aout 1762 L'Ordr
"ci dessus est enregistree Comme suit

X

And then follows a transcript of the judgment. These two records are almost unknown except to historical students and though in good preservation are difficult to decipher. I think a certified copy of the judgment should be in the possession of the Department of Indian Affairs. The cost would be three or four dollars. Mention of the judgment is made

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in *Dictionnaire de la langue des Indes* Vol. I. p. 513, but the citation given is not textually accurate though representing substantially the tenor -

The authority of this judgment and of the Ordinance based upon it might be questioned - and raise new points of International and Constitutional Law, were it not that an Ordinance of Governor Maitland and his Council, of date 28th September 1764, in pursuance of the Royal instructions, after the cession of Canada to England, affirms, certifies and confirms all the orders, judgments or decrees rendered by the military Councils and other Courts of Justice between the 8th September 1760 and 10th August 1764.

This judgment is most important in the light it throws upon the present ownership of the Seigniorie. After disproof of the Iroquois assertion about their document of title as a pure fable it discusses the nature of the *seigneurie* tenure, concluding on grounds similar to those above given that this was proved by the grants themselves to be only a possession in trust for the benefit of the Iroquois as long as the latter should continue to reside at the Sault, and by no means to be construed as conferring the *droit de seigneurie*. It therefore orders that the *seigneurie* be evicted (*débauché*) and that the said Indians of the Sault St. Louis be paid

for them to enjoy peacefully
themselves and their heirs and the other
Indians who may wish to join them
all the land and the revenues which
the said Concession may produce.
(A. B. The above extract and others
following are translated by me from
the original French.)

A Receiver is then appointed. The
Revenues are to go to maintain the Church
and buildings already erected and the
surplus is to be given to the Indians to do what they
please with it, and as the Concession
of the Indians of the Sault as a whole
(in general) is to reserve to His Majesty
when they shall abandon it, and as
the rights of jurisdiction over what
comes persons who are established there
illegally (par abus) other than Indians
and only belong to him" power is
given to the Receiver "to maintain
therein the rights of His Majesty in
this respect as well as the regulations
which we may find necessary on the
subjects of the Cession and the Parish of
St. Louis. The Church and other buildings
are to be considered as the property
of the Indians who are thereafter to
be treated as forming a parish. An
order is made that all concessionaires
are to produce their titles within a
given delay in order that the
Receiver may make a return of all
who possessed land before the 1st
September 1760 and of those who
acquire

Register

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agreed Convention after that date from
the French Commissioners of the former
share and is to be allowed to remain, those
of the latter are to be erected -

This Return was duly made and
registered in the Register des Audiences
held in Montreal.

As regards the French no doubt can
possibly arise out of this Judgment.
Even were it certain non Judice or
otherwise irregular, which is not the
case, the Court that rendered it being
regularly constituted under a recognized
government de facto, the proceedings being
regular and subsequently ratified by
the government de jure, the whole
of the French Estates were subjected to
the Crown in 1800.

Aut. As regards the Indians then it is
quite clear from the original grants
and from this Judgment, that up to 1763
they could assert nothing more than
a licence to occupy the territory
of the lands and enjoy its revenues under
the administration of the Crown as long
as they pleased to stay there. The Royal
Proclamation of 1st October 1763 confirms
in general terms all the Indians in the
possession of their lands and assures them
of the Royal protection and favour.
There has been no subsequent attack
of the territorial rights of the Indians
by treaty, royal proclamations or law.

In confirmation of the above information
may be the following extract from a Return
to and Address 11 June 1839 for copies of
"Extracts of Correspondence since 11 April 1836
between the Secretary of State for the Colonies
and the Governors of the British North

American Provinces respecting the Indians
in those Provinces - *de la Nouvelle*

It is contained in the Parliamentary Papers
of the Imperial House of Commons Vol.
XXXIV 1839 "Accounts and Papers" Vol. V.

The Seigneurie of Saint de Louis
was granted to the French on
the year 1680 *joint* contributed

a la concession, instruction et
substances de la Seigneurie. This

concession was made by two
separate grants. The first from

the French, dated 29th
May 1680, confined to a Port

of two Leagues; the second
from the Comte de Frontenac

dated 31st October 1680, being
an addition to that Port of

one League and a half, and
thereabouts, by a deposit of two

Leagues. The following conditions
of the claim is extracted from

the title: - "a la charge que
les dits deux nommes le dait

apporteront toute desfranchise
de Majeste lorsque les dits

Seigneurs l'abandonneront
The Seigneurie continued

under the superintendence
of the *Commissaire*

on an agreement of the French
Forest until the 15th April
1762, when it was entirely
exclusively ceded on the
order the superintendant of the
Indian Department by the Or-
donnance of that date of Major
General the Honorable Thomas
M'Gee, Governor of Montreal.

The foregoing extract is from a Return
made by Colonel D. C. Napier, Secretary of
Indian Affairs, Earl of Dorset to Lord
Selkirk 13 July 1837. Enclosure No. 15.
Page 50 of above Return its Address 11
June 1839 &c. &c. On page 51 is the
following -

"the terms and conditions of the
"new title or Declaration under
"the Letters Patent do dated 19th
"December 1829 and such as are
"usual and have been stipulated
"in the grants made on the lands
"heretofore belonging to the late
"Order of Jesuits in this Province."

The first Extract from Col. Napier's return
is, as well as seen on reference to the
authentic documents, on the citation
of the consideration clause of the Letters
Patent of 29th May 1680 and in the date
of General M'Gee's Ordinance.

In the "Report on the Affairs of the
Indians in Canada, laid before the Legislative
Assembly 25th March 1845" by the Commissioner
appointed on the 10th October 1842 by the
Governor.

6/54
Bureau of Indian Affairs, General, Ottawa, Ontario
following, evidently taken from Colonel
Bajocco's return:—

"The designing of Lower St. Louis was
granted to the Indians on the
year 1680. The Indians contributed a
conversion, instructed St. Louis
des drogues. This conversion was
made by two separate instances
the first from Louis XIV, dated
29 May 1680, confirmed the grant
to a front of two leagues, the
second from the Count de
Montenac, dated 31 October 1680.
made an addition to that front
of one league and a half
at thereabouts by a depth
of two leagues. The title deed
contains a clause to the effect
"que les dits terre nommées les
Caults appartenant toute de
franche a ce Indigène lorsque
les drogues l'abandonneront".
The designing continued under
the superintendence and manage-
ment of the Indians until the
15th April 1762, when it was
entirely and exclusively vested
in the Indians, under the
supervision of the Indian
Department. The terms and
conditions of the new title or
declarations under the Letters
Patent de Louis XV dated 19th June
1762 are such as are usual

land had been stipulated
in the grants made on the
"Seymour's heretofore belonging
to the late Order of Jesuits
in this Province."

In the Report of the Special Commission
appointed on the 8th of September 1856 to
investigate Indian Affairs in Canada, dated
1858 at page 19 under the heading "Project
of Sault St. Louis" is given some information
apparently condensed from the above
cited Reports; there comes the following:

"Subsequently the land was
"withdrawn from the management
"of the Jesuits, and the interest
"of the tribe only under the
"supervision of the Indian
"Department" was recognized,
"the fee simple being retained
"by the Crown."

The above extracts, especially the last,
fully bear out the construction above
given to the grants of 1680 and the
Judgment of 1762.

As one consequence of the Judgment of
1762 this Seigniorie never formed part of the
Jesuits' Estate within the statutory meaning
of that term. As far as I can ascertain
since the confiscation of the Jesuits' Estate
in 1800, it has never been administered
as forming part of them for the "Hawkes
Canadian Superior Education Commission."

194-20 Victoria Cap 55, and
does not come within the terms of that
Act. The Consolidated Statutes of Canada
Cap. 15 Sec. 1 which applies only to titles
and property of the late Order of Friars
subject to possession or reversion.

The Royal Letters Patent of June
of December 19th 1827 above alluded
to, appointed a Commissioner to
receive declaration of title from the
constituents then actually possessing
lands in the Seigneurie. These declarations
on title records I have found among
the records of the Intelle Office of
the Superior Court for the District
of Montreal in the possession of the
late M. B. Doucet, S. C. who was the
Commissioner appointed, commencing
in May, 1828.

The terms of these titles records
unequivocally establish a holding
direct from the Crown. The general
language is the same in all cases,
as printed form having been used, in
which the lands are described as "certain
en la censive and au Seigneur Seigneurie"
"faucons fauchon d'herbe de terre de
ci-devant Ordre des Freres de cette
Province et presentement appartenant
au Roy". The obligation to pay
rents et taxes is thus voided: "a la
charge de payer a au Roy les
rentes et succenses etc. En finissant
the other terms of the holding the
quality

and the Royal Proclamation of 7 October 1763 & 28
1763, which is still in force, is still in force, and
the Indians, as a species of trust, have
been created in their favour, to which the
Crown is bound. This trust has always
been recognized. The Committee of the Executive
Council, reporting to the Earl of Liverpool
on the reference of 7th October 1806, respect-
ing the affairs of the Indian Department,
say inter alia, with respect to the proposal
to commute the annual gifts then made
to the Indians:-

Quib.

"By the Royal Proclamation of
1763 the lands held or claimed
by them within the Province
of Quebec were in an especial
manner taken under the ad-
ministration of the Crown for
their benefit."

Page 27 Return to Address "
June 1809 at supra-

Any claim of ownership that might
be put forward on behalf of the
Indians, or any pretension based on their
supposed rights of ownership as then
disposed of, it remains to be seen
under what authority the Department of
Indian Affairs can collect these rents,
what procedure is necessary and to
what extent, if any, the arrears might
be affected by prescription. There are
points of considerable difficulty under
each of these heads.

As to the authority of the Department
of Indian Affairs

The 13 & 14 Victoria Cap 42 Consolidated
in Cons. Stat. L.C. Cap 14 Sect 7 provides that
The Governor may appoint
from time to time a Com-
missioner of Indian Lands
for Lower Canada, in whom
and in whose successors by
the name aforesaid, all lands
or property in Lower Canada
appropriated for the use
of any tribe or body of
Indians, shall be vested in
trust for such tribe or body
and who shall be held in
law to be in the occupation
and possession of any land
in Lower Canada actually
occupied or possessed by
any such tribe or body in
common, or by any Chief
or member thereof or other
person for the use or
benefit of such tribe or
body and shall be entitled
to receive and receive the
rents, issues and profits
of such lands and property
and shall on and by the
name aforesaid, subject to
the provisions hereinafter made
Exercise and defend all or
any of the rights lawfully
appertaining

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appertaining to the proprietor
possessed or occupant of such
lands or property -

2. This section shall extend
to any land in Lower Canada held
by the Crown in trust for or for
the benefit of any such tribe
or body of Indians, but shall
not extend to any lands vested
in any Corporation or Community
legally established and capable
in law of suing and being
sued, or in any person or persons
of European descent, although held
in trust for or for the benefit
of any such tribe or body -

By Sect. 5. C.S.A. Chap 14. which were to be
brought in the name of the Commissioner
and were not to abate by reason of his
vacating office - He was moreover required
to have a legal domicile in each civil
district in Lower Canada -

It was under this Act that serious
difficulties arose when the possibility of
the title to the land being in the
Indians themselves had to be considered
and before the title had been thoroughly
searched. This word "appropriated" has
a well defined meaning in the Statute
relating to Indians and applies only to
tracts of land set apart for Indians
who have surrendered their original
reserves to the Crown. This difficulty
would arise notwithstanding that
the first Act formally appropriating
such

each branch is the 14 & 16 Victoria Cap. 106
subsequent to the Act consolidated in 1862
in 6 Cap. 114, Sect. 7, for many regulations
as to the settlements of Indians were made
by the Post Department, the Imperial
Authority that administered Indian
lands before this transfer to the Canadian
Government, and these regulations are
within the meaning of the 18 & 14 Victoria
Cap. 112.

It was also necessary to trace the title
to see whether the Seignior of Lower St. Lawrence
was held by the Crown "in trust for, and
for the benefit of" the Indians or whether
it came within the exception of lands
vested in any Corporation or Community
legally established and capable in law
of suing and being sued. For though
this exception was probably meant to apply
to such Indian Reserves, for example,
as that at Oha vested in the Reminants
of St. Sulpice, if the quasi-corporate
status of the Indians were formally re-
cognized before the Union of Canada
by their being allowed to appear in an
English Court as a tribe, and if, more-
over, the judgment of that Court had
formally put the tribe in possession
of the Seignior and constituted them
a Parish, there would be nothing very
startling, in a legal sense at least, in
them being held to be a corporation,
within the following definition:-

"Those corporations also are reputed
to be legally constituted which

61254
vested at the time of the
cession of the country and
which have been subsequently
and recognized by competent
authorities.

Civil Code Lower Canada Art. 552
The marked difference between the
Christian dogmas of the Iroquois and
other Indians of the Province of Quebec
would have lent much force to an
argument based on such facts. From
a very early period in the French
regime they have been civilized, and
settled at the same, differing from
the ordinary habitants of the country
only in not enjoying a full measure
of political rights and in their tribal
administration under governmental
superintendence.

1868

The Dominion Act 31 Victoria Cap.
42 Sec. 26 Substitutes the Secretary of
State for the Commissioner of Indian Affairs
for Lower Canada and vests in him all
the powers and duties of the latter, "except
that the lands and property heretofore
vested in the said Commissioner shall here-
forth be vested in the Crown"
and the rules respecting them
shall be brought in the name of the
Crown. The requirement of a legal
domicile in each district is also dispen-
sed with.

1873

By 36 Victoria Cap 4 Sect 3 and 4 the
Minister of the Interior is made the
Superintendent.

Superintendent General of Indian Affairs
and ... the power and duty
about the question

The Indian Act 1876" 39 Victoria
Cap. 18. creates a difficulty by repealing
that part of 31 Victoria Cap. 42 which
relates to Indian Affairs, but the (same)
words of the repealing section (99) might
acquired read with the declaration that
the Act is not to be construed as new
law but as a consolidation of the
repealed Acts, would seem to cover the
point if they do not of themselves do
so. Moreover as the 36 Victoria Cap. 4
Sections 3 and 4 are not touched by
this repeal, not being contradictory to
or inconsistent with the Indian Act
1876; but on the contrary one with it
in as far as by both, the Minister of
the Interior is Superintendent General
of Indian Affairs, this settles the question.
It is true the Act of 1876 is now
repealed and replaced by the Indian
Act 1880, but these two are in fact
merged and are to be construed
together as a consolidation (Indian Act
1880 Sect. 112).

The Superintendent General of Indian
Affairs, being in the name of the
Crown is, therefore, fully authorized to
collect these moneys.

It is also suggested is held to be
Crown property and complete
possession of the Consolidated Revenue
Act.

any other place would not be applicable
to the deposit of the schedule
and would not operate any confusion or
imitation of tenure or subordination of
any other estates for the seigniorial
rights and dues. C. S. L. C. Cap. 4. Sect. 67.
92.

By Section 66 of C. S. L. C. Cap. 4. -
"None of the foregoing provisions
of this Act shall apply to
"the wild and uncultivated land
"in Seigniories held by the
"Crown in trust for the Indians
"nor shall they
"apply to the Seigniories of the
"late order of the Jesuits or
"other Seigniories held by
"the Crown and not above
"mentioned, nor to the
"Seigniories formerly held by
"the Principal Officers of
"His Majesty's Ordnance
"except only in so far as
"it is hereinafter mentioned."

It has been shown above that a trust for
the Indians has been created and has been
recognized and that this Seigniorie does
not fall within the category of the Jesuit
Estates, was never, indeed, a Seigniorie of the
Jesuits. Though administered at one time
by the war department, it has to all
equal certainly never been held by the
Principal Officers of Ordnance. It is
not included on the schedule of Indian
Property given in Cap. Consolidated
Act.

Statute of Canada. Now is it included
among the Criminals for which Schedule
was made under the authority of C. S. L. C.
Cap. 41 Sect. 61. See Cadastre Allege des
des Commis. The actual Cadastre is
thus entitled "116. Lesigneurs au Sault
St Louis possédant par la tribu des Hurons
Indiens. The Cadastre was deposited on 22
August 1862. The deposit, if this is a
Criminal Lesigneurs within the meaning of
the Act would have been a violation
of the Express of the Express provision
of Sect. 61, which after saying that
"Schedule may, if the Governor see fit
so to direct be made for the Lesigneurs
held by the Crown and the Revenue
whereof belong to the Province including
the Lesigneurs of the late Order of the
Fruits Enacts now shall any such
Schedule be deposited in the manner
provided in the twenty fifth section
of the Act". The deposit, moreover, is
not only on the principle "omnia
presumptum rite esse acta", but by
the express provision of C. S. L. C. Cap.
41 Sect. 29 unimpeachable and by sections
27 & 28 it is prima facie evidence
of all facts therein stated - Taking into
account then, the express wording of the
clause which excludes only "the wild and
unimpeached lands" it is sufficiently plain
that the Lesigneurs is within the application
of the Consolidated Requisition Act.

3^e By Section 50 of the Consolidated
Laws

Seigniorial dues when credits shall not have
been right (seigniorial) more than five years
arising from such rents. It is a question
of some difficulty whether this prescription
of five years is applicable in the
present instance. I am of opinion that
it is not applicable, inasmuch as
this seigniorial is part of the Crown
Domain.

It may be said against this
opinion: (1) that the Consolidated Seigniorial
Act cannot apply in part to substitute
rents constituting for seigniorial rights and
dues and to make the schedule forms
force evidence against Censitaires of the
Crown without also applying to give
them the same right of prescription
that all other Censitaires have who
fall within its purview; (2) that the
Crown is sufficiently named in section
60 to be bound by section 50; and
(3) that inasmuch as the revenues are
the property of the seignior, there can
have no greater rights than any
ordinary seignior.

It is to be remarked that
the language of section 60 is negative none
of the foregoing provisions of this Act shall
extend to the seigniorial revenues. It
has been shown that the seigniorial
dues do have a right within themselves
but the converse of this language is
of the foregoing provisions of this Act shall
extend to it. It is not therefore implied
that inference is that "as many of the
foregoing provisions of this Act shall
extend to it."

language, however, as could be applied to it shall extend to the Seigneur, for without words in the Act an express declaration and precisely such an intent is made that inference of such intent is inevitable and interference with any prerogative of the Crown could not be held to have been within the contemplation of the Legislature, if the Act stood by itself.

The inference to be made from reading Sections 55 and 60 together, that the Crown was meant to be bound, is not sufficiently free from doubt. In Magnum (6 B & S 22) where wharfage dues were imposed, the Crown not being expressly bound to pay but being exempted from liability in respect of certain articles, the Court refused to infer from these exemptions an intent to charge the Crown in respect of any other goods.

But // Though some of the older cases in the English Reports say that the rule that the Crown is not bound unless expressly named, does not apply in the case of an Act made like the Seigneurial Act for the suppression of mung and for the public good, the Statute of Limitation have always been held not to bind the Crown except when so named and in Robt. Luchin (2 Ld. Raymond 166) where the meaning of "party" was in question, it was held "that the Crown is never named in an Act of Parliament by name of party". Here the language

8425
provisions of the creation. Further, Art.
220 and 225 of the Code of Lower Canada
as statutes subsequent to the one in question
recognize no prescription by less than thirty
years for revenue of rents belonging to the
Crown. So that the objections arising out
of the language of the Act are no longer
opinions to be overcome.

As to the objection founded on the
enjoyment of the revenue by the droguis
it is met by the consideration that
they have no right of property in the
rents, strictly speaking the Seigneur
not a trustee for the droguis grants
the property in these rents, but is
bound by all undertakings to give them
the enjoyment as long as they remain
on the Seigneurie. This is at least one
sense within the meaning of Section
66 of the Consolidated Seigniorial
Act; but not a trust implying
an ownership by the droguis or a
possession by them inherent to found
prescription against them. The original
seigneurs and those deriving title
from them cannot prescribe revenue
against the droguis, for that would
be to prescribe in a sense contrary
to the aim and nature of their
possession (C.C. Art. 2208) which is
from the Crown. It is also to be noted
that the Cadastre does not describe the
droguis as Seigneurs or even describe
the Seigneurie as belonging to them.
The language used is possessive for

Art. 2.2

11

645
658
I am, therefore, expressing an opinion
in favor of the action which concerns only the
execution of any judgment obtained
further than to say I am not inclined
to think it is necessary, and I am
taking steps to ascertain the conditions
of these lands in that respect.

Under and Law, if any receipts
on account of payments made during
the time covered by the action were
produced in evidence, the presumption
of payment in full of all arrears up
to the date of such receipt would
have to be rebutted. Before taking
suit it is therefore necessary to
have a clear understanding as to the
means of proving the exact amount
of such arrears on each lot held
by the certificatee. The collection
of these rents has been so uncertain,
and the accounts kept by former
Agents for this Reserve are so un-
systematic and hard to trace that
it will require some little time
to get this evidence and put in proper
shape. It is desirable also that on
the test action no doubt whatever
should exist as to the quantity
of land actually held at any
time by the Defendant, and for
this purpose I shall have to
search in the Registry Office of
the County of Laramie. But as
soon as these details are satis-
factorily settled I shall be

I have the honor to acknowledge the receipt of your letter of the 28th inst. in relation to the matter mentioned in your letter of the 28th and July 11th 1882. I have the honor to be, Sir,

Yours obedient servant,
(Signed) Sir Algernon Brightman

Montreal 28 Dec 1882

The Deputy Minister of Justice
Ottawa -

Montreal 20th December 1902
64284

The Recovery of arrears of Rents
the Indian Enquiry of Sault Ste. Marie
or Caughnawaga Indian Reserve

At the interview I had the honour of
having with you at Ottawa on the 11th
November last, it explained the nature of
the serious difficulties in the matter and
the necessity of investigating the title
of the Crown to this Enquiry, not only
to determine what prescriptions, if any,
applied, but also to settle the question
of ownership as that would probably
be raised by the defendants. It was
understood to some extent that jurisdiction
the Department of Indian Affairs and
the Enquiry for without a clear
understanding of the nature of the
title, the Statute (Comp. Stat. R.C. Chap. 55)
giving that Department its authority
there can admit of grave doubts.

The instructions in your letter of
May 20th 1902 and July 12th 1902
furnished the names of three Commissioners
and the amounts said to be due.

The Deputy Minister of Justice
Ottawa

61284

by them, the application to the Government
Indian Agent for the Saginaw Indians
Reserve, and to the Department of Indian
Affairs are among the most important
could be obtained.

Cautious enquiry among the older
Indians and other persons informed, no
have peculiar knowledge of the affairs
of the Reservation, disclose the existence
of an idea that the Indians of Gault
St Louis are differently situated, from
other Indians in this Province. It is
stated that they are actually the owners
of the Saginaw, which it is said was
granted them in full property by
Louis XIV; that this grant was con-
firmed by George III after the Cession
of Canada to England; also that they
are merely under the protection of the
Crown, which administers their property
in trust, and as they are not actually
owners, but only possessors, they
cannot claim any important rights
against the government of France, and
would prevent the recovery of more
than five years arrears of taxes. It direct
ly shows the position of the Indians
of this Reservation, and is
to be a part of the General Account
It is necessary to point out the error
out by the fact that the Cadastre
names the tribe of Saginaw Indians
as Seigneurs.

The total amount of these
arrears is large; all previous efforts

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to collect them. Law Courts ineffective
 owing to the obscurity as to the title
 for the original grant to the Comptons
 and by law exempted from registration
 and having been made many years
 ago their present value of deposit was
 difficult to find; many of the defaults
 are well known, intelligent farmers ready
 to join in fighting out any legal
 question that could be raised, the more
 so in consequence of difficulties that
 are created by the circumstances between
 them and the Indians and it is
 certain that they relied upon the
 above mentioned theory of the
 Indian ownership and emboldened
 by previous success in their refusal
 to pay courted upon prescription
 by five years.

The form of action to be taken
 depended on the definite settlement
 of the question as to the ownership
 of the land, and the nature of
 the title. For while, on the one hand,
 if the Indians and the Spaniards, they
 would be met with at first of five
 years prescription; on the other hand,
 the Superintendent General, acting in
 the name of the Crown according to
 his statutory authority in such
 cases, appeared to be deterred from
 taking advantage of the Consolidated
 Decree of 1801 (Cap. 11, C.S.L.C.), which
 does not apply to Crown Serranias
 of

67284

If he intended the same and knowing that
merely an extension of his rights his
actions would, his offer to the same
objection as if it were brought directly
by them. If the Consolidated, Seigniorial
Act does not apply that that Concession
must be invalid, there has been no
substitution of, at least, conditions, or
grounds that in money, for the old Con-
cession in money and in kind, and
the Court would have to pass back upon
the original Concessions in Concession upon
which to base its actions, if there were
to be Concessions direct from the Crown.

Que.

Would that Concession be
absolutely necessary of determining the
true character of the business of the logging
was made direct to you and to
the Deputy Superintendent General
at Indian Affairs.

The investigation has necessarily
been at such of some times and we
little difference going back as it does
to A.D. 1800. Some of the documents
hard to obtain, and copy some things
and consult with the old archives
in the Province, the old records of
the Court, the Imperial, and Canadian
Parliamentary papers, the records of
the Department of Indian Affairs,
old colonial Charters, the Statutes and
various histories of the Province, and
the many suggestions of old officials
and writers upon Canadian history.

The legal questions involved have been of considerable extent and I have requested special study of some of the most complicated portions of our old original laws and of the legislation abolishing feudal tenures.

But I think that the Report herewith will make the whole subject clear to you and to the Department of Indian Affairs.

While searching the records of the Department of Indian Affairs I had occasion to explain to the Deputy Superintendent General of Indian Affairs the nature of the questions arising and I was requested by him to furnish him with such information as to the Crown title, the title of the Indians and other matters relating to the land as I should be able to collect.

This Report is therefore so framed as to give the Department of Indian Affairs the legal history of the Reserve in various forms, while furnishing the Department of Justice with any information that law points involved.

In conclusion I have only to add that I am most deeply of opinion that it will be necessary for the declaratory legislation, which, when I last reported last in Ottawa and was transmitted by you to report at length on.

64284

on this matter, is a desired day
advisable to explain the substance
of Chapter 14. Cons. Statutes of Lower
Canada.

I remain, Sir, your obedient servant

(Signed) J. C. Aylmer Crighton

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1.)

A. 1884

PAGE

51, 52

45, 50, 51, 52, 53

68, 75

47 Victoria.

Sessional Papers (No. 4.)

A. 1884

DOMINION OF CANADA.

ANNUAL REPORT

OF THE

DEPARTMENT OF INDIAN AFFAIRS

FOR THE

YEAR ENDED 31ST DECEMBER,

1883.

Printed by Order of Parliament.



OTTAWA:

PRINTED BY MACLEAN, ROGER & CO, WELLINGTON STREET.
1884.

Canada. Annual Report of the Department of Indian Affairs 1883.
47 Victoria, Sessional Paper No. 4, 1884, pp. 68-69

1883/00/3

RETURN B.—Continued.

No. 44.

DR.

IROQUOIS OF CAUGHNAWAGA, in Account Current with the Department of Indian Affairs.

CR.

	Capital.	Interest.		Capital.	Interest.
	\$ cts.	\$ cts.		\$ cts.	\$ cts.
To the following payments :—			By Balance on 30th June, 1883.....	21,171 49	401 96
<i>Salaries.</i>			Stone dues.....	597 52	
M. Lefort, Constable.....		365 00	Rents collected.....		26 79
P. Tirvirati, Gatekeeper.....		18 00	Fines collected.....		278 20
J. Sahionisakeron, Gatekeeper.....		18 00	Interest on invested Capital.....		936 38
L. Shetkaionton, Organist.....		37 50	Balance on 30th June, 1883.....		402 50
Pierre Murray, Interpreter.....		50 00			
<i>Pensions.</i>					
F. Kasekete.....		8 00			
C. Canontiahs.....		5 62			
<i>Sundry Disbursements.</i>					
N. V. Burtin, commutation in lieu of supplies.....		222 35			
Law expenses in connection with liquor traffic.....		398 24			
For services of Orier.....		10 00			
Building and repairing fences.....		45 50			
Road work.....		72 80			
Prizes for schools.....		5 00			
Uniform, &c, for Constable.....		68 15			
Measuring stone.....		85 30			
Repairs to church.....		50 00			
Clerk's fees in sundry prosecutions.....		190 20			
Cost of flags.....		18 00			
Wood for schools.....		32 00			
Costs in the Lafleur assault case.....		176 27			
Cost of inspecting Reserve Boundary.....		1 00			

Cost of conveying prisoners to Montreal.....	4 00
For investigating title of the Seignior of Sault St. Louis.....	163 90
For meals furnished to prisoners.....	27 00
Insurance.....	24 00
Advances on account of Survey of Reserves.....	4,000 00
Percentage on collections carried to credit of Management Fund.....	59 75
Balance on 30th June, 1883.....	17,709 26

21,763 01	2,095 83
Balance on 30th June, 1883.....	402 50

Balance on 30th June, 1883.....

21,769 01	2,095 83
17,709 26	

L. VANKOUGHNET,
Deputy Supt.-Gen. of Indian Affairs.

DEPARTMENT OF INDIAN AFFAIRS,
OTTAWA, 30th June, 1883.
ROBERT SINCLAIR,
Accountant.

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.]

Enacted.

WHEREAS it is expedient to provide means by which Indians on reserves in diverse 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 as far only as it is herein otherwise provided.

Interpretation of Act.

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 one 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

1884.

Indian Advancement Act.

Chap. 28.

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 Advancement Reserve," inserting such name as may be thought proper, and the sections by the numbers assigned to them respectively.

5. On a day and at a place and between hours to be designated in each 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 each Order in Council) to represent each section thereof 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 be possessed of, and living in, a house in the reserve, and subject to the provision hereinafter made in case of the 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.

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.

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

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1884/04/19

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

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

Chap. 28. Indian Advancement Act. 47 VICT.

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 *pro tempore*.

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 each 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 *non die*, 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.

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 Indian Advancement Act. 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; *Provision for Catholic or Protestant minorities.*

2. The care of the public health; *Sanita.*

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 creating lock-ups or by the adoption of other legitimate means; *Decorum at meetings and assemblies.*

4. The repression of intemperance and prodigality; *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 vicinages, 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; *Trespassing 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 money for the purposes of the Act.*

Chap. 28.

Indian Advancement Act.

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assess and collection of taxes. 18. The 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. 19. The appropriation and payment to the local Agent or 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. 20. 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 in which the Indian incurring it belongs, for the use of such band:

Amending by-laws. 21. The amendment, repeal or re-enactment of any such by-law, by a subsequent by-law made and approved as hereinbefore provided.

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Indian Advancement Act, 4c. Chap. 28, 29.

22. 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.

23. 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 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, 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.

24. The provisions of "The Indian Act, 1880," and of any Act amending it, shall continue to apply to any band 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 thereafter appear to the Governor in Council that this Act cannot be worked satisfactorily by any band 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 band, and such band 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.

3.

A, 1885

Victoria.

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April, 1885, for a Return showing: Indian half-breed youth have been sent to Territories respectively, under what name, and where they are located. Report for Indian half-breed schools in representations and recommendations, and whether any request from the establishment of a school. 4. What regard to industrial pursuits, moral school provisions. 5. Whether any supervision of any religious body which such control is granted, and to what extent granted, a temporary grant is the number belonging to the land is owned or controlled under the moral and religious instruction supervision or control of any land and buildings of such school. Erected and furnished, and under what by whom they are paid for. 8. These schools; how and from whom there is a system of Governmental over the teachers and trustees or medical returns to the Government of each. 10. Whether any of the school purposes from the Government. 11. Whether any of the religious among the Indians or half-breeds, directly or indirectly by land grants or argument. Presented to the House of *Not printed.*

24th February, 1885, for copies of all to any applications by or on behalf of the North-West, for aid or additional *Mr. Blake.....Not printed.*

1st March, 1885, for: 1. Copies of all sent to Council respecting the representation of all petitions, representations and of it, on the same subject, and and correspondence with the establishment of Local Governments to the House of Commons, 15th July, *Not printed.*

23rd March, 1885, for a Return of all between the Imperial Government and the Government of British Columbia and to the claim of the Crown for all information as to "fore shore" claims, 15th July, 1885.—*Mr. Baker.....Printed for Sessional Papers only.*

DOMINION OF CANADA

ANNUAL REPORT

OF THE

DEPARTMENT OF INDIAN AFFAIRS

FOR THE

YEAR ENDED 31st DECEMBER,

1884.

Printed by Order of Parliament.



OTTAWA:

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1885.

tion. The appointment of a resident Stipendiary Magistrate for the locality, and of a constable on the reserve, will, it is confidently expected, result most beneficially for the Indians, as the machinery is thus provided for the detection and punishment of the vendors to the Indians of intoxicants, which, as I stated in my last report, are too easily obtainable by them.

The Algonquin Band, whose reserve is situated on Lake Temiscamingue, in the County of Pontiac, are, as stated in my last year's report, more given to hunting and fishing than to steady agricultural labor, although the excellence of the soil in the tract owned by them affords them a favorable opportunity of pursuing successfully that industry. There is also a mill in operation at no great distance from the reserve, at which they may have their grain turned into flour at a reduced rate of toll, the Department having secured this privilege for the Indians, by granting, several years since, a small subsidy towards the erection of the mill. There is a school in operation at the Hudson Bay post, whereat some of the Indian children attend, but inasmuch as many of the Indians' houses are too remote from the Hudson Bay post for their children to go there, the Department is making arrangements for the establishment at a convenient point on the reserve, of a school for the benefit of the children of these families.

The Iroquois Band of St. Regis, who occupy a village situated on the east bank of the River St. Lawrence, in the County of Huntingdon, have greatly benefitted through the measures adopted by this Department, in concert with the authorities of the United States, to suppress the traffic in intoxicants upon both sides of the boundary line, which I stated in my report of last year were then about to be taken. Quietness and order now prevail in the village. With a view to insure, as far as possible, the continuance of this desirable condition of matters, a resident agent was appointed in September last, as it was considered that the former agent resided at too great a distance from the point to be able, when Indians returned to or were found in the village in a state of intoxication, to act promptly, either in the punishment of the Indian delinquents or in the discovery and bringing to justice of the parties who sold or gave the liquor to them. Mr. Tyre, the local Custom House officer, was appointed the Agent. He has resided for many years at St. Regis, and is held in high respect by both Indians and white people. By investing the Custom House officer at that place with the additional office of Indian Agent, the expense of building a residence for the latter official was saved, as the former already occupied suitable buildings.

The four schools established at various points on the reserve for the benefit of the children of this band are carrying on their operations, although they are greatly impeded by the usual irregularity of attendance on the part of the pupils. A neat building for one of these institutions was erected during the year on Cornwall Island, which forms part of the reserve, at the joint expense of the Department and

of the Methodist Church, under whose auspices it is conducted. Extensive repairs were also made to the Roman Catholic Church edifice at St. Regis, at the expense of the members of the band who belong to that denomination. These Indians are represented to be in a prosperous condition. As stated in my last Annual Report their principal employment consists in working in the woods for lumber merchants, and in piloting rafts of timber down the St. Lawrence. On some of the islands embraced in the reserve farming is followed with a fair measure of success. The large majority of the Indians settled on Cornwall Island, which is composed of most excellent arable land, have applied to the Department to have it sub-divided into lots. An exploratory survey was made in the autumn, and a plan for the sub-division of the land has been prepared. The Iroquois Band, who occupy a reserve land in the Territory of Sault St. Louis, in the County of Laprairie, and who, for the most part, reside at the village of Caughnawaga, on the River St. Lawrence, opposite to Lachine, are making fair progress in agricultural and other industries. Their second annual exhibition was held last autumn, and was a complete success, both as to the exhibits and the manner in which it was managed. A very commodious building, which cost about \$2,000, for holding these exhibitions, was erected last autumn, mainly at the expense of the band, although many persons interested in their welfare generously contributed towards it, and last autumn's exhibition was held in this building. The survey of this reserve into lots, which has been a most intricate and difficult undertaking, is nearly completed, and the Department is adopting measures with a view to locate in as satisfactory a manner as practicable, the various Indian families on the lots. This will be by no means an easy task, but by the exercise of patience and discretion it can, it is believed, be satisfactorily accomplished.

A change in the agency at this point was considered to be advisable, and was effected last summer. Complaints of their agent, in whom they appeared to have lost all confidence, were repeatedly made by the Indians; and, upon investigation, certain charges of a sufficiently serious nature to render a change advisable, were substantiated. The Indians appear to have confidence in the new agent, Mr. Alex. Brousseau, and it is hoped that the change will be attended with benefit alike to the Indians and to the Department.

The school on the reserve is not giving as much satisfaction as it is desirable it should give, and many of the Indians have recently expressed their opinion in regard to it in a practical manner, namely, by withdrawing their children and placing them at a private school, which has been lately established on the reserve, although they are obliged to pay for their tuition at the latter institution, whereas at the former, the teachers' salaries being paid by the Department, the children are taught free of all expense to their parents.

As an evidence of the enterprise of some of the members of this band, it may be stated that two of them, Chisholm Jocks and Alexander De Lorimer, have