



CONSOLIDATION OF INDIAN LEGISLATION.

VOLUME II:

INDIAN ACTS AND AMENDMENTS, 1868-1975.

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Under contract to:  
Department of Indian  
and Northern Affairs.

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INTRODUCTION

This consolidation of legislation pertaining to native peoples was prepared for the internal use of the Office of Native Claims, Department of Indian and Northern Affairs, and the legal officers. It consists of three volumes:

VOLUME I

UNITED KINGDOM AND CANADA

United Kingdom - Constitutional documents  
Canada - Pre-Confederation statutes  
Canada - Post-Confederation statutes

This Post-Confederation Legislation is further divided in the following order:

Administrative	Lands
Constitutional documents	Manitoba
Electoral provisions	Miscellaneous
Federal grants, assistance, etc.	Northern Canada
Federal provincial agreements	Saskatchewan and Alberta
International agreements	

VOLUME II

INDIAN ACTS AND AMENDMENTS, 1868-1975

These have been set up as follows: commencing with the Revised Statute of 1886, the relevant portions of each amending statute of the revised Indian Act have been inserted directly following the provision affected. The citations to these amending acts are given in the margin. The citation to the revised statute is given at the top of each page.

VOLUME III

PROVINCIAL LEGISLATION - PRE - AND POST-CONFEDERATION

Only those provisions of the provincial legislation which specifically relate to Indians have been reproduced herein. This legislation is separated into provinces, and then further divided in the following order:

Education	Liquor provisions
Electoral provisions	Miscellaneous
Game	Provincial grants, assistance, etc.
Lands	Taxation

While attempts have been made to be exhaustive, the user is reminded that it is a consolidation for internal use of government officials.

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An Act providing for the organisation of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands.  
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C A P . X L I I .

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

[Assented to 22nd May, 1868.]

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

Preamble.

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

Department constituted.

Tenure of office.

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

Under Secretary and officers.

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

General duties of Secretary.

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

To be Registrar General.

see S.C. 1875  
c. 6, s. 1.

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

And Superintendent of Indian affairs.

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

Indian Lands, to be under this Act.

Alienation on certain conditions only.

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

Moneys, securities, timber, &c., applicable to Indians, to

be under this Act.

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

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

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

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 summoned for that purpose according to their rules and entitled under this Act to vote thereat, and held in the presence of the Secretary of State or of an officer duly authorized to attend such council by the Governor in Council or by the Secretary of State ; provided that no Chief or Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near the lands in question ;

Proviso: who may vote.

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 as aforesaid shall be transmitted to the Secretary of State by such officer, and shall be submitted to the Governor in Council for acceptance or refusal.

Penalty for introducing liquor at any meeting for such assent.

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

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.

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

Governor in Council to direct the application of Indian moneys.

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

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

Penalty for giving or selling liquor to Indians.

see S.C. 1874  
c. 21, s. 1.

How recovered and applied.

Proviso: in case of sickness.

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

Pawns not to be taken from Indians.

see S.C. 1874,  
c. 21, s. 2.

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

Presents, &c., not liable for debts.

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

What persons only shall be deemed Indians.

see S.C. 1869,  
c. 6, s. 6.

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

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

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

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



How road labour shall be performed on Indian lands.

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

Proviso.

None but persons deemed Indians to settle on Indian lands.

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

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

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

Proviso.

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

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

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

Sheriff, &c., to arrest such persons.

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

Judgment;— it shall be final.

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

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

**How enforced and applied.**

**Misnomer in writs, warrants, &c., not to invalidate them.**

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

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

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

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

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

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

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

Secretary not to give security, &c.

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

Period in Sect. 6, extended.

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

Proceedings in case of encroachment on Indian lands.

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

Surveys of Indian lands.

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

Proceeds of timber.

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

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

Indian lands vested in Secretary.

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

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

Indian lands vested in Secretary.

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

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

Secretary of State to manage Ordnance lands.

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

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

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

C. 23, Con. Stat. Can.

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

Proviso: How such Acts shall be construed.

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

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

Powers as to certain other Crown Lands.

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

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

see S.C. 1876, c. 18, s. 99.

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

Proviso: not to impair other remedies.

Publication, effect and proof of Regulations.

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

see S.C. 1876, c. 18, s. 99.

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

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

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

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

**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 in-  
consistent  
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.

see S.C. 1869, c. 6; S.C. 1874, c. 21.

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

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. **H**ER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

**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.

**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.

**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

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.

see 1874, c. 21  
s. 1.

What shall be deemed lawful possession of lands by Indians.

Proceedings to eject parties not lawfully in possession.

Penalty on persons selling intoxicating liquors to Indians.

Imprisonment in default of payment.



S.C. 1869, c. 6.

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.

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.

S.C. 1869, c. 6.

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.

Life estates in  
lands may be  
granted in  
certain cases.

S.C. 1869, c. 6.

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

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

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

Provision for widows and unmarried daughters.

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

Duties of Indians with respect to enfranchisement.

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.

Effect of enfranchisement.

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 except 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 debt due to them, or for any wrong inflicted upon them, or to compel the performance of obligations made with them. Legal remedies of Indians

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

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

see S.C. 1874, c. 21; S.C. 1876, c. 18 for repeals.

An Act to provide for the establishment of "The Department of the Interior."  
S.C. 1873, c. 4. (36 Vict.)

## CHAP. 4.

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

[Assented to 3rd May, 1873.]

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

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

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

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

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

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

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

Preamble.

Department of the Interior.

Minister to manage the North West Territories.

The Indians in Canada.

The Ordnance other and Public Lands.

Exception.

Substituted for former Commissioner.

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

Deputy of the Minister of the Interior.

His duties.

Application of 31 Vic., c. 34, to such Deputy.

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

S.C. 1873, c. 4, cont'd.

Departmental  
and other  
officers may be  
appointed.

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

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

Former Act  
to remain in  
force and  
apply.

Subject to the  
substitution of  
certain words

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

Indians may  
be exempted  
from the  
operation of  
this Act.

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

Geological  
Survey.

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

Yearly report  
to Parliament.

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

Secretary of  
State of Ca-  
nada to have  
charge of State  
correspond-  
ence.

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

Other duties  
of Secretary of  
State for  
Canada.

Stationery  
Department.

Queen's  
Printer.

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

Certain office  
abolished.

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

When this  
Act shall  
come in force.

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

Repeal of in-  
consistent  
enactments.

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

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

[Assented to 26th May, 1874.]

Preamble.

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

31 V., c. 42, s. 12, and 32 s. 33 V., c. 6, s. 3 repealed, and new section substituted for the latter.

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

Provisions for preventing the supplying of intoxicating liquors to Indians.

Punishment for contravention, by fine and imprisonment.

If supplied from or on board any vessel.

"3. 1. Whoever sells, exchanges with, barter, supplies, or gives to any Indian man, woman or child in Canada, any kind of intoxicating liquor, or causes or procures the same to be done, or connives or attempts thereat or opens or keeps, or causes to be opened or kept on any land set apart or reserved for Indians, a tavern, house, or building where intoxicating liquor is sold, bartered, exchanged, or given, or is found in possession of intoxicating liquor in the house, tent, wigwam, or place of abode of any Indian, shall, on conviction thereof before any Justice of the Peace upon the evidence of one credible witness other than the informer or prosecutor, be liable to imprisonment for a period not exceeding two years, and be fined not more than five hundred dollars, one moiety to go to the informer or prosecutor, and the other moiety to Her Majesty, to form part of the fund for the benefit of that tribe or body of Indians with respect to one or more members of which the offence was committed; and the commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicating liquor shall have been sold, bartered, exchanged, supplied or given to any Indian man, woman or child,

shall be liable, on conviction thereof before any Justice of the Peace, upon the evidence of one credible witness other than the informer or prosecutor, to be fined not exceeding five hundred dollars for each such offence, the moieties thereof to be applicable as hereinbefore mentioned, and in default of immediate payment of such fine any person so fined may be committed to any common gaol, house of correction, lock-up, or other place of confinement by the Justice of the Peace before whom the conviction shall take place, for a period of not more than twelve months, or until such fine shall be paid; and in all cases arising under this section, Indians shall be competent witnesses: but no penalty shall be incurred in case of sickness where any intoxicating liquor is made use of under the sanction of any medical man or under the directions of a minister of religion."

Indians competent as witnesses.  
Proviso.

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

Forfeiture of the package containing such liquors.

Seizure of liquor.

And forfeiture.

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

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

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

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

Indian found drunk may be arrested.

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

Interpretation clause. "Intoxicating liquor."

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



S.C. 1874, c. 21.

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

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

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

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

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

Further provision in the same matter.

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

Court to warn Indian of his liability to punishment for false statement.

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

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

S.C. 1874, c. 21.

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

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

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

Indian defined.

9. Upon, from and after the passing of this Act, the Acts and portions of Acts hereinafter mentioned of the Parliament of Canada shall be and are hereby extended to and shall be in force in the Provinces of Manitoba and of British Columbia: and all enactments and laws theretofore in force in the said Provinces,

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

Others repealed.

inconsistent with the said Acts, or making any provision in any matter provided for by the said Acts, other than such as is made by the said Acts, shall be repealed on and after the passing of this Act.

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

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

1. Sections six to twenty-five both inclusive, and sections twenty-eight, twenty-nine, thirty, thirty-seven, thirty eight, thirty-nine and forty-two, of the Act passed in the thirty-first year of Her Majesty's reign, and intituled: "*An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands;*"

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

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

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

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

And may extend and apply certain other Acts

12. The Governor in Council may, by proclamation from time to time, direct the application of the Act passed in the thirty-first year of Her Majesty's reign, and intituled "*An Act providing for*

*the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands;*" and of an Act passed in the thirty-second and thirty-third years of Her Majesty's reign, intituled "*An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, chapter forty-two;*" and an Act passed in the thirty-sixth year of Her Majesty's reign, and intituled "*An Act to provide for the establishment of the Department of the Interior;*" or of any one or more of the clauses of any one or more of the said Acts to the Indians or any of them or any tribe of them or the Indian lands or any portions of them, or that the same be in force generally in the North West Territories.

and enactments, generally to any Indians or Indian lands in N. W. Territories.

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

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

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

Act how to be construed.

see S.C. 1876, c. 18 for repeals.

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

## CHAP. 6.

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

[Assented to 8th April, 1875.]

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

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

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

Signature of Deputy Registrar-General of Canada to avail in certain cases.

Addition made to sec. 4 of 31 V., c. 42.

## CHAP. 18.

An Act to amend and consolidate the laws respecting  
Indians.

[Assented to 12th April, 1876.]

**W**HEREAS 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 and extent of  
to the North West Territories, including the Territory of Act.  
Keewatin.

2. The Minister of the Interior shall be Superintendent- Superintendent-  
General of Indian Affairs, and shall be governed in the ent General.  
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 Meanings as-  
to have the meaning hereinafter assigned to them, unless such signed to  
meaning be repugnant to the subject or inconsistent with the terms in this  
context:— Act.

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

2. The term "irregular band" means any tribe, band or Irregular  
body of persons of Indian blood who own no interest in any Band.  
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:

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

**As to illegiti- mates.** (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. Reserve.

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

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

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 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 Intoxicants.

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

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 an Indian, unless the context clearly requires another construction. Person.

#### RESERVES.

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

Surveys authorized.

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

What Indians only deemed holders of lots.

6. In a reserve, or portion of a reserve, subdivided by survey into lots, no Indian shall be deemed to be lawfully in possession of one or more of such lots, or part of a lot, unless he or she has been or shall be located for the same by the band, with the approval of the Superintendent-General :

Indemnity to Indians dispossessed.

Provided that no Indian shall be dispossessed of any lot or part of a lot, on which he or she has improvements, without receiving compensation therefor, (at a valuation to be approved by the Superintendent-General) from the Indian who obtains the lot or part of a lot, or from the funds of the band, as may be determined by the Superintendent-General.

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 Indian, how to descend.

9. Upon the death of any Indian holding under location or other duly recognized title any lot or parcel of land, the right and interest therein of such deceased Indian shall, together with his goods and chattels, devolve one-third upon his widow, and the remainder upon his children equally; and such children shall have a like estate in such land as their father; but should such Indian die without issue but leaving a widow, such lot or parcel of land and his goods and chattels shall be vested in her, and if he leaves no widow, then in the Indian nearest akin to the deceased, but if he have no heir nearer than a cousin, then the same shall be vested in the Crown for the benefit of the band: But what-

Proviso.

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 Columbia or N. W. Territories, &c., having made improvements.

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:

Power to remove persons unlawfully occupying.

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.

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.

see S.C. 1879,  
c. 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  
Superintend-  
ent.

**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.

Superintend-  
ent 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.

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.

Proviso.

Con. Stat. U. C., c. 80.

**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 *“Act respecting claims to lands in Upper Canada for which no patents have issued.”*

Dnty of Superintendent in case of fraud.

Cancelling patent.

**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.

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 required 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.



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

Lands patented twice over.

Repayment of price in certain cases.

Limitation of time for claim.

Case of deficiency of land provided for.

Compensation.

Limitation of time for claim.

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

Practice in such cases.

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

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

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 preventing sale.

Misdemeanor, fine and imprisonment.

#### 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 must describe the lands: its effect.

Further rights of holders as to trespassers.

license during the term thereof, whether such trees, timber and lumber are cut by authority of the holder of such license or by any other person, with or without his consent;—And every license shall entitle the holder thereof to seize in re- 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.

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

- Return to be made by licensee.** **48.** Every person obtaining a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Superintendent-General a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square timber, manufactured and carried away under such license; and such statement shall be sworn to by the holder of the license, or his agent, or by his foreman; And any person refusing or neglecting to furnish such statement, or evading or attempting to evade any regulation made by Order in Council, shall be held to have cut without authority, and the timber made shall be dealt with accordingly.
- Punishment for evasion.**
- Timber to be liable for dues.** **49.** All timber cut under license shall be liable for the payment of the dues thereon, so long as and wheresoever the said timber or any part of it may be found, whether in the original logs or manufactured into deals, boards or other stuff,—and all officers or agents entrusted with the collection of such dues may follow all such timber and seize and detain the same wherever it is found, until the dues are paid or secured.
- Notes, etc., taken, not to affect lien.** **50.** Bonds or promissory notes taken for the dues, either before or after the cutting of the timber, as collateral security or to facilitate collection, shall not in any way affect the lien of the Crown on the timber, but the lien shall subsist until the said dues are actually discharged.
- Sale of timber seized after a certain time.** **51.** If any timber so seized and detained for non-payment of dues remains more than twelve months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid,—then the Superintendent-General, with the previous sanction of the Governor in Council, may order a sale of the said timber to be made after sufficient notice,—and the balance of the proceeds of such sale, after retaining the amount of dues and costs incurred, shall be handed over to the owner or claimant of such timber.
- Balance of proceeds.** **52.** If any person without authority cuts or employs or induces any other person to cut, or assists in cutting any timber of any kind on Indian lands, or removes or carries away or employs or induces or assists any other person to remove or carry away any merchantable timber of any kind so cut from Indian lands aforesaid, he shall not acquire any right to the timber so cut, or any claim to any remuneration for cutting, preparing the same for market, or conveying the same to or towards market,—and when the timber or saw-logs made, has or have been removed out of the reach of the officers of the Indian Branch of the Department of the Interior, or it is otherwise found impossible to seize the same, he shall in addition to the loss of his labour and disbursements, forfeit a sum of three dollars for each tree (rafting stuff excepted), which he is proved to have cut or caused to be cut or carried away,—and such sum shall be recoverable with costs, at the suit and in the name of the Superintendent-General or resident agent, in any court having jurisdiction in civil matters to the amount of the penalty;—And in all such cases it shall be incumbent on the party charged to prove his authority to cut; and the averment of the party seizing or prosecuting, that he is duly employed under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary.
- Punishment for unlawfully cutting timber, forfeiture.**
- Penalty if timber is removed.**
- How recoverable.**
- Proof.**

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

Seizure of timber cut without authority.

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

When it has been indistinguishably mixed with other timber.

All to be deemed cut on Indian lands.

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

Officer seizing

may command assistance. Punishment for resistance.

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.

Felony.

Conveying away without authority to be stealing.

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

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.

When to be deemed 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:

Sale.

How seizures may be tried and determined.

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.

Security may be ordered by bond.

If timber be condemned.

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

Evasion of dues to forfeit timber.

MONEYS.

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

To be dealt with as heretofore.

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

Governor in Council may direct investment of Indian funds.

And the management thereof; expenses how payable.

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.

.C. 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 whatsoever, the substance of the evidence or information of any such Indian, or non-treaty Indian, as aforesaid, shall be reduced to writing, and signed by the person (by mark if necessary) giving the same, and verified by the signature or mark of the person acting as interpreter (if any) and by the signature of the judge, stipendiary magistrate or coroner, or justice of the peace or person before whom such evidence or information has been given.

Substance of evidence to be reduced to writing and attested

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

Indian to be cautioned to tell the truth.

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

Of Command-  
ers of vessels  
furnishing the  
same.

to be fined not less than fifty nor exceeding three hundred dollars for each such offence, with costs of prosecution,—the moieties of the fine to be applicable as hereinbefore mentioned; and in default of immediate payment of such fine and costs any person so fined shall be committed to any common gaol, house of correction, lock-up, or other place of confinement by the judge, stipendiary magistrate or two justices of the peace before whom the conviction has taken place, for a period of not less than one nor more than six months, with or without hard labor, or until such fine and costs are paid: and any Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or

Penalties and  
application.

Imprison-  
ment in de-  
fault of pay-  
ment.

Punishment  
of Indian  
making, sell-  
ing or having

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

in possession  
of any intox-  
icant.

Exception.

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

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

Intoxicants and vessels containing them may be seized.

And destroyed by order of J. P.

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

Imprisonment in default of payment.

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

see S.C. 1879,  
c. 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 declare name chosen; and to be known by it.

Wife and minor children enfranchised. Effect of such enfranchisement.

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

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

Proviso as to children found unqualified, or being married.

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

**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.

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.

S.C. 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 evidence.

**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 Indians 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 officers, &c., to be paid out of monies appropriated 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.

and s. 50 of c. 68, Con. Stat. Can. S. 29 of c. 49 of Con. Stat. U. C., part of c. 81 of Con. Stat. U. C. ss. 5 to 33, and ss. 37, 38 of 31 V., c. 42. Acts 32, 33 V., c. 6, and 37 V., c. 21, &c., repealed.

Saving clause as to things done, &c.

**100.** 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. 1880, c. 28, s. 112 for repeals.

## CHAP. 34.

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

[Assented to 15th May, 1879.]

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

Sect. 3 of 39 V., c. 18, sub-section 3 amended. 1. Paragraph (e) of sub-section three, of section three of "The Indian Act 1876," is hereby amended by adding at the end thereof the words "And any half-breed who may have been admitted into a treaty shall be allowed to withdraw therefrom on refunding all annuity money received by him or her under the said treaty, or suffering a corresponding reduction in the quantity of any land, or scrip, which such half-breed as such may be entitled to receive from the Government."

Section 16 repealed. 2. Section sixteen of the Act aforesaid is hereby repealed, and the following section substituted in lieu thereof:—

New section substituted. Punishment of persons trespassing on Indian 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 any of the said land, roads or allowances for roads in the said reserve, by cutting, carrying away, or removing therefrom any of the trees, saplings, shrubs, underwood, timber or hay thereon, or by removing any of the stone, soil, minerals, metals or other valuables, off the said land, roads or allowances for roads, the person or Indian so trespassing shall, on conviction thereof before any Stipendiary Magistrate, Police Magistrate or Justice of the Peace, for every tree he cuts, carries away or removes, forfeit and pay the sum of twenty dollars; and for cutting, carrying away, or removing any of the saplings, shrubs, underwood, timber or hay, if under the value of one dollar, the sum of four dollars; but if over the value of one dollar, then the sum of twenty dollars; and for removing any of the stone, soil, minerals, metals or other valuables aforesaid, the sum of twenty dollars, with costs of prosecution in all cases; and in default of immediate payment of the said penalties and costs, the Superintendent-General, or such other person as he may have authorized in that behalf, may issue a warrant, directed to any person or persons by him named therein, to levy the amount of the said penalties and costs by distress and sale of the goods and chattels of the person liable to

Recovery of of penalties if not forthwith paid.

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

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

Or by imprisonment.

And if the amount is not levied under the warrant.

Application of penalties.

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

Section 17 amended.

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

Section 63 amended.

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

And by adding to the said section the two following subsections:—

“9. The repression of noxious weeds;

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

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

Section 69 amended.

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

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

Section 87 amended. **6.** Section eighty-seven is hereby amended by adding thereto the words "and in such cases compliance with the provisions of sections twenty-five and twenty-six and the sub-sections thereof shall not be necessary."

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

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

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

## 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.

Non-treaty  
Indian.

Enfranchised  
Indian.

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

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

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

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 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. Intoxicants.

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

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

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

Superintendent-General of Indian Affairs. 3. The Minister of the Interior shall be the Superintendent-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 Superintendent-General of Indian Affairs, his powers and duties. 5. The Governor General in Council may, by commission under the Great Seal, appoint a Deputy of the Superintendent-General of Indian Affairs, who shall be charged under the Superintendent-General with the performance of his Departmental duties, and with the control and management of the officers, clerks and servants of the Department, and with such other powers and duties as may be assigned to him by the Governor in Council.

Schedule A of 31 V., c. 34 amended. 6. Schedule A of the "Canada Civil Service Act, 1868," is hereby amended by adding thereto the words "Deputy of the Superintendent-General of Indian Affairs."

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 subdivision 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.

see S.C. 1884,  
c. 27, s. 5.

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.

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

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

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.

See S.C. 1884,  
c. 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.

S.C. 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.

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

Penalties for removing certain things.

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.

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.

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.

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.

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

**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. 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 <sup>Her Majesty's</sup> ~~same may be~~

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 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.

Surrender of Special Reserve to Her Majesty in trust.

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 unre-scinded 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 upon any such assignment being produced to the Superintendent-General, and, (except in cases where such assignment is made under a corporate seal), with an affidavit of due execution thereof, and of the time and place of such execution, and the names, residences and occupations of the witnesses, or, as regards lands in the Province of Quebec, upon the production of such assignment executed in notarial form, or of a notarial copy thereof, the Superintendent-

**Entries therein on what proof to be made.**



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

Their effect.  
Proviso.

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

If subscribing witness be dead, etc.

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

Certain courts may avoid patents issued in error, etc.

Practice in such cases.

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

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

**Penalty.**

**Recovery.**

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

**Misdemeanor, fine and imprisonment.**

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

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

**As to error in description. etc.**

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

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 revindication or otherwise, such trees and the logs, timber or other product thereof where the same are found in the possession of any unauthorized person, and also to institute any action or suit at law or in equity against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any; and all proceedings pending at the expiration of any license may be continued to final termination as if the license had not expired.

Further rights of holders of licenses as to trespassers.

Continuing proceedings.

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

Return to be made by licensee.

Punishment for not making return or for evasion of regulations.

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

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

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

Security taken for dues not to affect lien.

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

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 obstructing him.

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

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

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

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

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 denomination 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 pounds and the appointment of pound-keepers ;
9. The locating of the land in their reserves, and the establishment of a register of such locations ;
10. The repression of noxious weeds ;

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.

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

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 imprisoned.

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

Payment of annuity may also be stopped in cases of an Indian husband deserting his wife, or an Indian wife deserting her husband.

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

Indians may be relieved out of the funds of the band, when sick, etc.

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

**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.

**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.

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, 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

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

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.

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

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

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

Articles exchanged for intoxicants may be seized and forfeited.

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

S.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.

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

Patent after certain period of probation.

see S.C. 1884, c. 27, s. 17.

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.

Proviso: as to ss. 36, 37.



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

see S.C. 1884,  
s. 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 probatio-  
nary 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 enfranchised, 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.

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

If such Indian  
be a married  
man or  
widow.

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

Provision as  
to Indians in  
British 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 Parliament.

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

Acts and parts of Acts repealed.

Saving clause as to things done, etc.

How this Act shall be construed.

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

Repealed Acts not to revive.

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

## CHAP. 17.

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

[Assented to 21st March, 1881.]

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

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

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

Publication.

See S.C. 1882,  
c. 30, s. 6.

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.

Penalty for buying from Indians contrary to such regulations.

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.

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

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.

Governor in Council may prohibit cutting of trees on reserves.

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

Penalty for  
contravention  
of such  
regulations.

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.

Who may act  
as a Justice,  
or as two  
Justices of  
the Peace.

43 V., c. 28.

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

Jurisdiction  
in city or  
town to give  
jurisdiction  
in surround-  
ing county or  
district.

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

Section 23 of  
43 V., c. 28,  
repealed.

New section.

Removal of  
persons or  
Indians set-  
tling, &c,  
illegally on  
Indian re-  
serves.

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 license of the Superintendent General (which license, however, he may at any time revoke) settles, resides, or hunts upon, or occupies, or uses, any such land or marsh; or settles, resides upon, or occupies any such roads or allowances for roads, on such reserve; or if any Indian is illegally in possession of any land in a reserve,—the Superintendent General, or such officer or person as he may thereunto depute and authorize, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith to remove from the said land, or marsh, or roads or allowances for roads or land, every such person or Indian and his family, so settled, residing, or hunting upon, or occupying, or being illegally in possession of the same, or to notify such person or Indian to cease using as aforesaid the said lands, marshes, roads or allowances for roads: and such person shall accordingly remove or notify every such person or Indian, and for that purpose shall have the same powers as in the execution of criminal process; and the expenses incurred in any such

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. 1884,  
c. 27, s. 21.

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

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

Section 30 repealed.

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

New section. Sheriffs, &c. to assist in such removal.

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

Section 90 of 43 V., c. 28, amended.

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

Section 91 of 43 V., c. 28, amended.

**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.

Indian Commissioner, &c., to be *ex officio* Justices of the Peace.

**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.

Informer may give evidence under 43 V., c. 28.

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

Appointment of Assistant Indian Commissioners.

see S.C. 1884, c. 27, s. 22.

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

## CHAP. 30

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

[Assented to 17th May, 1882.]

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

1. The sixth sub-section of the second section of "*The Indian Act, 1880*" is hereby amended by striking out of the fourth line thereof the words "but which is unsundered," and inserting in lieu thereof the words "and which remains a portion of the said Reserve." Subs. 6 of s. 2, 43 V., c. 28 amended.

2. The twenty-seventh section of "*The Indian Act, 1880*" is hereby amended by striking out of the twelfth line thereof the word "Justice" and inserting in lieu thereof the words "any two Justices," and by striking out of the twenty-ninth line thereof the word "Justice" and inserting in lieu thereof the word "Justices." Sect. 27 amended.

3. Wherever, in "*The Indian Act, 1880*," or in the Act passed in the forty-fourth year of Her Majesty's reign, chaptered seventeen, amending the said Act,—or in this Act, power is given to any Stipendiary Magistrate or Police Magistrate to dispose of cases of infraction of the provisions of the said Acts brought before him, any Indian Agent shall have the same power as a Stipendiary Magistrate or a Police Magistrate has in respect to such cases. Indian Agent to have in certain cases powers of a magistrate.

see S.C. 1884, c. 27, s. 23.

4. The seventy-eighth section of "*The Indian Act, 1880*" is hereby amended by adding thereto the following words: "But in any suit between Indians no appeal shall lie from an order made by any District Magistrate, Police Magistrate, Stipendiary Magistrate or two Justices of the Peace, when the sum adjudged does not exceed ten dollars." Sect. 78 of 43 V., c. 28 amended.

see S.C. 1884, c. 27, s. 24.

5. The ninety-fourth section of "*The Indian Act, 1880*" is hereby amended by adding after the word "month" in the eleventh line thereof the words: "or to a fine of not less than five nor more than thirty dollars, or to both fine and imprisonment in the discretion of the convicting Judge, Stipendiary Magistrate or Justice of the Peace," and by adding after the word "days" in the nineteenth line the following words: "or to an additional fine of not less than three nor more than fifteen dollars, or to both fine and imprisonment at the discretion of the convicting Judge, Stipendiary Magistrate or Justice of the Peace." Sect. 94 amended. Penalties increased.

6. The second section of the Act passed in the forty-fourth year of Her Majesty's reign, chaptered seventeen, intituled "*An Act to amend the Indian Act, 1880*" is hereby amended by adding after the word "conviction" in the fifth line thereof, the words: "before a Stipendiary Magistrate, Police Magistrate, or two Justices of the Peace." Sec. 2 of 44 V., c. 17 amended.



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

## CHAP. 6.

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

[Assented to 25th May, 1883.]

Preamble.

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

36 V., c. 4,  
s. 3, and 43  
V., c. 23, s.  
3, repealed.

1. The third section of the Act passed in the thirty-sixth year of Her Majesty's reign, chapter four, intituled "*An Act to provide for the establishment of "The Department of the Interior"*" and the third section of "*The Indian Act, 1880*," are hereby repealed and the following section is substituted for each such section respectively:—

"3. The Minister of the Interior or the Head of any other Department appointed for that purpose by order of the Governor in Council shall be the Superintendent General of Indian Affairs and shall, as such, have the control and management of the lands and property of the Indians in Canada."

New section substituted.  
Any Minister may be appointed Supt. General of Indian Affairs

2. So much of any Act or law as may be inconsistent with this Act, or make any provision in the matter provided for by this Act contrary hereto, is hereby repealed.

Inconsistent enactments repealed.

CHAP. 27.

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

[Assented to 19th April, 1884.]

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

Preamble.  
43 V., c. 28.

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

Inciting  
Indians,

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

To threaten,  
or—

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

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

2. The Superintendent General may, when he considers it in the public interest to do so, prohibit, by public notice to that effect, the sale, gift or other disposal, to any Indian in the Province of Manitoba or in any part thereof, or in the North West Territories or in any part thereof, of any fixed ammunition or ball cartridge; and every person who, after such notice, without the permission in writing of the Superintendent General, sells or gives or, in any other manner,

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

Punishment  
of persons  
selling or

giving the  
same contrary  
to such pro-  
hibition.

conveys to any Indian in the section of country thus prohibited any fixed ammunition or ball cartridge, shall incur a penalty of not more than two hundred dollars, or shall be liable to imprisonment for a term of not more than six months, or to both fine and imprisonment within the limits aforesaid, at the discretion of the court before which the conviction is had; and every offender against the provisions of this section may be tried in a summary manner by two Justices of the Peace or by any stipendiary or other magistrate having the power of two Justices of the Peace.

Celebrating  
or inciting to  
celebrate  
"Potlach,"  
or "Tamanawas"  
to be a  
misdemeanor  
punishable by  
imprison-  
ment.

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

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

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

**S. 20 repealed; new section.** **5. The twentieth section of the said Act is hereby repealed and the following is substituted therefor :—**

Indian may devise certain property by will.

Proviso: for consent of band and of Superintendent General, &c.

Further proviso: Intestacy in case of default.

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

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

Distribution of estate in case of intestacy.

Proviso: Discretionary power of Superintendent General.

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

Administration of property of minors.

Proviso: power of Superintendent General.

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

Distribution in case of death without issue.

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

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

In any case location ticket must be obtained.

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

Guardians of minors, how appointed.

Superintendent General to decide disputes among claimants.

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

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

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

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

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

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

Punishment  
of trespassers  
on reserves.

Penalties for  
removing  
certain  
things.

Recovery of  
penalties and  
costs.

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

Offender may  
be committed  
summarily.

Provision, in  
default of  
distress.

Application of  
penalties.

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

8. The thirty-sixth section of the said Act is hereby amended by inserting after the word "guardian" in the fifth line thereof, the following words: "or in the cases of Indians engaged in the practice of any one of the learned professions, or in teaching schools, or in pursuing a trade which interferes with their cultivating land on the reserve." Section 36 amended.  
As to Indians teaching school, &c.

9. The seventy-second section of the said Act is hereby amended by adding thereto the following sub-section:— Section 72 amended.

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

Punishment of Indians committing certain offences.

Section 74 amended.

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

Section 75 amended, as to taxes on enfranchised Indians.

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

Section 82 amended.

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

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

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

Section 95 amended: as to disorderly houses.

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

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

Section 97  
amended.

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

Conviction  
not to be  
removed by  
*certiorari*.

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

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

Section 99 re-  
pealed; new  
section.

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

Proceedings  
for enfran-  
chisement.

Certificate to  
be furnished.

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

And submit-  
ted to Council  
of the band.

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

Affidavits to  
be sent to  
Superinten-  
dent General.

Location  
ticket may be  
granted.

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

- “1. Every Indian who is admitted to the degree of doctor of medicine, or to any other degree by any university of learning, or who is admitted in any Province of Canada to practise law either as an advocate, or as a barrister or counsellor or solicitor or attorney or a notary public, or who enters holy orders, or who is licensed by any denomination of Christians as a minister of the gospel, may, upon petition to the Superintendent General, *ipso facto* become and be enfranchised under this Act, and he shall then be entitled to all the rights and privileges to which any other member of the band to which he belongs would be entitled if he was enfranchised under the provisions of this Act; and the Superintendent General may give him a suitable allotment of land from the lands belonging to the band of which he is a member: Provided, that if he is not the recognized holder of a location on the reserve by ticket or otherwise, he shall first obtain the consent of the band and the approval of the Superintendent General of Indian Affairs to such allotment.”
- Certain educational requirements to confer enfranchisement.
- Allotment in such case.      Proviso.
- Section 100 repealed; new section.      Patent may issue after probation.
- Conditions.      Proviso; as to sections 26 and 37.
- Section 101 amended.
- Section 104 amended.
- Section 105 amended.
17. The one hundredth section of the said Act is hereby repealed, and the following substituted therefor:—
- “100. After the expiration of three years (or such longer period as the Superintendent General deems necessary in the event of such Indian’s conduct not being satisfactory), the Governor may, on the report of the Superintendent General, order the issue of letters patent, granting to such Indian the land in fee simple, which had, with this object in view, been allotted to him or her by location ticket, but without power to sell, lease or otherwise alienate the land, unless with the sanction of the Governor in Council; and provisos to such effect shall be inserted in the letters patent conveying the land to the said Indian: and in such cases compliance with the provisions of sections thirty-six and thirty-seven of this Act shall not be necessary.”
18. The one hundred and first section of the said Act is hereby amended by adding thereto, after the word “names,” in the twenty-sixth line thereof the words “subject to the same restrictions and reservations as are contained in the letters patent issued to their parent.”
19. The one hundred and fourth section of the said Act is hereby amended by striking out the words “any band,” in the fifth line thereof, and substituting therefor the words “the Superintendent General.”
20. The one hundred and fifth section of the said Act is hereby amended by striking out the word “band” in the fifth line thereof, and substituting therefor the words “Superintendent General.”



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

Section 8 of  
44 V., c. 17,  
repealed.

21. The eighth section of the Act forty-fourth Victoria, chapter seventeen, is hereby repealed, and the following is hereby substituted for section twenty-three of "*The Indian Act, 1880* :—"

New section  
23 of Indian  
Act.

Removal of  
trespassers  
and their  
cattle.

"23. If any person or Indian, other than an Indian of the band, without the license of the Superintendent General (which license, however, he may at any time revoke), settles, resides, or hunts upon, or occupies, or uses, or causes or permits any cattle or other animals, owned by him or in his charge, to trespass on any such land or marsh, or fishes in any marsh, river, stream or creek on or running through a reserve; or settles, resides upon,

or occupies any such roads or allowances for roads, on such reserve; or if any Indian is illegally in possession of any land in a reserve,—the Superintendent General, or such officer or person as he thereunto deposes and authorizes, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith to remove from the said land or marsh, or roads or allowances for roads, every such person or Indian and his family, so settled, residing or hunting upon or occupying or being illegally in possession of the same,—or to remove such cattle or other animals from such land or marsh,—or to cause such person or Indian to cease fishing in any marsh, river, stream or creek, as aforesaid,—or to notify such person or Indian to cease using as aforesaid the said lands, river, streams, creeks or marshes, roads or allowances for roads; and such person shall accordingly remove or notify every such person or Indian, or remove such cattle or other animals, or cause such person or Indian to cease fishing as aforesaid, and for that purpose shall have the same powers as in the execution of criminal process; and the expenses incurred in any such removal or notification shall be borne by the person removed or notified, or owning the cattle or other animals removed, or having them in charge, and may be recovered from him as the costs in any ordinary suit,—or if the trespasser is an Indian, such expenses may be deducted from his or her share or shares of annuity and interest money, if any such be due to him or her."

Warrant for  
removal, or  
notice to  
remove.

Powers for  
that purpose.

As to costs.

22. The twelfth section of the Act forty-fourth Victoria, chapter seventeen, is hereby amended by adding at the end thereof the words, "with jurisdiction wheresoever any contravention of the provisions of '*The Indian Act, 1880*,' occurs, or wheresoever it is considered by him most conducive to the ends of justice that any contravention aforesaid shall be tried."

Section 12 of  
44 V., c. 17,  
amended.

23. The third section of the Act forty-fifth Victoria, chapter thirty, is hereby amended by adding at the end thereof the words "or in any other matter affecting Indians, with jurisdiction wheresoever any contravention of the provisions of the said Acts occurs, or wheresoever it is considered by him most conducive to the ends of justice that the trial be held :"

Section 3 of  
45 V., c. 30,  
amended.

And such officer shall have the same powers in respect to infractions of this Act.

Powers under  
this Act.

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

**24.** The fourth section of the Act forty-fifth Victoria, Section 4 of 45 V., c. 30, amended. chapter thirty, is hereby amended by striking out all the words after "following words" in the second line of the said section and by inserting the following in lieu thereof:—

No appeal in certain cases of assault by Indians.

"But in any suit between Indians or in a case of assault in which the offender was an Indian or the offenders were Indians, no appeal shall lie from an order made by any District Magistrate, Police Magistrate, Stipendiary Magistrate or two Justices of the Peace, when the sum adjudged, or the fine inflicted, does not exceed ten dollars."

Commencement of this Act.

**25.** This Act shall not come into force until the first day of January, in the year of Our Lord one thousand eight hundred and eighty-five.

## CHAP. 28.

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

[Assented to 19th April, 1884.]

Preamble.

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

Short title and application of Act.

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

Interpretation.  
43 V., c. 28.

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

When this Act shall apply to any band

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

Division of reserve into sections.

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

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

Designation of each.

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

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

First election of members of the Council of a Reserve.

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

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

First meeting of councillors.

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

Yearly elections.

Provision in case of election failing.

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

**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*.

**Proviso.**

**Meetings of the Council: agent or deputy to preside, his powers and duties.** 9. The council shall meet for the despatch of business, at such place on the reserve, and at such times as the agent for the reserve shall appoint, not being less than four nor more than twelve times in the year for which it is elected, and due notice of the time and place of each meeting shall be given to each councillor by the agent; at such meeting the agent for the reserve or his deputy, to be appointed for the purpose with the consent of the Superintendent General or his deputy, shall preside and record the proceedings, and shall have full power to control and regulate all matters of procedure and form, and to adjourn the meeting to a time named or *sine 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.

**Quorum.**

**Power to make by-laws on certain subjects.** 10. The council shall have power to make by-laws, rules and regulations, which, if approved and confirmed by the Superintendent General, shall have force as law within and 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 **Schools.** 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 **Proviso: for Catholic or Protestant minorities.** have a separate school or schools with the approval of and under regulations to be made by the Governor in Council;

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

2. The care of the public health ;

Health.

3. The observance of order and decorum at elections of councillors, meetings of the council, and assemblies of Indians on other occasions or generally on the reserve, by appointing constables and erecting lock-ups or by the adoption of other legitimate means ;

Decorum at meetings and elsewhere.

4. The repression of intemperance and profligacy ;

Moral offences.

5. The sub-division of the land in the reserve, and the distribution of the same among the members of the band ; also the setting apart for common use, wood land and land for other purposes ;

Sub-division of lands.

6. The protection of and the prevention of trespass by cattle, sheep, horses, mules and other domesticated animals ; and the establishment of pounds, the appointment of pound-keepers, and the regulation of their duties, fees and charges ;

Trespass by animals.

7. The construction and repair of school houses, council houses, and other buildings for the use of the Indians on the reserve ;

Buildings.

8. The construction, maintenance and improvement of roads and bridges, and the contributions in money or labor, and other duties of residents on the reserve in respect thereof ; and the appointment of road masters and fence viewers, and their powers and duties ;

Roads and bridges.

9. The construction and maintenance of water courses, ditches and fences, and the obligations of vicinage, and the destruction and repression of noxious weeds ; the preservation of the wood on the various holdings or elsewhere in the reserve ;

Water courses, &c.

10. The removal and punishment of persons trespassing upon the reserve, or frequenting it for improper purposes ;

Trespassers on reserves.

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

Raising funds: assess-

ments and collection of taxes.

Limitation of taxes, and provision if not paid.

Proviso: appeal.

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

Application of funds raised.

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

Imposition of penalties and enforcement thereof.

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

32, 33 V., c. 31.

Amending by-laws.

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

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

Disqualification of councillors for certain offences.

12. A copy of any by-law, rule or regulation under this Act approved by the Superintendent General or his deputy, and purporting to be certified by his agent for the 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.

Proof of by-laws, &c.

Not void for want of form.

13. The provisions of "*The Indian Act, 1880,*" and of any Act amending it, shall continue to apply to any 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

Act of 1880, 43 V., c. 22, how to apply.

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

Proviso: as to by-laws.



## CHAPTER 43.

## An Act respecting Indians.

A. D. 1886.

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

## SHORT TITLE.

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

## INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

(a.) The expression "Superintendent General" means the Superintendent General of Indian Affairs, and the expression "Deputy Superintendent General" means the Deputy Superintendent General of Indian Affairs; Interpretation. "Superintendent General."

(b.) The expression "Agent," or "Indian Agent," means and includes a commissioner, assistant commissioner, superintendent, agent or other officer acting under the instructions of the Superintendent General; "Agent" or "Indian agent."

(c.) The expression "person" means any individual other than an Indian; "Person."

(d.) The expression "band" means any tribe, band or body of Indians who own or are interested in a reserve or in Indian lands in common, of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities or interest moneys for which the Government of Canada is responsible; "Band."

(e.) The expression "the band" means the band to which the context relates; "The band."

(f.) The expression "band," when action is being taken by the band as such, means the band in council; "Band."

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

(h.) The expression "Indian" means— "Indian."

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

*Secondly.* Any child of such person;



R.S.C. 1886, c. 43, cont'd.

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

#### APPLICATION OF ACT.

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

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

R.S.C. 1886, c. 43, cont'd.

DEPARTMENT OF INDIAN AFFAIRS.

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

Any Minister may be appointed Superintendent General of Indian Affairs.

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

Department of Indian Affairs.

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

Duties of the Department of Indian Affairs.

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

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

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

Appointment of an Indian Commissioner and of an Indian Superintendent.

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

Appointment of Assistant Indian Commissioners.

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

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

4. The Governor General may appoint a Deputy Governor, who shall have the power, in the absence of or under instructions of the Governor General, to sign letters patent for Indian lands ; and the signature of such Deputy Governor to such patents shall have the same force and virtue as if such patents were signed by the Governor General. 43 V., c. 28, ss. 9 and 111 ;—44 V., c. 17, s. 14 ; 49 V., c. 7, s. 1.

Governor may appoint Deputy Governor to sign letters patent.

## MEMBERSHIP OF BAND.

**9.** Any illegitimate child may,—unless he has, with the consent of the band whereof the father or mother of such child is a member, shared in the distribution moneys of such band for a period exceeding two years,—be, at any time, excluded from the membership thereof by the Superintendent General. 43 V., c. 28, s. 10.

Exclusion of natural children from bands.

**10.** Any Indian who has for five years continuously resided in a foreign country without the consent, in writing, of the Superintendent General or his agent, shall cease to be a member of the band of which he or she was formerly a member; and he shall not again become a member of that band, or of any other band, unless the consent of such band, with the approval of the Superintendent General or his agent, is first obtained. 43 V., c. 28, s. 11.

Loss of membership through residence in a foreign country without leave.

**11.** Any Indian woman who marries any person other than an Indian, or a non-treaty Indian, shall cease to be an Indian in every respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and rents; but such income may be commuted to her at any time at ten years' purchase, with the consent of the band. 43 V., c. 28, s. 12.

Effect of marriage of an Indian woman with any other than an Indian or a non-treaty Indian.

**1.** Section eleven of "*The Indian Act*," is hereby amended R.S.C., c. 43, s. 11 amended. by adding the following sub-section thereto:—

"2. Where a band has become enfranchised, or has otherwise ceased to exist, such commutation may take place upon the approval of the Superintendent General."

S.C. 1890,  
c. 29, s. 1.

**12.** Any Indian woman who marries an Indian of any other band, or a non-treaty Indian, shall cease to be a member of the band to which she formerly belonged, and shall become a member of the band or irregular band of which her husband is a member; but if she marries a non-treaty Indian, while becoming a member of the irregular band of which her husband is a member, she shall be entitled to share equally with the members of the band of which she was formerly a member, in the distribution of their moneys; but such income may be commuted to her at any time at ten years' purchase, with the consent of the band. ~~43~~ V., c. 28, s. 13.

Effect of marriage of an Indian woman with an Indian of any band but her own, or with a non-treaty Indian.

As to half-breeds in Manitoba.

**13.** No half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian; and no half-breed head of a family, except the widow of an Indian, or a half-breed who has already been admitted into a treaty, shall, unless under very special circumstances, which shall be determined by the Superintendent General or his agent, be accounted an Indian, or entitled to be admitted into any Indian treaty; and any half-breed who has been admitted into a treaty shall be allowed to withdraw therefrom on signifying in writing his desire so to do,—which signification in writing shall be signed by him in the presence of two witnesses, who shall certify the same on oath before some person authorized by law to administer the same:

R.S.C. 1886, c. 43, cont'd.

1. Sub-section one of section thirteen of "*The Indian Act*" is hereby repealed and the following substituted therefor:—

Section 13 of R.S.C., c. 43 amended.

S.C. 1888, c. 22, s. 1.

"13. No half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian; and no half-breed head of a family, except the widow of an Indian or a half-breed who has already been admitted into a treaty, shall, unless under very special circumstances, which shall be determined by the Superintendent General or his agent, be accounted an Indian or entitled to be admitted into any Indian treaty; and any half-breed who has been admitted into a treaty shall, on obtaining the consent in writing of the Indian Commissioner or in his absence the Assistant Indian Commissioner, be allowed to withdraw therefrom on signifying in writing his desire so to do,—which signification in writing shall be signed by him in the presence of two witnesses, who shall certify the same on oath before some person authorized by law to administer the same; and such withdrawal shall include the minor unmarried children of such half-breed."

As to half breeds in Manitoba and elsewhere.

Withdrawal from treaty.

2. The half-breeds who are by the father's side either wholly or partly of Indian blood now settled in the seigniory of Caughnawaga, and who have inhabited the said seigniory for the last twenty years, are hereby confirmed in their possession and right of residence and property, but not beyond the tribal rights and usages which others of the band enjoy. 43 V., c. 28, s. 14;—47 V., c. 27, s. 4.

Half-breeds of Caughnawaga confirmed in certain rights.

R.S.C. 1886, c. 43, s. 13, cont'd.

#### RESERVES.

14. All reserves for Indians, or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as they were held before the passing of this Act, but shall be subject to the provisions of this Act. 43 V., c. 28, s. 15.

Reserves to be subject to this Act.

15. The Superintendent General may authorize surveys, plans and reports to be made of any reserve for Indians, showing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as is required; and may authorize the whole or any portion of a reserve to be sub-divided into lots. 43 V., c. 28, s. 16.

Surveys, plans, reports and sub-division into lots of reserves may be authorized.

16. No Indian shall be deemed to be lawfully in possession of any land in a reserve, unless he has been or is located for the same by the band, or council of the band, with the approval of the Superintendent General; but no Indian shall be dispossessed of any land on which he has improvements, without receiving compensation therefor, at a valuation approved by the Superintendent General, from the Indian who obtains the land, or from the funds of the band, as is determined by the Superintendent General. 43 V., c. 28, s. 17.

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

S.C. 1890,  
c. 29, s. 2.

**2.** Section sixteen of the said Act is hereby amended, S. 16 amended.  
by adding the following words at the end thereof: " Provided Proviso for  
always, that prior to the location of an Indian under this certificates of  
section, the Indian Commissioner for Manitoba, Keewatin and occupancy in  
The Western Territories may issue a certificate of occupancy Manitoba,  
to any Indian belonging to a band residing upon a reserve Keewatin and  
in the aforesaid Province, District or Territories, of so much Western Ter-  
land, (in no case however to exceed one hundred and sixty ritories.  
acres,) as the Indian, with the approval of the Commissioner,  
selects ; and such certificate may be cancelled at any time by  
the Indian Commissioner, but shall, while it remains in force,  
**vest in the holder thereof, as against all others, lawful possession of the lands described therein.**

**17.** When the Superintendent General approves of any Location  
location as aforesaid, he shall issue, in triplicate, a ticket ticket in tri-  
granting a location title to such Indian, one triplicate of plicate; and  
which he shall retain in a book to be kept for the purpose ; how dealt  
and the other two of which he shall forward to the local with.  
agent—one to be delivered to the Indian in whose favor it  
was issued, and the other to be filed by the agent, who shall  
also cause the same to be copied into a register of the band,  
provided for the purpose. 43 V., c. 28, s. 18.

**18.** The conferring of any such location title shall not Effect of such  
have the effect of rendering the land covered thereby sub- ticket limited.  
ject 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. 43 V., c. 28, s. 19.

Privileges of  
Indians and  
non-treaty In-  
dians having  
improved  
lands inclu-  
ded in reserves  
in certain  
Provinces.

**19.** Every Indian and every non-treaty Indian, in the Pro-  
vince of British Columbia, in the Province of Manitoba, in the  
North-West Territories or in the District of Keewatin, who  
has, previously to the selection of a reserve, possession of  
and who has made permanent improvements on a plot of  
land which is or shall be included in, or surrounded by, a  
reserve, shall have the same privileges, in respect of such  
plot, as an Indian enjoys who holds under a location title.  
43 V., c. 28, s. 21.

DESCENT OF PROPERTY.

Indian may  
devise certain  
property by  
will.

**20.** Any Indian who holds, under location ticket or other  
duly recognized title, any parcel of land upon the reserve  
of his band, or upon a reserve of any other band, upon  
which he, or he and his family, or any of them, resided at the  
date of his death, may devise the same by will, as well as  
his personal effects or other property of which he is the re-  
cognized owner, to such member or members of his family,  
or relative or relatives, as to him seems proper ; provided  
the said will, after his death, is consented to by the band  
owning the said reserve, and approved of by the Superin-  
tendent General, and that such devise is not to any relative  
who is not entitled to reside upon the reserve of the band  
on which the property devised is situated, or to any relative  
farther removed than a second cousin :

Proviso: as to  
approval.

May be sub-  
ject to trusts.

**2.** The devise may be made subject to such trusts as to  
the devisor seems proper, if the same are within the provi-  
sions of this Act, or any other Act respecting Indian  
affairs :

R.S.C. 1880, c. 45, cont'd.

Effect of non-approval.

3. If such will is not assented to or approved of, as aforesaid, the Indian shall be deemed to have died intestate:

Distribution of estate in case of intestacy.

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

Proviso.

Administration of property of minors.

5. During the minority of such children, the administration and charge of such land and goods and chattels as they are entitled to, as aforesaid, shall devolve upon the widow,

if any, of such deceased Indian, if she is a woman of good moral character and was living with her husband at the time of his death; and as each male child attains the age of twenty-one years, and each female child attains that age or marries before that age, with the consent of the said widow the share of such male or female child shall be conveyed or delivered, as the case may be, to him or her; but the Superintendent General may, at any time, remove the widow from such administration and charge, and confer the same upon some other person, and, in like manner, may remove such other person and appoint another, and so, from time to time, as occasion requires:

Proviso.

6. If any such Indian dies without issue, leaving a widow of good moral character, such lot or parcel of land, and his goods and chattels, shall be vested in her, and if he leaves no widow, then they shall be vested in the Indian nearest of kin to the deceased; but if he has no heir nearer than a cousin, the same shall be vested in Her Majesty for the benefit of the band:

Distribution in case of death without issue.

7. Whatever is the final disposition of the land, the claimant shall not be held to be lawfully in possession until he obtains a location ticket from the Superintendent General, in the manner prescribed in regard to new locations:

In any case location ticket must be obtained.

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

Appointment of guardians of minors.

9. The Superintendent General may decide all questions which arise respecting the distribution, among those entitled, of the lands and goods and chattels of a deceased Indian, and may also do whatsoever he, under the circumstances, thinks will best give to each claimant his share, according to the true intent and meaning of this Act, whether such share is part of the lands or goods and chattels themselves, or is part of the proceeds thereof, if it is thought best to dispose thereof—regard always being had in any such disposition to restrictions upon the disposition of property in a reserve. 47 V., c. 27, s. 5.

Superintendent General to decide disputes.

S.C. 1894,  
c. 32, s. 1.

1. Section twenty of *The Indian Act*, chapter forty-three of the Revised Statutes, is hereby repealed and the following substituted therefor:--

R.S.C., c. 43,  
s. 20 amended.

"20. Indians may devise or bequeath property of any kind in the same manner as other persons: Provided that no devise or bequest of land in a reserve or of any interest therein shall be made to any one not entitled to reside on such reserve, except when the devise or bequest of land is made to the daughter, sister or grand-children of the testator, and that no will purporting to dispose of land in a reserve or any interest therein shall be of any force or effect unless or until the will has been approved by the superintendent general, and that if a will be disapproved by the superintendent general the Indian making the will shall be deemed to have died intestate; and provided further that the superintendent general may approve of a will generally and disallow any disposition thereby made of land in a reserve or of any interest in such land, in which case the will so approved shall have force and effect except so far as such disposition is concerned and the Indian making the will shall be deemed to have died intestate as to the land or interest as to which such disallowance takes place.

Indians may  
devise or be-  
queath all  
property by  
will.

Proviso: as to  
approval by  
superinten-  
dent general.

Effect of par-  
tial approval.

"2. Upon the death of an Indian intestate his property of all kinds, real and personal, movable and immovable, including any recognized interest he may have in land in a reserve, shall devolve one-third upon his widow, if any, if she is a woman of good moral character, as to which fact the superintendent general shall be the sole and final judge, and the remainder (or the whole if there is no widow or if the widow is not of good moral character) upon the children in equal shares if they are Indians within the meaning of this Act: provided that if one or more of the children of such intestate Indian are living and one or more are dead the inheritance shall devolve upon the children who are living and the descendants of such children as have died, so that each child who is living shall receive such share as would have descended to him if all the children of the intestate who have died leaving issue had been living, and so that the descendants of each child who is dead shall inherit in equal shares the share which their parent would have received if living, and the rule of descent thus prescribed shall apply in every case where the descendants of the intestate, entitled to share in the inheritance, are of unequal degrees of consanguinity to the intestate, so that those who are in the nearest degree of consanguinity shall take the shares which would have descended to them, had all the descendants in the same degree of consanguinity who have died leaving issue, been living, and so that the issue of the descendants, who have died, shall respectively take the shares which their parents, if living, would have received: provided that the superintendent general may in his discretion direct that the widow, if she is of good moral character, shall have the right during her widowhood to occupy any land in the reserve of the band to which the deceased belonged of which he was the recognized owner and to have the use of any property of the deceased for which under section seventy-seven of this Act he was not liable to taxation.

Distribution  
of estate in  
case of intes-  
tacy.

Descendants  
to inherit *per*  
*stirpes*.

Proviso: as to  
widow.

R.S.C. 1886, c. 43, cont'd.

Administra-  
tion of prop-  
erty of minors.

"3. During the minority of the children of an Indian who dies intestate the administration and charge of the property to which they are entitled as aforesaid shall devolve upon the widow, if any, of the intestate, if she is of good moral character, and in such case, as each male child attains the age of twenty-one years, and as each female child attains that age or with the consent of the widow marries before that age, the share of such child, shall, subject to the approval of the superintendent general, be conveyed or delivered to him or her; but the superintendent general may at any time remove the widow from such administration and charge and confer the same upon some other person and in like manner may remove such other person and appoint another and so from time to time as occasion requires.

S.C. 1894, c. 32,  
s. 1, cont'd.

Distribution  
in case of  
death without  
issue.

"4. In case any Indian dies intestate without issue, leaving a widow of good moral character, all his property of whatever kind shall devolve upon her, and if he leaves no widow the same shall devolve upon the Indian nearest of kin to the deceased; any interest which he may have had in land in a reserve shall be vested in Her Majesty for the benefit of the band owning such reserve if his nearest of kin is more remote than a brother or sister.

Distribution  
of property of  
Indian woman  
dying intes-  
tate.

"5. The property of a married Indian woman who dies intestate shall descend in the same manner and be distributed in the same proportions as that of a male Indian under the like circumstances, her widower, if any, taking the share which the widow of such male Indian would take; and the other provisions of this section shall in like manner apply to the case of an intestate married woman, the word "widower" being substituted for the word "widow" in each case. The property of an unmarried Indian woman who dies intestate shall descend in the same manner as if she had been a male.

"6. A claimant of land in a reserve or of any interest therein as devisee or legatee or heir of a deceased Indian shall not be held to be lawfully in possession thereof or to be the recognized owner thereof until he shall have obtained a location ticket therefor from the superintendent general.

In any case  
location ticket  
requisite for  
possession.

"7. The superintendent general may, whenever there are minor children, appoint a fit and proper person to take charge of such children and their property and may remove such person and appoint another and so from time to time as occasion requires.

Appointment  
of guardians  
of minors.

"8. The superintendent general may decide all questions which arise under this Act, respecting the distribution among those entitled thereto of the property of a deceased Indian, and he shall be the sole and final judge as to who the persons so entitled are. The superintendent general may do whatsoever in his judgment will best give to each claimant his share according to the true intent and meaning of this Act, and to that end if he thinks fit may direct the sale, lease or other disposition of such property or any part thereof and the distribution or application of the proceeds or income thereof, regard being always had in any such disposition to the restrictions upon the disposition of property in a reserve.

Superinten-  
dent general  
to decide dis-  
putes.



R.S.C. 1886, c. 43, cont'd.

S.C. 1894, c. 32,  
s. 1, cont'd.

**“9. Notwithstanding anything in this Act it shall be lawful for the courts having jurisdiction in that regard in the case of persons other than Indians, with but not without the consent of the superintendent general, to grant probate of the wills of Indians and letters of administration of the estate and effects of intestate Indians, in which case such courts and the executors and administrators obtaining such probate or thereby appointed shall have the like jurisdiction and powers as in other cases, except that no disposition shall, without the consent of the superintendent general, be made of or dealing had with regard to any right or interest in land in a reserve or any property for which, under section seventy-seven of this Act, an Indian is not liable to taxation.”**

Probate and  
letters of ad-  
ministration.

TRESPASSING ON RESERVES.

**21. No person, or Indian other than an Indian of the band, shall settle, reside or hunt upon, occupy or use any land or marsh, or shall settle, reside upon or occupy any road, or allowance for road, running through any reserve belonging to or occupied by such band; and all mortgages given or consented to by any Indian, and all leases, contracts and agreements made or purporting to be made by any Indian, whereby persons or Indians other than Indians of the band are permitted to reside or hunt upon such reserve, shall be void.** 43 V., c. 28, s. 22.

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

S.C. 1894, c. 32,  
s. 2.

**2. Section twenty-one of *The Indian Act* is hereby repealed and the following substituted therefor:—**

Section 21  
amended.

**“21. Every person, or Indian other than an Indian of the band, who, without the authority of the superintendent general, resides or hunts upon, occupies or uses any land or marsh, or who resides upon or occupies any road, or allowance for road, running through any reserve belonging to or occupied by such band, shall be liable, upon summary conviction, to imprisonment for a term not exceeding one month or to a penalty not exceeding ten dollars and not less than five dollars, with costs of prosecution, half of which penalty shall belong to the informer; and all deeds, leases, contracts, agreements or instruments of whatsoever kind made, entered into, or consented to by any Indian, purporting to permit persons or Indians other than Indians of the band to reside or hunt upon such reserve, or to occupy or use any portion thereof, shall be void.”**

Only Indians  
of the band to  
reside on or  
use reserve.

Penalty.

All permis-  
sions to the  
contrary are  
void.

Removal of  
trespassers  
and their  
cattle.

**22. If any person, or Indian other than an Indian of the band, without the license of the Superintendent General (which license he may at any time revoke), settles, resides or hunts upon, occupies, uses, or causes or permits any cattle or other animals owned by him, or in his charge, to trespass on any such land or marsh, or fishes in any marsh, river, stream or creek on or running through a reserve, or settles, resides upon or occupies any such road, or allowance for road, on such reserve,—or if any Indian is illegally in possession of any land in a reserve—the Superintendent General, or such officer or person as he thereunto deposes and authorizes, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith—**

R.S.C. 1886, c. 43, cont'd.

Removal of persons.	(a.) To remove from the said land, marsh or road, or allowance for road, every such person or Indian and his family, so settled, or who is residing or hunting upon, or occupying, or is illegally in possession of the same; or—
And of cattle.	(b.) To remove such cattle or other animals from such land or marsh; or—
Prevention of fishing.	(c.) To cause such person or Indian to cease fishing in any marsh, river, stream or creek, as aforesaid; or—
Notice to trespasser.	(d.) To notify such person or Indian to cease using, as aforesaid, the said lands, river, streams, creeks or marshes, roads or allowance for roads;
Effect of warrant.	And such person shall accordingly remove or notify every such person or Indian, or remove such cattle or other animals, or cause such person or Indian to cease fishing, as aforesaid, and for that purpose shall have the same powers as in the execution of criminal process; and the
Costs.	expenses incurred in any such removal or notification shall be borne by the person removed or notified, or who owns the cattle or other animals removed, or who has them in charge, and may be recovered from him as the costs in any ordinary action or suit, or if the trespasser is an Indian, such expenses may be deducted from his share of annuity and interest money, if any such are due to him. 47 V., c. 27, s. 21.

R.S.C., c. 43,  
s. 22 amended.

1. Section twenty-two of "*The Indian Act*," chapter forty-three of the Revised Statutes, is hereby amended by adding the following sub-section thereto:—

Removal at request of agent, &c.

"2. Or any such person or Indian other than an Indian of the band may be required orally or in writing by an Indian agent, a chief of the band occupying the reserve, or a constable—

"(a.) To remove (with his family, if any) from the land, marsh or road, or allowance for road upon which he is or has so settled, or is residing or hunting, or which he so occupies; or—

"(b.) To remove his cattle from such land or marsh; or—

"(c.) To cease fishing in any such marsh, river, stream or creek as aforesaid; or—

"(d.) To cease using as aforesaid any such land, river, stream, creek, marsh, road or allowance for road:

Penalty.

"And any such person or Indian who fails to comply with such requirement, shall, upon summary conviction, be liable to a penalty of not less than five and not more than ten dollars for every day during which such failure continues, and in default of payment to be imprisoned for a term not exceeding three months."

S.C. 1891, c. 30,  
s. 1.

Removal and  
punishment  
of persons  
returning  
after having  
been remov-  
ed.

**23.** If any person or Indian, after he has been removed or notified as aforesaid, or after any cattle or other animals owned by him or in his charge have been removed, as aforesaid, returns to, settles, resides or hunts upon, or occupies or uses, as aforesaid, any of the said land, marsh or lots, or parts of lots, or causes or permits any cattle or other animals owned by him or in his charge, to return to any of the said land, marsh, or lots or parts of lots, or returns to any marsh, river, stream or creek on or running through a reserve, for the purpose of fishing therein, or settles or resides upon or occupies any of the said roads, 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, or has caused or permitted any cattle or other animals owned by him, or in his charge, to return to any of the said land, marsh or lots or parts of lots, or has returned to any marsh, river, stream or creek, on or running through a reserve, for the purpose of fishing therein, shall direct and send his warrant, signed and sealed, to the sheriff of the proper county or district, or to any literate person therein; and if the said reserve is not situated within any county or district, then to any literate person, commanding him forthwith to arrest such person or Indian, and bring him before any stipendiary magistrate, police magistrate, justice of the peace, or Indian agent, who may, on conviction, commit him to the common gaol of the said county or district; or if there is no gaol in the said county or district, then to the gaol nearest to the said reserve in the Province or Territory, there to remain for the time ordered in such warrant, but which shall not exceed thirty days for the first offence, and thirty days additional for each subsequent offence. 43 V., c. 28, s. 24;—45 V., c. 30, s. 3;—47 V., c. 27, s. 6.

Warrant to  
sheriff, to  
arrest and  
commit to  
gaol.

Limitation of  
imprison-  
ment.

**24.** Such sheriff or other person shall accordingly arrest the said person or Indian, and deliver him to the gaoler or sheriff of the proper county, district, Province or Territory, who shall receive such person or Indian, and imprison him in the said gaol for the term aforesaid. 43 V., c. 28, s. 25.

Arrest and  
imprison-  
ment.

**25.** The Superintendent General, or such officer or person aforesaid, shall cause the judgment or order against the offender to be drawn up and filed in his office; and such judgment shall not be appealed from, or removed by *certiorari* or otherwise, but shall be final. 43 V., c. 28, s. 26.

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

R.S.C. 1886, c. 43, cont'd.

**26.** Every person, or Indian other than an Indian of the band to which the reserve belongs, who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away, or removes from any of the said land, roads or allowances for roads, in the said reserve, any of the trees, saplings, shrubs, underwood, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables from the said land, roads or allowances for roads, shall, on conviction thereof before any stipendiary magistrate, police magistrate, or any two justices of the peace or Indian agent, incur—

Punishment of trespassers on reserves.

Penalties for removing certain things.

- Trees. (a.) For every tree he cuts, carries away or removes, a penalty of twenty dollars;
  - Saplings, &c. (b.) For cutting, carrying away or removing any of the saplings, shrubs, underwood, timber or hay, if under the value of one dollar, a penalty of four dollars; but if over the value of one dollar, a penalty of twenty dollars;
  - Stone, minerals, &c. (c.) For removing any of the stone, soil, minerals, metals or other valuables aforesaid, a penalty of twenty dollars, —
- And the costs of prosecution in each case:

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

Subs. 1, of s. 26, repealed and new provision.

S.C. 1890, c. 29, s. 3.

**26.** Every person, or Indian, other than an Indian of the band to which the reserve belongs, who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away or removes from any of the said land, roads or allowances for roads, in the said reserve, any of the trees, saplings, shrubs, underwood, timber, cordwood or part of a tree, or hay thereon, or removes any of the stone, soil, minerals, metals or other

Punishment for cutting timber, &c., on or taking stone, minerals, &c., from Reserves.

valuables from the said land, roads or allowances for roads, shall, on conviction thereof before any stipendiary magistrate, police magistrate or any two justices of the peace or Indian agent, incur—

- Trees. (a.) For every tree he cuts, carries away or removes, a penalty of twenty dollars;
- Saplings, &c. (b.) For cutting, carrying away or removing any of the saplings, shrubs, underwood, timber, cordwood or part of a tree or hay, if under the value of one dollar, a penalty of four dollars; but, if over the value of one dollar, a penalty of twenty dollars;
- Stone, minerals, &c. (c.) For removing any of the stone, soil, minerals, metals, or other valuables aforesaid, a penalty of twenty dollars:—
- And costs. “And the costs of prosecution in each case:”

R.S.C. 1886, c. 43, cont'd.

R.S.C. 1886,  
c. 43, s.  
26, cont'd.Recovery of  
penalties and  
costs.

2. In default of immediate payment of the said penalties and costs, such magistrate, justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as he has authorized in that behalf, may issue a warrant, directed to any person or persons by him or them named therein, to levy the amount of the said penalties and costs by distress and sale of the goods and chattels of the person or Indian liable to pay the same; and similar proceedings may be had upon such warrant issued by the Superintendent General, or such other officer or person as aforesaid, as if it had been issued by the magistrate, justices of the peace or Indian agent, before whom the person was convicted; or such magistrate, or justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as aforesaid, without proceeding by distress and sale, may, upon non-payment of the said penalties and costs, order the person or Indian liable therefor to be imprisoned in the common gaol of the county or district in which the said reserve or any part thereof lies, for a term not exceeding thirty days, if the penalty does not exceed twenty dollars, or for a term not exceeding three months if the penalty exceeds twenty dollars:

Committal  
without dis-  
tress.Committal in  
default of dis-  
tress.

3. If upon the return of any warrant for distress and sale, the amount thereof has not been made, or if any part of it remains unpaid, such magistrate, or justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as aforesaid, may commit the person in default to the common gaol, as aforesaid, for a term not exceeding thirty days, if the sum claimed upon the said warrant does not exceed twenty dollars, or for a term not exceeding three months if the sum exceeds twenty dollars:

Application  
of penalties.

4. All such penalties shall be paid to the Minister of Finance and Receiver General, and shall be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council directs:

License by  
Superintend-  
ent General.

5. Nothing herein contained shall be construed to prevent the Superintendent General from issuing a license to any person or Indian to cut and remove trees, wood, timber and hay, or to quarry and remove stone and gravel on and from the reserve, if he, or his agent, acting by his instructions, first obtains the consent of the band thereto in the ordinary manner, as hereinafter provided. 43 V., c. 28, s. 27. *part*;—45 V., c. 30, s. 3;—47 V., c. 27, s. 7.

S.C. 1887,  
c. 33, s. 3.Sub-section 5  
of section 26  
repealed.

3. Sub-section five of section twenty-six of the said Act is hereby repealed.

R.S.C. 1886, c. 43, cont'd.

**27.** Every Indian who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away or removes from the land of an Indian who holds a location title, or who is otherwise recognized by the department as the occupant of such land, any of the trees, saplings, shrubs, underwood, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables off the said land; and every Indian who, without license as aforesaid, cuts, carries away or removes from any portion of the reserve of his band, for sale and not for the immediate use of himself and his family, any trees, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables therefrom, for sale, as aforesaid, shall incur the penalties provided in the next preceding section in respect to Indians of other bands and other persons, and similar proceedings may be had for the recovery thereof as are provided for in the said section. 43 V., c. 28, s. 28.

Punishment of Indians trespassing on land of another Indian;

Or removing certain things.

Penalty.

Section 27 repealed; new provision.

Punishment of Indians trespassing on land of other Indians.

**4.** The twenty-seventh section of the said Act is hereby repealed and the following section substituted therefor:—

“**27.** Every Indian who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away or removes from the land of an Indian who holds a location title, or who is otherwise recognized by the department as the occupant of such land, any of the trees, saplings, shrubs, underwood, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables off the said land; and every Indian who, without license as aforesaid, cuts, carries away or removes from any portion of the reserve of his band, for sale and not for the immediate use of himself and his family, any trees, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables therefrom, for sale, as aforesaid, or who cuts or uses any pine or large timber for any other purpose than for building on his own location or farm, unless with the consent of the band and the approval of the Superintendent General, shall incur the penalties provided in the next preceding section in respect to Indians of other bands and other persons, and the same proceedings may be had for the recovery thereof as are provided for in the said section.”

Or removing certain things.

Or cutting or using pine or large timber without consent.

Penalty.

S.C. 1887, c. 33, s. 4.

R.S.C. 1886, c. 43, cont'd.

**28.** In all orders, writs, warrants, summonses and proceedings whatsoever made, issued or taken by the Superintendent General, or any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, it shall not be necessary to insert or express the name of the person or Indian summoned, arrested, distrained upon, imprisoned or otherwise proceeded against therein, except when the name of such person or Indian is truly given to or known by the Superintendent General, or such officer or person, or such stipendiary magistrate, police magistrate, justice of the peace or Indian agent; and if the name is not truly given to or known by him, he may name or describe the person or Indian by any part of the name of such person or Indian given to or known by him; and if no part of the name is given to or known by him, he may describe the person or Indian proceeded against in any manner by which he may be identified; and all such proceedings, containing or purporting to give the name or description of any such person or Indian, as aforesaid, shall *prima facie* be sufficient. 43 V., c. 28, s. 29.

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

What description shall suffice.

**29.** All sheriffs, gaolers or peace officers, to whom any such process is directed by the Superintendent General, or by any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, and all other persons to whom such process is directed with their consent, shall obey the same; and all other officers shall, upon reasonable requisition so to do, assist in the execution thereof. 44 V., c. 17, s. 9.

Sheriff &c., to assist in such removal.

#### SALE OR BARTER OF PRODUCE AND MAPLE TREES GROWN ON RESERVES.

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

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

2. Every person who buys or otherwise acquires from any such Indian or band, or irregular band of Indians, any such grain, root crops or other produce, contrary to any such regulations, shall, on summary conviction before a stipendiary magistrate, police magistrate, or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. 44 V., c. 17, s. 1, *part*, and s. 2;—45 V., c. 30, ss. 3 and 6.

Penalty for buying from Indians contrary to such regulations.

R.S.C. 1886, c. 43, cont'd.

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

**31.** If any such grain or root crops, or other produce as aforesaid, are unlawfully in the possession of any person, within the intent and meaning of this Act, and of any regulations made by the Governor in Council under this Act, any person acting under the authority, either general or special, of the Superintendent General, may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same; and he shall deal therewith as the Superintendent General, or any officer or person thereunto by him authorized, directs. 44 V., c. 17, s. 3.

Governor in Council may prohibit cutting of trees on reserves.

Penalty for contravention of such regulations.

**32.** The Governor in Council may, from time to time, make regulations for prohibiting the cutting, carrying away or removing from any reserve or special reserve, of any hard or sugar-maple tree or sapling; and every person who cuts, carries away or removes from any reserve or special reserve, any hard or sugar-maple tree or sapling, or buys or otherwise acquires from any Indian or non-treaty Indian, or other person, any hard or sugar-maple tree or sapling so cut, carried away or removed from any reserve or special reserve, contrary to any such regulation, shall, on summary conviction before a stipendiary magistrate, police magistrate, or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. 44 V., c. 17, ss. 4 and 5;—45 V., c. 30, s. 3.

#### ROADS AND BRIDGES.

**33.** Indians residing upon any reserve, and engaged in the pursuit of agriculture as their then principal means of support, shall be liable, if so directed by the Superintendent General, or any officer or person by him thereunto authorized, to perform labor on the public roads laid out or used in or through, or abutting upon such reserve,—which labor shall be performed under the sole control of the Superintendent General, or officer or person aforesaid, who may direct when, where and how and in what manner such labor shall be applied, and to what extent the same shall be imposed upon Indians who are resident upon any of the said lands; and the Superintendent General, or officer or person aforesaid, shall have the like power to enforce the performance of such labor by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the Province or Territory in which such reserve is situate, for the non-performance of statute labor; but the labor to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same Province, Territory, county or other local division, under the laws requiring and regulating such labor and the performance thereof. 43 V., c. 28, s. 34.

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

Powers of the Superintendent General.

Proviso: as to the amount of such labor.



R.S.C. 1886, c. 43, cont'd.

S.C. 1898,  
c. 34, s. 1.

**1.** Section 33 of *The Indian Act*, chapter 43 of the Revised Statutes, is hereby repealed and the following is substituted therefor:—

R.S.C., c. 43,  
new section  
33.

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

Indians liable  
to labour on  
public roads  
in reserves.

Enforcing  
labour.

Amount of  
labour  
limited.

**34.** Every band of Indians shall cause the roads, bridges, ditches and fences within its reserve to be put and maintained in proper order, in accordance with the instructions received, from time to time, from the Superintendent General, or from the agent of the Superintendent General; and whenever, in the opinion of the Superintendent General, the same are not so put or maintained in order, he may cause the work to be performed at the cost of such band, or of the particular Indian in default, as the case may be, either out of its or his annual allowances, or otherwise. 43 V., c. 28, s. 35.

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

Power of the  
Superinten-  
dent General.

COMPENSATION FOR PORTION OF RESERVE USED FOR ANY PURPOSE OR TRESPASSED UPON.

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

Superinten-  
dent General  
to name arbi-  
trator on be-  
half of In-  
dians when  
property is  
taken from  
them for any  
public im-  
provement.

awarded in any case shall be paid to the Minister of Finance and Receiver General for the use of the band of Indians for whose benefit the reserve is held, and for the benefit of any Indian who has improvements thereon. 42 V., c. 9, s. 9, sub-s. 37;—43 V., c. 28, s. 31.

R.S.C. 1886, c. 43, cont'd.

**5.** The thirty-fifth section of the said Act is hereby <sup>Section 35</sup> amended by striking out the words "If any" in the first line <sup>amended.</sup> thereof and by substituting therefor the words following, that is to say :—" No portion of any reserve shall be taken for the purposes of any railway, road or public work without the consent of the Governor in Council, and if any."

S.C. 1887,  
c. 33, s. 5.

**36.** In all cases of encroachment upon, or of violation of trust respecting any special reserve, proceedings may be taken in the name of Her Majesty, in any superior court, notwithstanding the legal title is not vested in Her Majesty. 43 V., c. 28, s. 32.

Her Majesty's name may be used in proceedings in certain cases.

SURRENDER AND FORFEITURE OF LANDS IN RESERVE.

**37.** If, by the violation of the conditions of any such trust as aforesaid, or by the breaking up of any society, corporation or community, or if by the death of any person or persons without a legal succession of trusteeship, in whom the title to a special reserve is held in trust, the said title lapses or becomes void in law, the legal title shall become vested in Her Majesty in trust, and the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve :

Title to vest in H. M. if title to reserves held in trust lapses.

2. The trustees of any special reserve may, at any time, surrender the same to Her Majesty in trust, whereupon the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve. 43 V., c. 28, s. 33.

Surrender of special reserve to Her Majesty in trust.

**38.** No reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Act, excepting that in cases of aged, sick and infirm Indians and widows or children left without a guardian, or in the cases of Indians engaged in the practice of any one of the learned professions, or in teaching schools, or in pursuing a trade which interferes with their cultivating land on the reserve, the Superintendent General shall have the power to lease, for their support or benefit, the lands to which they are entitled. 43 V., c. 28, s. 36 ;—47 V., c. 27, s 8.

Provisions respecting sale or lease of reserves.

**3.** Section thirty-eight of *The Indian Act* is hereby repealed and the following substituted therefor :—

Section 38 amended.

S.C. 1894,  
c. 32, s. 3.

**38.** No reserve or portion of a reserve shall be sold, alienated or leased until the same has been released or surrendered to the Crown for the purposes of this Act; but the superintendent general may lease, for the benefit of Indians engaged in occupations which interfere with their cultivating land on the reserve, and of sick, infirm or aged Indians, and of widows and orphans or neglected children, lands to which they are entitled without the same being released or surrendered."

Provisions respecting sale or lease of reserves.

R.S.C. 1886, c. 43, cont'd.

S.C. 1895,  
c. 35, s. 1.

1. The section substituted for section thirty-eight of *The Indian Act*, chapter forty-three of the Revised Statutes, by section three of chapter thirty-two of the Statutes of 1894 is hereby repealed and the following substituted therefor:—

R.S.C., c. 43,  
s. 38 and 1894  
c. 32, s. 3  
amended.

“38. No reserve or portion of a reserve shall be sold, alienated or leased until the same has been released or surrendered to the Crown for the purposes of this Act; provided that the superintendent general may lease, for the benefit of any Indian, upon his application for that purpose, the land to which he is entitled without the same being released or surrendered.”

Provisions re-  
specting sale  
or lease of re-  
serves.

S.C. 1898,  
c. 34, s. 2.

2. The section substituted for section 38 of the said Act by section 1 of chapter 35 of the statutes of 1895, is hereby repealed and the following is substituted therefor:—

New section  
38.

“38. No reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Act: provided that the Superintendent General may lease, for the benefit of any Indian, upon his application for that purpose, the land to which he is entitled without such land being released or surrendered, and may, without surrender, dispose to the best advantage; in the interests of the Indians, of wild grass and dead or fallen timber.”

Sale or lease  
of reserves.

Release or sur-  
render of a  
reserve;  
when valid.

Assent of  
band.

39. No release or surrender of a reserve, or portion of a reserve, held for the use of the Indians of any band, or of any individual Indian, shall be valid or binding, except on the following conditions:—

(a.) The release or surrender shall be assented to by a majority of the male members of the band, of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose, according to the rules of the band, and held in the presence of the Superintendent General, or of an officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General; but no 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.

(b.) The fact that such release or surrender has been assented to by the band at such council or meeting, shall be certified on oath before some judge of a superior, county or district court, or stipendiary magistrate, by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some one of the chiefs or principal men present thereat and entitled to vote; and when such assent has been so certified, as aforesaid, such release or surrender shall be submitted to the Governor in Council for acceptance or refusal. 43 V., c. 28, s. 37.

Proof of  
assent.

Approval of  
Governor in  
Council.

S.C. 1891,  
c. 30, s. 2.

Section 39  
amended.

2. Section thirty-nine of the said Act is hereby amended by inserting in the eighteenth line thereof, after the word “magistrate,” the words “or, in the case of reserves in Manitoba or the North-West Territories, before the Indian Commissioner for Manitoba and the North-West Territories, and in the case of reserves in British Columbia, before the Visiting Indian Superintendent for British Columbia, or, in either case, before some other person or officer specially thereunto authorized by the Governor in Council.”

R.S.C. 1886, c. 43, cont'd.

Section 39  
amended.

Proof of  
assent.

3. Subsection (b) of section 39 of the said Act, as amended by section 2 of chapter 30 of the statutes of 1891, is hereby repealed and the following is substituted therefor:—

“(b.) The fact that such release or surrender has been assented to by the band at such council or meeting shall be certified on oath by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some one of the chiefs or principal men present thereat and entitled to vote, before some judge of a superior, county or district court, stipendiary magistrate or justice of the peace, or, in the case of reserves in Manitoba or the North-west Territories, before the Indian Commissioner for Manitoba and the North-west Territories, and in the case of reserves in British Columbia, before the visiting Indian Superintendent for British Columbia, or, in either case, before some other person or officer specially thereunto authorized by the Governor in Council; and when such assent has been so certified, as aforesaid, such release or surrender shall be submitted to the Governor in Council for acceptance or refusal.”

S.C. 1898,  
c. 34, s. 3.

40. Nothing in this Act shall confirm any release or surrender which, but for this Act, would have been invalid; and no release or surrender of any reserve, or portion of a reserve, to any person other than Her Majesty, shall be valid. 43 V., c. 28, s. 39.

Act not to  
confirm in-  
valid releases  
or surrenders.

41. All Indian lands, which are reserves or portions of reserves, surrendered or to be surrendered to Her Majesty, shall be deemed to be held for the same purposes as before the passing of this Act; and shall be managed, leased and sold as the Governor in Council directs, subject to the conditions of surrender and the provisions of this Act. 43 V., c. 28, s. 40.

Certain  
Indian lands  
to be held by  
the Crown for  
the same pur-  
poses as here-  
tofore.

#### SALE AND TRANSFER OF LANDS IN RESERVES.

42. Every certificate of sale or receipt for money received on the sale of Indian lands granted or made by the Superintendent General or any agent of his, so long as the sale to which such receipt or certificate relates is in force and not rescinded, shall entitle the person to whom the same is granted, or his assignee, by instrument registered under this or any former Act providing for registration in such cases, to take possession of and occupy the land therein comprised, subject to the conditions of such sale, and thereunder, unless the same has been revoked or cancelled, to maintain actions and suits against any wrongdoer or trespasser, as effectually as he could do under a patent from the Crown; and such receipt or certificate shall be *prima facie* evidence for the purpose of possession by such person, or the assignee, under an instrument registered as aforesaid, in any such action or suit; but the same shall have no force against a license to cut timber existing at the time of the making or granting thereof. 43 V., c. 28, s. 42.

Effect of  
former unres-  
cinded certi-  
ficates of sale,  
or receipts.

Evidence of  
possession.

Proviso.

R.S.C. 1886, c. 43, cont'd.

**43.** The Superintendent General shall keep a book for registering, at the option of the persons interested, the particulars of any assignment made, as well by the original purchaser or lessee of Indian lands, or his heirs or legal representatives, as by any subsequent assignee of any such lands, or the heirs or legal representatives of such assignee.

Registers of assignments to be kept.

Entries therein, on what proof to be made.

2. Upon any such assignment being produced to the Superintendent General, and, except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the time and place of such execution, and the names, residences and occupations of the witnesses; or, as regards lands in the Province of Quebec, upon the production of such assignment, executed in notarial form, or of a notarial copy thereof, the Superintendent General shall cause the material parts of every such assignment to be registered in such book of registry, and shall cause to be indorsed on every such assignment a certificate of such registration, signed by himself, or by the Deputy Superintendent General or any other officer of the department by him authorized to sign such certificates:

S.C. 1890, c. 29, s. 4.

Subs. 2, s. 43, repealed, and new provision. Registration of assignments.

**4.** Sub-section two of section forty-three of the said Act is hereby repealed, and the following substituted therefor:—

“2. Upon any such assignment being produced to the Superintendent General, and, except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the place of such execution, and the names, residences and occupations of the witnesses,—or, as regards lands in the Province of Quebec, upon the production of such assignment, executed in notarial form, or of a notarial copy thereof,—the Superintendent General shall cause the material parts of every such assignment to be registered in such book of registry, and shall cause to be indorsed on every such assignment a certificate of such registration, signed by himself, or by the Deputy Superintendent General, or any other officer of the department by him authorized to sign such certificates:

R.S.C. 1886, c. 43, s. 43, cont'd.

Effect of assignment and registration.

3. Every such assignment so registered shall be valid against any assignment previously executed, which is subsequently registered or is unregistered; and no such registration shall be made until all the conditions of the sale, grant or location are complied with or dispensed with by the Superintendent General, and every assignment registered, as aforesaid, shall be unconditional in its terms. 43 V., c. 28, s. 43.

S.C. 1888, c. 22, s. 2.

**2.** Section forty-three of the said Act is hereby amended by adding the following sub-sections thereto:—

Section 43 amended.

“4. Whenever the proper municipal officer having, by the law of the Province in which the land affected is situate, authority to make or execute deeds or conveyances of lands sold for taxes, makes or executes any deed or conveyance purporting to convey any land, or portion of land, the fee of which is vested in the Crown or any person in trust for or for the use of any Indian or non-treaty Indian or band or

Conveyance of land sold for taxes.

R.S.C. 1886, c. 43, cont'd.

S.C. 1888,  
c. 22, s. 2,  
cont'd.

- irregular band of Indians or non-treaty Indians, but which has been surrendered under the provisions of this Act, or purporting to grant or convey the interest of any locatee or purchaser from the Crown, and such deed or conveyance recites or purports to be based upon a sale of such land or such interest for taxes, the Superintendent General may act upon and treat such deed or conveyance as a valid transfer of all the right and interest of the original locatee or purchaser from the Crown, and of every person claiming under him, in or to such land to the grantee named in such deed or conveyance :
- Superintendent General may take action.** "5. So soon as the Superintendent General has signified his approval of such deed or conveyance by endorsement thereon, the grantee shall be substituted in all respects, in relation to the land so conveyed, for the original locatee or purchaser from the Crown, but no such deed or conveyance shall be deemed to confer upon the grantee any greater right or interest in the land than that possessed by the original locatee or purchaser from the Crown :
- Effect of such action.** "6. The Superintendent General may cause a patent to be issued to the grantee named in such deed or conveyance on the completion of the original conditions of the location or sale, unless such deed or conveyance is declared invalid by a court of competent jurisdiction in a suit or action instituted by some person interested in such land within two years of the date of such sale for taxes, and unless within such delay notice of such contestation has been given to the Superintendent General :
- Issue of patent.** "7. Every such deed or conveyance shall be registered in the office of the Superintendent General within two years from the date of the sale for taxes ; and unless the same is so registered, it shall not be deemed to have preserved its priority, as against a purchaser in good faith from the original locatee or purchaser from the Crown, in virtue of an assignment registered in like manner previously to the date of the registration of the deed or conveyance based upon a sale for taxes as aforesaid."
- Time for registration.** 44. If any subscribing witness to any such assignment is dead, or is absent from Canada, the Superintendent General may register such assignment upon the production of an affidavit proving the death or absence of such witness, and his handwriting, or the handwriting of the person making such assignment. 43 V., c. 28, s. 44.
- If subscribing witness is dead, &c.** 45. Every patent for Indian lands shall be prepared in the Department of Indian Affairs, and shall be signed by the Superintendent General of Indian Affairs or his deputy, or by some other person thereunto specially authorized by order of the Governor General in Council, and when so signed, shall be registered by an officer specially appointed for that purpose by the Registrar General, and then transmitted to the Secretary of State of Canada, by whom, or by the Under Secretary of State, the same shall be countersigned, and the Great Seal of Canada thereto caused to be affixed : Provided, that every such patent for land shall be signed by the Governor or by the Deputy Governor appointed under this Act for that purpose :
- Patents, how to be prepared, registered and signed.** 2. On any application for a patent by the heir, assignee or devisee of the original purchaser from the Crown, the Superintendent General may receive proof, in such manner as he directs and requires, in support of any claim for a patent, when the original purchaser is dead ; and upon being
- Patent to issue to their assignee or devisee after proof of right thereto.**

satisfied that the claim has been equitably and justly established, may allow the same, and cause a patent to issue accordingly: but nothing in this section shall limit the right of a person claiming a patent to land in the Province of Ontario to make application at any time to the Commissioner, under the "Act respecting the Heir, Devisee and Assignee Commission," being chapter twenty-five of the Revised Statutes of Ontario (1877) or the corresponding provision in any subsequent revision of the said Statutes. 43 V., c. 28, s. 45;—49 V., c. 7, s. 2.

46. If the Superintendent General is satisfied that any purchaser or lessee of any Indian lands, or any assignee claiming under or through him, has been guilty of any fraud or imposition, or has violated any of the conditions of sale or lease, or if any such sale or lease has been made or issued in error or mistake, he may cancel such sale or lease, and resume the land therein mentioned, or dispose of it as if no sale or lease thereof had ever been made; and all such cancellations heretofore made by the Governor in Council, or by the Superintendent General, shall continue valid until altered. 43 V., c. 28, s. 46.

47. Whenever any purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale or lease, as aforesaid, or whenever any person is wrongfully in possession of any Indian lands and refuses to vacate or abandon possession of the same, the Superintendent General may apply to the judge of the county court of the county, or to a judge of the superior court in the district in which the land lies, in Ontario or Quebec respectively, or to any judge of a superior court, or to any judge of a county court of the county in which the land lies, in any other Province, or to a judge of the Supreme Court of the North-West Territories in the said Territories, or to any stipendiary magistrate in any other Territory or district in which the land lies, for an order in the nature of a writ of *habere facias possessionem* or writ of possession; and the said judge or magistrate, upon proof to his satisfaction that the right or title of the person to hold such land has been revoked or cancelled, as aforesaid, or that such person is wrongfully in possession of Indian lands, shall grant an order upon the purchaser, lessee or person in possession, to deliver up the same to the Superintendent General, or person by him authorized to receive the same; and such order shall have the same force as a writ of *habere facias possessionem*, or writ of possession: and the sheriff or any bailiff or person to whom it has been intrusted for execution by the Superintendent General, shall execute the same in like manner as he would execute such writ in an action of ejectment or a possessory action. 43 V., c. 28, s. 47;—49 V., c. 25, s. 30.

3. Section forty-seven of the said Act is hereby amended by adding the following sub-section thereto:—

"2. The costs of and incident to any proceedings under this section or any part thereof shall be paid by any party to such proceedings or by the Superintendent General, as the judge or magistrate orders."

R.S.C. 1886, c. 43, cont'd.

Enforcing  
payment of  
rent due to  
the Crown.

**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 form of a distress warrant, as in ordinary cases of landlord and tenant, or as in the case of distress and warrant of a justice of the peace for non-payment of a pecuniary penalty; and the same proceedings may be had thereon, for the collection of such arrears, as in either of the said last-mentioned cases: or an action of debt, as in ordinary cases of rent in arrear, may be brought therefor in the name of the Superintendent General; but demand of rent shall not be necessary in any case. 43 V., c. 28, s. 48.

Action of  
debt.

Who to act or  
give notice  
for the  
Crown.

**49.** When by law or by any deed, lease or agreement relating to any of the lands herein referred to, any notice is required to be given, or any act to be done, by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Superintendent General. 43 V., c. 28, s. 49.

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

**50.** Whenever letters patent have been issued to or in the name of the wrong person, through mistake, or contain any clerical error or misnomer, or wrong description of any material fact therein, or of the land thereby intended to be granted, the Superintendent General, if there is no adverse claim, may direct the defective letters patent to be cancelled and a minute of such cancellation to be entered in the margin of the registry of the original letters patent, and correct letters patent to be issued in their stead,—which corrected letters patent shall relate back to the date of those so cancelled, and have the same effect as if issued at the date of such cancelled letters patent. 43 V., c. 28, s. 50.

Lands pat-  
ented twice  
over.

Compensation  
in certain  
cases.

Limitation of  
time for  
claim.

**51.** In all cases in which grants or letters patent have issued for the same land, inconsistent with each other, through error, and in all cases of sales or appropriations of the same land, inconsistent with each other, the Superintendent General may, in cases of sale, cause a repayment of the purchase money, with interest; or when the land has passed from the original purchaser or has been improved before a discovery of the error, he may, in substitution, assign land or grant a certificate entitling the person to purchase Indian lands, of such value and to such extent as the Superintendent General deems just and equitable under the circumstances; but no such claim shall be entertained unless it is preferred within five years from the discovery of the error. 43 V., c. 28, s. 51.



R.S.C. 1886, c. 43, cont'd.

Cases of deficiency of land provided for.

**52.** Whenever, by reason of false survey or error in the books or plans in the department, or in the late Indian branch of the Department of the Interior, any grant, sale or appropriation of land is found deficient, or any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Superintendent General may order the purchase money of so much land as is deficient, with the interest thereon from the time of the application therefor, —or, if the land has passed from the original purchaser, the purchase money which the claimant, if he was ignorant of a deficiency at the time of his purchase, has paid for so much of the land as is deficient, with interest thereon from the time of the application therefor,—to be paid to him in land or money, as the Superintendent General directs; but no such claim shall be entertained unless application is made within five years from the date of the patent, and unless the deficiency is equal to one-tenth of the whole quantity described, as contained in the particular lot or parcel of land granted. 43 V., c. 28, s. 52.

Compensation.

Limitation of time for claim.

**53.** Whenever patents for Indian lands have issued through fraud or in error or improvidence, the Exchequer Court of Canada, or a superior court in any Province may, upon action, bill or plaint, respecting such lands situate within its jurisdiction, and upon hearing the parties interested, or upon default of the said parties after such notice of proceeding as the said courts shall respectively order, decree such patents to be void; and upon a registry of such decree in the office of the Registrar General of Canada, such patents shall be void to all intents:

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

Effect of registry of decree.

S.C. 1890, c. 29, s. 5.

Subs. 1, s. 53, amended.

**5.** Sub-section one of section fifty-three of the said Act is hereby amended by substituting for the words "office of the Registrar General of Canada," in the ninth line thereof, the words "Department of Indian Affairs."

R.S.C. 1886, c. 43, s. 53, cont'd.

2. The practice in court, in such cases, shall be regulated by orders, from time to time, made by the said courts respectively. 43 V., c. 28, s. 53.

Practice in such cases.

TIMBER LANDS.

**54.** The Superintendent General, or any officer or agent authorized by him to that effect, may grant licenses to cut trees on reserves and ungranted Indian lands, at such rates, and subject to such conditions, regulations and restrictions, as are, from time to time, established by the Governor in Council, and such conditions, regulations and restrictions shall be adapted to the locality in which such reserves or lands are situated. 43 V., c. 28, s. 56.

Licenses to cut trees; by whom and how to be granted.

**55.** No license shall be so granted for a longer period than twelve months from the date thereof: and if, in consequence of any incorrectness of survey or other error, or cause whatsoever, a license is found to comprise land included in a license of a prior date, or land not being reserve, or ungranted Indian lands, the license granted shall be void in so far as it comprises such land, and the holder or proprietor of the license so rendered void shall have no claim upon the Crown for indemnity or compensation by reason of such avoidance. 43 V., c. 28, s. 57.

For what time.

As to error in description, &c.

R.S.C. 1886, c. 43, cont'd.

**56.** Every license shall describe the lands upon which the trees may be cut, and the kind of trees which may be cut, and shall confer, for the time being, on the licensee the right to take and keep exclusive possession of the land so described, subject to such regulations as are made; and every license shall vest in the holder thereof all rights of property whatsoever in all trees of the kind specified, cut within the limits of the license, during the term thereof, whether such trees are cut by the authority of the holder of such license or by any other person, with or without his consent; and every license shall entitle the holder thereof to seize, in revendication or otherwise, such trees and the logs, timber or other product thereof, if the same are found in the possession of any unauthorized person, and also to institute any action or suit against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any; and all proceedings pending at the expiration of any license may be continued to final termination, as if the license had not expired. 43 V., c. 28, s. 58.

License must describe the and kind trees to be cut its effect

Rights of holders of licenses as to trespassers.

Continuing proceedings.

New section 56.

License must describe land and kind of trees to be cut.

Rights of licensees as to trespassers.

Continuing proceedings.

Return to be made by licensee.

Punishment for not making return or for evasion of regulations.

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

**4.** Section 56 of the said Act, is hereby repealed and the following is substituted therefor:—

**“56.** Every license shall describe the lands upon which the trees may be cut, and the kind of trees which may be cut, and shall confer, for the time being, on the licensee the right to take and keep possession of the land so described, subject to such regulations as are made; and every license shall vest in the holder thereof all rights of property in all trees of the kind specified, cut within the limits of the license during the term thereof, whether such trees are cut by the authority of the holder of such license or by any other person, with or without his consent; and every license shall entitle the holder thereof to seize, in revendication or otherwise, such trees and the logs, timber or other product thereof, if found in the possession of any unauthorized person, and also to institute any action or suit against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any; and all proceedings pending at the expiration of any license may be continued to final termination, as if the license had not expired.”

**57.** Every person who obtains a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Superintendent General, a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square or other timber, manufactured and carried away under such license; and such statement shall be sworn to by the holder of the license, or his agent, or by his foreman; and every person who refuses or neglects to furnish such statement, or who evades or attempts to evade any regulation made by the Governor in Council, shall be held to have cut without authority, and the timber or other product made shall be dealt with accordingly. 43 V., c. 28, s. 59.

**58.** All trees cut, and the logs, timber or other product thereof, shall be liable for the payment of the dues thereon, so long as and wheresoever the same, or any part thereof, are found, whether in the original logs or manufactured into deals, boards or other stuff; and all officers or agents intrusted with the collection of such dues, may follow and seize and detain the same wherever they are found, until the dues are paid or secured. 43 V., c. 28, s. 60.

S.C. 1898, c. 34,  
s. 4.

R.S.C. 1886, c. 43, cont'd.

Security  
taken for dues  
not to affect  
lien.

**59.** No instrument or security taken for the dues, either before or after the cutting of the trees, as collateral security, or to facilitate collection, shall in any way affect the lien for such dues, but the lien shall subsist until the said dues are actually discharged. 43 V., c. 28, s. 61.

Sale of seized  
timber after a  
certain delay.

**60.** If any timber so seized and detained for non-payment of dues remains more than twelve months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid, the Superintendent General may order a sale of the said timber to be made after sufficient notice; and the balance of the proceeds of such sale, after retaining the amount of dues and costs incurred, shall be handed over to the owner or claimant of such timber, upon his applying therefor and proving his right thereto. 43 V., c. 28, s. 62.

**61.** If any person, without authority, cuts, or employs or induces any other person to cut, or assists in cutting any trees of any kind on Indian lands, or removes or carries away, or employs, or induces or assists any other person to remove or carry away, any trees of any kind so cut from Indian lands, he shall not acquire any right to the trees so cut, or any claim to any remuneration for cutting or preparing the same for market, or conveying the same to or towards market; and when the trees, or logs or timber, or other product thereof, have been removed, so that the same cannot, in the opinion of the Superintendent General, conveniently be seized, he shall, in addition to the loss of his labor and disbursements, incur a penalty of three dollars for each tree, rafting stuff excepted, which he is proved to have cut or caused to be cut or carried away; and such penalty shall be recoverable with costs, at the suit and in the name of the Superintendent General or resident agent, in any court having jurisdiction in civil matters to the amount of the penalty; and in all such cases it shall be incumbent on the person charged to prove his authority to cut; and the averment of the person seizing or prosecuting, that he is duly employed under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary. 43 V., c. 28, s. 63.

Punishment  
for unlaw-  
fully cutting  
trees; and  
forfeiture  
thereof.

Additional  
penalty in  
case of  
removal of  
trees.

Proof of right  
to cut, on  
whom to lie.

**62.** When the Superintendent General, or any officer or agent acting under him, receives satisfactory information, supported by affidavit made before a justice of the peace or before any other competent authority, that any trees have been cut without authority on Indian lands, describing where the trees, logs, timber or other product thereof are to be found, the Superintendent General, officer or agent, may seize, or cause to be seized, the same in Her Majesty's name, wheresoever found, and place the same under proper custody, until the matter is decided by competent authority. 43 V., c. 28, s. 64, *part*.

Seizure of  
trees cut  
without  
authority.

R.S.C. 1886, c. 43, cont'd.

**6.** The sixty-second section of the said Act is hereby repealed and the following section substituted therefor:—

Section 62 repealed; new provision.

S.C. 1887, c. 33, s. 6.

**62.** Any officer or agent acting under the Superintendent General may seize or cause to be seized in Her Majesty's name any logs, timber, wood or other products of trees or any trees themselves, cut without authority on Indian lands or on an Indian reserve, wherever they are found, and place the same under proper custody until a decision can be had in the matter from competent authority."

Seizure of trees cut without authority.

**63.** When the trees, timber, logs or other product thereof, so reported to have been cut without authority, on Indian lands, have been made up or intermingled with other trees, timber, logs or other product thereof, into a crib, dram or raft, or in any other manner, so that it is difficult to distinguish the trees, timber, logs or other product thereof, cut on reserves on reserves or Indian land, without license, from that with which it is made up or intermingled, the whole of the trees, timber, logs or other product thereof, so made up or intermingled, shall be held to have been cut without authority on Indian lands, and shall be seized, and forfeited, and sold, by the Superintendent General, or any other officer or agent acting under him, unless evidence satisfactory to him is adduced, showing the probable quantity not cut on Indian lands. 43 V., c. 28, s. 64, part.

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

All to be deemed cut on Indian lands without authority.

**7.** The sixty-third section of the said Act is hereby repealed, and the following section substituted therefor:—

Section 63 repealed; new provision.

S.C. 1887, c. 33, s. 7.

**63.** When the logs, timber, wood or other products of trees cut without authority, or the trees themselves so cut without authority on Indian lands or on an Indian reserve, have been made up or intermingled with other trees, wood, timber, logs or other products thereof, into a crib, dram or raft, or in any other manner, so that it is difficult to distinguish the timber cut on a reserve or on Indian lands without license from the other timber with which it is made up or intermingled, the whole of the timber so made up or intermingled shall be held to have been cut without authority on a reserve or on Indian lands, and shall be seized and forfeited and sold by the Superintendent General or any officer or agent acting under him, unless evidence satisfactory to him is adduced showing the probable quantity not cut on a reserve or on Indian lands."

Presumption of law in case of mixture of timber cut on Indian lands or reserves with timber cut elsewhere.

Exception.

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

**64.** Every officer or person seizing trees, logs, timber or other product thereof, in the discharge of his duty under this Act, may, in the name of the Crown, call in any assistance necessary for securing and protecting the same. 43 V., c. 28, s. 65, part.

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

**65.** Whenever any trees, logs, timber or other product thereof are seized for non-payment of Crown dues, or for any other cause of forfeiture, or whenever any prosecution is brought in respect of any penalty or forfeiture under this Act, and any question arises whether the said dues have been paid or whether the trees, logs, timber or other product were cut on lands other than any of the lands aforesaid, the burden of proving payment, or on what land the same were cut, as the case may be, shall lie on the owner or claimant and not on the officer who seizes the same, or the person who brings such prosecution. 43 V., c. 28, s. 66, part.

**66.** All trees, logs, timber or other product thereof seized under this Act, shall be deemed to be condemned, unless the person from whom the same are seized, or the owner thereof, within one month from the day of the seizure, gives notice to the seizing officer or nearest officer or agent of the Superintendent General, that he claims or intends to claim the same; and in default of such notice, the officer or agent seizing shall report the circumstances to the Superintendent General, who may order the sale of the same by the said officer or agent. 43 V., c. 28, s. 67, *part*.

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

S. C. 1898  
c. 34,  
s. 5.

New section 66.  
Sale of trees, etc., seized, in default of notice of claim.

**5.** Section 66 of the said Act is hereby repealed and the following is substituted therefor:—

**“66.** All trees, logs, timber or other product thereof seized under this Act, shall be deemed to be condemned, unless the person from whom they are seized, or the owner thereof, within one month from the day of the seizure, gives notice to the seizing officer, or nearest officer or agent of the Superintendent General, that he claims, or intends to claim them, and unless within one month from the day of giving such notice he initiates, in some court of competent jurisdiction, proceedings for the purpose of establishing his claim; and in default of such notice and initiation of proceedings, the officer or agent seizing shall report the circumstances to the Superintendent General, who may order the sale, by the said officer or agent, of such trees, logs, timber or other product thereof.”

Proceedings for trial of validity of seizure, &c.

Delivery on security given.

Bond to be given, &c.

**67.** Any judge of any superior, county or district court, or any stipendiary magistrate, police magistrate or Indian agent, may, in a summary way, under the “*Act respecting summary proceedings before Justices of the Peace*,” try and determine such seizures,—and may, pending the trial, order the delivery of the trees, logs, timber or other product thereof to the alleged owner, on receiving security by bond, with two good and sufficient sureties, first approved by the said agent, to pay double the value of such trees, logs, timber or other product, in case of their condemnation; and such bond shall be taken in the name of the Superintendent General, for Her Majesty, and shall be delivered up to and kept by the Superintendent General; and if such seized trees, logs, timber or other product thereof are condemned, the value thereof shall be paid forthwith to the Superintendent General or agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered. 43 V., c. 28, s. 67, *part*;—45 V., c. 30, s. 3.

**68.** Every one who avails himself of any false statement or false oath to evade the payment of dues under this Act, shall forfeit the timber in respect of which the dues are attempted to be evaded. 43 V., c. 28, s. 68.

Punishment of attempts to evade payment of dues.

MANAGEMENT OF INDIAN MONEYS.

**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 but for the passing of this Act. 43 V., c. 28, s. 69.

Indian moneys to be dealt with as heretofore.

R.S.C. 1886, c. 43, cont'd.

**70.** The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom, the moneys arising from sales of Indian lands, and from the property held or to be held in trust for the Indians, or from any timber on Indian lands or reserves, or from any other source, for the benefit of Indians, (with the exception of any sum not exceeding ten per cent. of the proceeds of any lands, timber or property, which is agreed at the time of the surrender to be paid to the members of the band interested therein,) shall be invested, from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given,—and may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Act, and for the construction or repair of roads passing through such reserves or lands, and by way of contribution to schools attended by such Indians. 43 V., c. 28, s. 70.

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

**2.** Section seventy of *The Indian Act* is hereby repealed and the following substituted therefor:—

**“70.** The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom, the moneys arising from the disposal of Indian lands, or of property held or to be held in trust for Indians, or timber on Indian lands or reserves, or from any other source for the benefit of Indians, (with the exception of such sum not exceeding ten per cent of the proceeds of any lands, timber or property, as is agreed at the time of the surrender to be paid to the members of the band interested therein,) shall be invested, from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given; and may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Act, and may authorize and direct the expenditure of such moneys for the construction or repair of roads, bridges, ditches and watercourses on such reserves or lands, for the construction of school buildings, and by way of contribution to schools attended by such Indians.”

R.S.C., c. 43 s. 70 amended.

S.C. 1895, c. 35, s. 2.

Governor in Council may direct investment and management of Indian funds and payments made therefrom.

R.S.C. 1886, c. 43, cont'd.

S.C. 1898,  
c. 34, s. 6.

**6.** The section substituted for section 70 of the said Act by section 2 of chapter 35 of the statutes of 1895, is hereby repealed and the following is substituted therefor:—

**“70.** The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom, the moneys arising from the disposal of Indian lands, or of property held or to be held in trust for Indians, or timber on Indian lands or reserves, or from any other source for the benefit of Indians (with the exception of such sum, not exceeding ten per cent of the proceeds of any lands, timber, or property, as is agreed at the time of the surrender to be paid to the members of the band interested therein), shall be invested from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given; and he may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Act, and may authorize and direct the expenditure of such moneys for surveys, for compensation to Indians for improvements or any interest they have in lands taken from them, for the construction or repair of roads, bridges, ditches and watercourses on such reserves or lands, for the construction of school buildings, and by way of contribution to schools attended by such Indians.”

New section 70.

Investment and management of Indian funds may be regulated by Governor in Council.

S.C. 1906,  
c. 20, s. 1.

**1.** Section 6 of chapter 34 of the statutes of 1898 is repealed and the following is enacted as section 70 of *The Indian Act*, chapter 43 of the Revised Statutes:—

**“70.** The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom, the moneys arising from the disposal of Indian lands, or of property held or to be held in trust for Indians, or timber on Indian lands or reserves, or from any other source for the benefit of Indians (with the exception of such sum, not exceeding fifty per cent of the proceeds of any lands, and not exceeding ten per cent of the proceeds of any timber or other property, as is agreed at the time of the surrender to be paid to the members of the band interested therein), shall be invested from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given; and he may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Act, and may authorize and direct the expenditure of such moneys for surveys, for compensation to Indians for improvements or any interest they have in lands taken from them, for the construction or repairs of roads, bridges, ditches and watercourses on such reserves or lands, for the construction and repair of school buildings and charitable institutions, and by way of contribution to schools attended by such Indians.”

Investment and management of Indian funds may be regulated by Governor in Council.

R.S.C., c. 43, new s. 70.

R.S.C. 1886, c. 43, cont'd.

71. The proceeds arising from the sale or lease of any Indian lands, or from the timber, hay, stone, minerals or other valuables thereon, or on a reserve, shall be paid to the Minister of Finance and Receiver General to the credit of the Indian fund. 43 V., c. 28, s. 71.

Proceeds of sales to be paid to the Receiver General.

72. The Superintendent General may stop the payment of the annuity and interest money of any Indian who is proved, to the satisfaction of the Superintendent General, guilty of deserting his family; and the Superintendent General may apply the same towards the support of any family, woman or child, so deserted. 43 V., c. 28, s. 83, part.

Payment of annuity may be stopped in cases of marital desertion.

8. The seventy-second section of the said Act is hereby repealed and the following section substituted therefor:—

Section 72 repealed; new provision.

S.C. 1887, c. 33, s. 8.

Payment of annuity may be stopped and offender deprived of participation in lands, in case of desertion of family.

72. The Superintendent General may stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the Superintendent General, guilty of deserting his family; and the Superintendent General may apply the same towards the support of any family, woman or child, so deserted."

Section 72 amended, and 1887, c. 33, s. 8.

4. The section substituted for section seventy-two of *The Indian Act* by section eight of chapter thirty-three of the Statutes of 1887 is hereby repealed and the following substituted therefor:—

S.C. 1894, c. 32, s. 4.

Disposal of annuity, etc., in case of desertion of family.

72. The superintendent general may stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the superintendent general, guilty of deserting his family, or of conduct justifying his wife or family in separating from him, or is separated from his family by imprisonment; and the superintendent general may apply the same towards the support of the wife or family of such Indian."

7. Section 72 of the said Act, as enacted by section 4 of chapter 32 of the statutes of 1894, is hereby repealed and the following is substituted therefor:—

New section 72.

S.C. 1898, c. 34, s. 7.

72. The Superintendent General may stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the Superintendent General, guilty of deserting his family, or of conduct justifying his wife or family in separating from him, or who is separated from his family by imprisonment; and the Superintendent General may apply the same towards the support of the wife or family of such Indian. The Superintendent General may also stop the payment of the annuity and interest money of any Indian parent of an illegitimate child, and apply the same to the support of such child."

Payment of annuity may be stopped in case of marital desertion.



R.S.C. 1886, c. 43, cont'd.

Similar provision as to Indian woman.

**73.** The Superintendent General may also stop the payment of the annuity and interest money of any woman who has no children, and who deserts her husband and lives immorally with another man. 43 V., c. 28, s. 83, *part.*

S.C. 1887, c. 33, s. 9.

Section 73 repealed; new provision. Provision in like case as to Indian woman.

3497  
1897

**9.** The seventy-third section of the said Act is hereby repealed and the following section substituted therefor:—

“**73.** The Superintendent General may also stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any woman who has no children, and who deserts her husband and lives immorally with another man.”

S.C. 1898, c. 34, s. 8.

New section 73.

Similar provision as to Indian woman.

**8.** The section substituted for section 73 of the said Act by section 9 of chapter 33 of the statutes of 1887, is hereby repealed and the following is substituted therefor:—

“**73.** The Superintendent General may also stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any woman who deserts her husband or family and lives immorally with another man, and the Superintendent General may apply the same to the support of the family so deserted.”

Indians may be relieved out of the funds of the band, when sick, &c.

**74.** The Superintendent General may, whenever sick or disabled, or aged or destitute Indians are not provided for by the band of which they are members, furnish sufficient aid from the funds of the band for the relief of such sick, disabled, aged or destitute Indians. 43 V., c. 28, s. 84.

ELECTION OF CHIEFS.

Governor in Council may provide for election of chiefs.

**75.** Whenever the Governor in Council deems it advisable, for the good government of a band, to introduce the system of election of chiefs, he may provide that the chiefs of any band of Indians shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall, in such case, be elected for a term of three years, but may be deposed by the Governor in Council for dishonesty, intemperance, immorality or incompetency; and they may be in the proportion of one head chief and two second chiefs or councillors for every two hundred Indians:

S.C. 1894, c. 32, s. 5.

Section 75 amended.

Deposition of chiefs for bad conduct.

**5.** Subsection one of section seventy-five of *The Indian Act* is hereby amended by inserting after the word “deposed” in the seventh line thereof the following words “and declared ineligible for re-election for three years.”

R.S.C. 1886, c. 43, cont'd.

Proviso: as to number.

2. No band shall have more than six head chiefs and twelve second chiefs, but any band, composed of thirty Indians, may have one chief:

Proviso: as to present life chiefs.

3. Provided that life chiefs, now living, shall continue to hold the rank of chief until death or resignation, or until their removal, by the Governor in Council, for dishonesty, intemperance, immorality or incompetency; but in the event of the Governor in Council providing that the chiefs of a band shall be elected, the life chiefs shall not exercise the powers of chiefs, unless elected, under the provision aforesaid, to the exercise of such powers:

Further proviso as to them.

Election of chiefs may be set aside for certain reasons.

4. An election may be set aside by the Governor in Council on the report of the Superintendent General, if it is proved by two witnesses before the Indian agent for the locality or such other person as is deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election; and every Indian who is proved guilty of such fraud or irregularity, or connivance thereat, may be declared ineligible for re-election for six years, if the Governor in Council, on the report of the Superintendent General, so directs. 43 V., c. 28, s. 72;—47 V., c. 27, s. 9.

Section 75 amended.

3. Section seventy-five of *The Indian Act* is hereby repealed and the following substituted therefor:—

Governor in Council may provide for election of chiefs.

“75. Whenever the Governor in Council deems it advisable, for the good government of a band, to introduce the system of election of chiefs or headmen, he may provide that the chiefs or headmen of any band of Indians shall be elected, as hereinafter provided, at such time and place as the superintendent general directs; and they shall, in such case, be elected for a term of three years:

Term of chieftainship.

Provisions as to number of chiefs.

“2. Bands containing thirty or more Indians shall be entitled to elect chiefs or headmen in the proportion of one for each thirty members; but no band shall have more than fifteen chiefs or headmen: Provided that life chiefs, now living, shall continue to hold the rank of chief until death or resignation, or until their removal, by the Governor in Council, for dishonesty, intemperance, immorality or incompetency; but in the event of the Governor in Council providing that the chiefs or headmen of a band shall be elected, the life chiefs or headmen shall not exercise the powers of chiefs or headmen, unless elected, under the provision aforesaid, to the exercise of such powers:

As at present life chiefs.

Reasons for which election may be set aside.

“3. An election may be set aside by the Governor in Council on the report of the superintendent general, if it is proved by two witnesses before the Indian agent for the locality or such other person as is deputed by the superintendent general to take evidence in the matter, that fraud or gross irregularity was practised at the said election; and every Indian who is proved-guilty of such fraud or irregularity, or connivance thereat, may be declared ineligible for re-election for six years, if the Governor in Council, on the report of the superintendent general, so directs:

Punishment of fraud, etc., at elections.

Grounds on which chiefs may be deposed.

“4. Any elected or life chief or headman, or any chief or headman chosen according to the custom of any band, may, on the ground of dishonesty, intemperance, immorality or incompetency, be deposed by the Governor in Council and declared ineligible to hold the office of chief or headman for three years.”

R.S.C. 1886, c. 43, s. 75 (2), cont'd.

S.C. 1895, c. 35, s. 3.

R.S.C. 1886, c. 43, cont'd.

S.C. 1898,  
c. 34, s. 9.

New section  
75.

Governor in  
Council may  
provide for  
election of  
chiefs, etc.

Term of office.

Number.

As to present  
life chiefs, etc.

Reason for  
which election  
may be set  
aside.

Punishment  
of fraud, etc.,  
at election.

Grounds on  
which chief,  
etc., may be  
deposed.

9. The section substituted for section 75 of the said Act by section 3 of chapter 35 of the statutes of 1895, is hereby repealed and the following is substituted therefor:—

“75. Whenever the Governor in Council deems it advisable, for the good government of a band, to introduce the elective system of chiefs and councillors or headmen, he may provide that the chief and councillors or headmen of any band shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall in such case be elected for a term of three years. The councillors or headmen may be in the proportion of two for every two hundred Indians; but no band shall have more than one chief and fifteen councillors or headmen: provided, however, that any band composed of at least thirty members may have a chief.

“2. Life chiefs and councillors or headmen now living may continue to hold rank until death or resignation, or until their removal by the Governor in Council for dishonesty, intemperance, immorality or incompetency; but in the event of the Governor in Council providing that the chief and councillors or headmen of a band shall be elected, the life chiefs and councillors or headmen shall not exercise powers as such unless elected under the provision aforesaid.

“3. An election may be set aside by the Governor in Council, on a report of the Superintendent General, if it is proved by two witnesses before the Indian agent for the locality, or such other person as is deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election; and every Indian who is proved guilty of such fraud or irregularity, or connivance thereat, may be declared ineligible for re-election for a period not exceeding six years, if the Governor in Council, on the report of the Superintendent General, so directs.

“4. Any elected or life chief and any councillor or headman, or any chief or councillor or headman chosen according to the custom of any band, may, on the ground of dishonesty, intemperance, immorality or incompetency, be deposed by the Governor in Council and declared ineligible to hold the office of chief or councillor or headman for a period not exceeding three years.”

REGULATIONS TO BE MADE BY CHIEFS.

Chiefs to  
make regula-  
tions for cer-  
tain purposes.

76. The chief or chiefs of any band in council may frame, subject to confirmation by the Governor in Council, rules

and regulations in respect of the subjects following, that is to say:—

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

Religious  
denomina-  
tion of school  
teacher.

(b.) The care of the public health;

Health.

(c.) The observance of order and decorum at assemblies of the Indians in general council, or on other occasions;

Order.

(d.) The repression of intemperance and profligacy;

Intemper-  
ance, &c.

(e.) The prevention of trespass by cattle, and the protection of sheep, horses, mules and cattle;

Trespass.

R.S.C. 1886, c. 43, cont'd.

(f.) The construction and maintenance of water-courses, Roads, &c. roads, bridges, ditches and fences;

(g.) The construction and repair of school houses, council School houses and other Indian public buildings, and the atten- houses, &c. dance at school of children between the ages of six and fifteen years;

(h.) The establishment of pounds and the appointment of Pounds. pound-keepers;

(i.) The locating of the land in their reserves, and the Location of establishment of a register of such locations; land.

(j.) The repression of noxious weeds; Weeds.

(k.) The imposition of punishment, by fine, penalty or Punishment imprisonment, or both, for violation of any of such rules or for infraction of regulations; but the fine or penalty shall in no case exceed of rules. thirty dollars, and the imprisonment shall in no case exceed thirty days; and the proceedings for the imposition of such punishment shall be taken under the "*Act respecting summary proceedings before Justices of the Peace.*" 43 V., c. 23, s. 74;—47 V., c. 27, s. 10.

#### EXEMPTION FROM TAXATION.

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

2. No taxes shall be levied on the real property of any As to taxes on Indian, acquired under the enfranchisement clauses of this property of an Act, until the same has been declared liable to taxation by an enfranchised Indian. proclamation of the Governor in Council, published in the *Canada Gazette*:

3. All land vested in the Crown or in any person, in trust Exemptions for or for the use of any Indian or non-treaty Indian, or any from taxation. band or irregular band of Indians or non-treaty Indians,

shall be exempt from taxation. 43 V., c. 28, ss. 75 and 76;—  
47 V., c. 27, s. 11.

Section 77 amended.

Exemption from taxation.

Exception.

Rights saved.

3. Sub-section three of section seventy-seven is hereby repealed and the following substituted therefor:—

"3. All land vested in the Crown or in any person, in trust for or for the use of any Indian or non-treaty Indian, or any band or irregular band of Indians or non-treaty Indians, shall be exempt from taxation, except those lands which, having been surrendered by the bands owning them, though unpatented, have been located by or sold or agreed to be sold to any person; and, except as against the Crown and any Indian located on the land, the same shall be liable to taxation in like manner as other lands in the same locality; but nothing herein contained shall interfere with the right of the Superintendent General to cancel the original sale or location of any land, or shall render such land liable to taxation until it is again sold or located."

S.C. 1888,  
c. 22, s. 3.

## LEGAL RIGHTS OF INDIANS.

No lien  
or charge to  
be taken  
on property of  
an Indian.

Proviso.

**78.** No person shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgment or otherwise, upon real or personal property of any Indian or non-treaty Indian, except on real or personal property subject to taxation under the next preceding section; but any person selling any article to an Indian or non-treaty Indian may take security on such article for any part of the price thereof which is unpaid. 43 V., c. 28, s. 77.

As to rights  
of action by  
Indians.

**79.** Indians and non-treaty Indians shall have the right to sue for debts due to them, or in respect of any tort or wrong inflicted upon them, or to compel the performance of obligations contracted with them; but in any suit or action between Indians, or in any case of assault in which the offender is an Indian, no appeal shall lie from any judgment, order or conviction by any police magistrate, stipendiary magistrate, or two justices of the peace or an Indian agent, when the sum adjudged or the penalty imposed does not exceed ten dollars. 43 V., c. 28, s. 78;—45 V., c. 30, s. 3;—47 V., c. 27, s. 24.

Things  
pawned by  
Indians for  
intoxicants  
not to be  
retained.

**80.** No pawn taken from any Indian or non-treaty Indian for any intoxicant, shall be retained by the person to whom such pawn is delivered; but the thing so pawned may be sued for and shall be recoverable, with costs of suit, in any court of competent jurisdiction by the Indian or non-treaty Indian who pawned the same. 43 V., c. 28, s. 79.

Exemptions  
from seizure.

**81.** No presents given to Indians or non-treaty Indians, and no property purchased or acquired with or by means of any annuities granted to Indians, or any part thereof, and in the possession of any band of such Indians, or of any Indian of any band or irregular band, shall be liable to be taken, seized or distrained for any debt, matter or cause whatsoever:

Traffic in presents and property restricted.

2. No such presents or property shall, in the Province of British Columbia, the Province of Manitoba, the North-West Territories or in the District of Keewatin, be sold, bartered, exchanged or given by any band or irregular band of Indians, or any Indian of any such band, to any person or Indian other than an Indian of such band:

Punishment for contravention.

3. Every such sale, barter, exchange or gift shall be null and void, unless such sale, barter, exchange or gift is made with the written assent of the Superintendent General or his agent; and every one who buys or otherwise acquires any presents or property purchased as aforesaid, without the written consent of the Superintendent General or his agent, as aforesaid, is guilty of a misdemeanor, and liable to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months:

S.C. 1890,  
c. 29, s. 6.

Subs. 3, s. 81,  
amended.

**6.** Sub-section three of section eighty-one of the said Act is hereby amended by adding the following words at the end thereof: "and the burden of proof, concerning such written consent of the Superintendent General or his agent, shall lie on the accused."

R.S.C. 1886, c. 43, cont'd.

4. If any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians, are or is unlawfully in the possession of any person, within the true intent and meaning of this section, any person acting under the authority of the Superintendent General may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same, and he shall deal therewith as the Superintendent General directs. 43 V., c. 28, s. 80.

R.S.C. 1886, c. 43, s. 81 cont'd.

S. 81 further amended.

Certain animals and tools, &c., held to be presents.

7. The said section eighty-one is hereby further amended by adding the following sub-section thereto :—

S.C. 1890, c. 29, s. 7.

“ 5. Animals given to Indians under treaty stipulations, and the progeny thereof, and farming implements, tools and any other articles given to Indians under treaty stipulations, shall be held to be presents within the meaning of this section.”

ENFRANCHISEMENT.

82. The eleven sections next following, shall not apply to any band of Indians in the Province of British Columbia, the Province of Manitoba, the North-West Territories or the District of Keewatin, except in so far as the said sections are, by proclamation of the Governor in Council, from time to time, extended to any band of Indians in any of the said Provinces, Territories or District. 43 V., c. 28, s. 107.

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

83. Whenever any male Indian or unmarried Indian woman, of the full age of twenty-one years, makes application to the Superintendent General to be enfranchised, the Superintendent General shall instruct the agent of the band of which the applicant is a member, to call upon the latter to furnish a certificate, under oath, before a judge of any court of justice, by the priest, clergyman or minister of the religious denomination to which the applicant belongs, or by a stipendiary magistrate or two justices of the peace, to the effect that to the best of the knowledge and belief of the deponent or deponents, the applicant for enfranchisement is, and has been for at least five years previously, a person of good moral character, temperate in his or her habits, and of sufficient intelligence to be qualified to hold land in fee simple, and otherwise to exercise all the rights and privileges of an enfranchised person. 47 V., c. 27, s. 16, part.

Proceedings for enfranchisement.

Certificate to be obtained.

84. Upon receipt of such a certificate, the agent shall, with the least possible delay, submit the same to a council of the band of which the applicant is a member; and he shall then inform the Indians assembled at such council, that thirty days will be given within which affidavits made before a judge or a stipendiary magistrate will be received, containing reasons, if any there are, of a personal character affecting the applicant, why such enfranchisement should not be granted to the applicant. 47 V., c. 27, s. 16, part.

To be submitted to council of band.

**85.** At the expiration of the thirty days aforesaid, the agent shall forward to the Superintendent General all affidavits to be sent to

Superintendent General.

affidavits which have been filed with him in the case, as well as one made by himself before a judge or a stipendiary magistrate, containing his reasons for or against the enfranchisement of the applicant; and if the Superintendent General, after examining the evidence, decides in favor of the applicant, he may grant him or her a location ticket as a probationary Indian for the land occupied by him or her, or for such proportion thereof as appears to the Superintendent General fair and proper. 47 V., c. 27, s. 16, *part.*

Location ticket may be granted.

Certain educational acquirements to confer enfranchisement.

**86.** Every Indian who is admitted to the degree of doctor of medicine, or to any other degree, by any University of learning, or who is admitted, in any Province of Canada, to practise law, either as an advocate, a barrister, solicitor or attorney, or a notary public, or who enters holy orders, or who is licensed by any denomination of Christians as a minister of the gospel, may, upon petition to the Superintendent General, *ipso facto* become and be enfranchised under this Act, and he shall then be entitled to all the rights and privileges to which any other member of the band to which he belongs would be entitled if he was enfranchised under the provisions of this Act; and the Superintendent General may give him a suitable allotment of land from the lands belonging to the band of which he is a member; but if he is not the recognized holder of a location on the reserve, by ticket or otherwise, he shall first obtain the consent of the band and the approval of the Superintendent General to such allotment. 47 V., c. 27, s. 16, *part.*

Allotment in such case. Proviso.

Patent may issue after probation.

**87.** After the expiration of three years, or such longer period as the Superintendent General deems necessary in the event of the conduct of such Indian not being satisfactory, the Governor in Council may, on the report of the Superintendent General, order the issue of letters patent, granting to such Indian the land in fee simple, which has, with this object in view, been allotted to him by location ticket, but without power to sell, lease or otherwise alienate the land, except with the sanction of the Governor in Council; and provisos to such effect shall be inserted in the letters patent conveying the land to the said Indian, and in such cases compliance with the provisions of sections thirty-eight and thirty-nine of this Act shall not be necessary. 47 V., c. 27, s. 17.

Conditions.

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

**88.** Every such Indian shall, before the issue of such letters patent, declare to the Superintendent General the name and surname by which he wishes to be enfranchised and thereafter known, and on his receiving such letters patent, in such name and surname, he shall be held to be also enfranchised, and he shall thereafter be known by such name or surname; and if such Indian is a married man, his wife and minor unmarried children shall also be held to be

Wife and minor child-

enfranchised; and from the date of such letters patent the provisions of this Act and of any Act or law making any distinction between the legal rights, privileges, disabilities and liabilities of Indians and those of Her Majesty's other subjects, shall cease to apply to such Indian, or to the wife or minor unmarried children of such Indian as aforesaid, so declared to be enfranchised, who shall no longer be deemed Indians within the meaning of the laws relating to Indians, except in so far as regards their right to participate in the annuities and interest moneys, and rents and councils of the band to which they belonged: ren also enfranchised. Effect of such enfranchisement.

R.S.C. 1836, c. 43, cont'd.

2. Any children of a probationary Indian, who, being minors and unmarried when the probationary ticket was granted to such Indian, arrive at the full age of twenty-one years before the letters patent are issued to such Indian, may, at the discretion of the Governor in Council, receive letters patent in their own names, subject to the same restrictions and reservations as are contained in the letters patent issued to their parent, for their respective shares of the land allotted under the said ticket, at the same time that letters patent are granted to their parent :

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

3. If any Indian child who arrives at the full age of twenty-one years, during his or her parent's probationary period, is not qualified for enfranchisement, or if any child of such parent, who was a minor at the commencement of such period, is married during such period, a quantity of land equal to the share of such child shall be deducted, in such manner as the Superintendent General directs, from the allotment made to such Indian parent on receiving his probationary ticket. 43 V., c. 28, s. 101 ;—47 V., c. 27, s. 18.

As to children found unqualified; or being married.

New section 88a added.

Payment to individual Indians of share of moneys of band.

4. *The Indian Act* is hereby amended by adding the following section thereto, immediately after section eighty-eight :—

“88A. Whenever any member of a band, for three years immediately succeeding the date on which he was granted letters patent, or for any longer period that the superintendent general deems necessary, by his exemplary good conduct and management of property proves that he is qualified to receive his share of the moneys of such band, the Governor in Council may, on the report of the superintendent general to that effect, order that the said Indian be paid his

share of the capital funds at the credit of the band, or his share of the principal of the annuities of the band, estimated as yielding five per cent, out of such moneys as are provided for the purpose by Parliament :

“2. If such Indian is a married man he shall also be paid his wife's and minor unmarried children's shares of such funds and principal moneys, and if such Indian is a widow, she shall also be paid her minor unmarried children's shares :

Married men's and widows' shares.

“8. The unmarried children of such married Indians who become of age during the probationary period, for payment of such moneys, if qualified by the character for integrity, morality and sobriety which they bear, shall receive their own share of such moneys, when their parents are paid ; and if not so qualified, before they receive payment of such moneys they must themselves pass through the probationary period :

Shares of unmarried children of full age.

“4. All such Indians, and their unmarried minor children, who are paid their shares of the principal moneys of their band, as aforesaid, shall thenceforward cease, in every respect, to be Indians of any class within the meaning of this Act, or Indians within the meaning of any other Act or law.”

Enfranchisement of individual Indians so receiving shares.

S.C. 1895,  
c. 35,  
s. 4.



R.S.C. 1886, c. 43, cont'd.

**89.** If any probationary Indian fails in qualifying to become enfranchised, or dies before the expiration of the required probation, his claim, or the claim of his heirs, to the land for which a probationary ticket was granted, or the claim of any unqualified Indian, or of any Indian who marries during his or her parent's probationary period, to the land deducted, under the operation of the next preceding section, from his or her parent's probationary allotment, shall, in all respects, be the same as that conferred by an ordinary location ticket under this Act. 43 V., c. 28, s. 102.

If Indian fails to qualify, or dies before expiration of probation, &c.

**90.** The children of any widow who becomes either a probationary or enfranchised Indian shall be entitled to the same privileges as those of a male head of a family in like circumstances. 43 V., c. 28, s. 103.

As to children of a widow enfranchised, &c.

**91.** In allotting land to probationary Indians, the quantity to be allotted to the head of a family shall be in proportion to the number of such family, compared with the total quantity of land in the reserve, and the whole number of the band; but the Superintendent General may determine

Rules for allotting lands to probationary Indians.

Proviso as to power of Superintendent General in this behalf.

what quantity shall be allotted to each member for enfranchisement purposes, provided that each female of any age, and each male under fourteen years of age, shall receive at least one-half the quantity allotted to each male of fourteen years of age and over. 43 V., c. 28, s. 104;—47 V., c. 27, s. 19.

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

**92.** Every Indian who is not a member of the band, and every non-treaty Indian, who, with the consent of the band and the approval of the Superintendent General, has been permitted to reside upon the reserve, or to obtain a location thereon, may, on being assigned a suitable allotment of land by the Superintendent General for enfranchisement, become enfranchised on the same terms and conditions as a member of the band; and such enfranchisement shall confer upon such Indian the same legal rights and privileges, and make such Indian subject to such disabilities and liabilities as affect Her Majesty's other subjects; but such enfranchisement shall not confer upon such Indian any right to participate in the annuities, interest moneys, rents or councils of the band. 43 V., c. 28, s. 105;—47 V., c. 27, s. 20.

Proviso.

R.S.C. 1886, c. 43, cont'd.

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 a widow.

And as to unmarried children of

**93.** If any band, at a council summoned for the purpose according to their rules, and held in the presence of the Superintendent General, or an agent duly authorized by him to attend such council, decides to allow every member of the band who chooses, and who is found qualified, to become enfranchised, and to receive his or her share of the principal moneys of the band, and sets apart for such member a suitable allotment of land for the purpose, any applicant belonging to such band, after such a decision, may be dealt with as provided in the foregoing provisions respecting enfranchisement, until his or her enfranchisement is attained; and whenever any member of the band, who, for the three years immediately succeeding the date on which he was granted letters patent, or for any longer period that the Superintendent General deems necessary, by his exemplary good conduct and management of property proves that he is qualified to receive his share of such moneys, the Governor in Council may, on the report of the Superintendent General to that effect, order that the said Indian be paid his share of the capital funds at the credit of the band, or his share of the principal of the annuities of the band, estimated as yielding five per cent., out of such moneys as are provided for the purpose by Parliament:

2. If such Indian is a married man he shall also be paid his wife's and minor unmarried children's share of such funds and other principal moneys, and if such Indian is a widow, she shall also be paid her minor unmarried children's share:

3. The unmarried children of such married Indians, who become of age during the probationary period, either for enfranchisement or for payment of such moneys, if qualified by the character for integrity, morality and sobriety which they bear, shall receive their own share of such moneys, when their parents are paid; and if not so qualified, before they can become enfranchised or receive payment of such moneys they must themselves pass through the probationary periods:

4. All such Indians, and their unmarried minor children, who are paid their share of the principal moneys of their band, as aforesaid, shall thenceforward cease, in every respect, to be Indians of any class within the meaning of this Act, or Indians within the meaning of any other Act or law. 48 V., c. 28, s. 106.

any such enfranchised and married Indians.

Indian laws to cease to apply.

**5. Section ninety-three of *The Indian Act* is hereby repealed and the following substituted therefor:—**

**"93.** If any band, at a council summoned for the purpose according to their rules, and held in the presence of the superintendent general, or an agent duly authorized by him to attend such council, decides to allow every member of the band who chooses, and who is found qualified, to become enfranchised, and to receive his or her share of the principal moneys of the band, and sets apart for such member a suitable allotment of land for the purpose, any applicant belonging to such band, or the wife and children of any such applicant, may, after such decision, be dealt with as provided in the foregoing provisions respecting enfranchisement and the payment to enfranchised Indians of their shares of the capital funds at the credit of the band or of the estimated principal of the annuities of the band to which they are entitled."

Section 93 amended.

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

S.C. 1895, c. 35, s. 5.

R.S.C. 1886, c. 43, cont'd.

## OFFENCES AND PENALTIES.

**94.** Every one who sells, exchanges with, barter, supplies or gives to any Indian or non-treaty Indian, any intoxicant, or causes or procures the same to be done, or attempts the same or connives thereat, or opens or keeps, or causes to be opened or kept, on any reserve or special reserve, a tavern, house or building in which any intoxicant is sold, bartered, exchanged or given, or who is found in possession of any intoxicant in the house, tent, wigwam or place of abode of any Indian or non-treaty Indian, or of any person, or upon any other part of the reserve or special reserve, or who sells, exchanges with, barter, supplies or gives to any person, on any reserve or special reserve, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, upon the evidence of one credible witness, other than the informer or prosecutor,—or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone, if he is a credible person,—be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labor, or to a penalty not exceeding three hundred dollars and not less than fifty dollars, with costs of prosecution, a moiety of which penalty shall belong to the informer or prosecutor, and the other moiety whereof shall belong to Her Majesty, to form part of the fund for the benefit of that body of Indians or non-treaty Indians, with respect to one or more members of which the offence was committed, or he shall be liable to both penalty and imprisonment in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. 43 V., c. 28. s. 90, *part*;—44 V., c. 17, s. 10;—45 V., c. 39, s. 3.

Punishment  
for furnishing  
intoxicants  
to Indians.

Penalties and  
their applica-  
tion.

R.S.C. 1886, c. 43, cont'd.

4. Section ninety-four of the said Act is hereby repealed and the following substituted therefor:—

"94. Every one, who by himself, his clerk, servant or agent, and every one who in the employment or on the premises of another directly or indirectly on any pretence or by any device sells, barter, supplies or gives to any Indian or non-treaty Indian any intoxicant, or causes or procures the same to be done or attempts the same or connives thereat, or opens or keeps, or causes to be opened or kept on any reserve or special reserve, a tavern, house or building in which any intoxicant is sold, bartered, supplied or given, or who is found in possession of any intoxicant in the house, tent, wigwam or place of abode of any Indian or non-treaty Indian or of any person, or upon any other part of the reserve or special reserve, or who sells, barter, supplies or gives to any person on any reserve or special reserve any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace or Indian agent, upon the evidence of one credible witness other than the informer or prosecutor—or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone if he is a credible person—be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labor, or to a penalty not exceeding three hundred dollars and not less than fifty dollars with costs of prosecution, or he shall be liable to both penalty and imprisonment in the discretion of the convicting judge, magistrate, stipendiary magistrate, justices of the peace or Indian agent; and a moiety of every such penalty shall belong to the informer or prosecutor, and the other moiety thereof shall belong to Her Majesty to form part of the fund for the benefit of that body of Indians or non-treaty Indians with respect to one or more members of which the offence was committed."

Section 94 repealed; new section.

Punishment for furnishing intoxicants to Indians.

S.C. 1888,  
c. 22, s. 4.

Penalties.

Application of fines.

Section 94 amended, and 1888, c. 22, s. 4.

Meaning of "Indian."

6. The section substituted for section ninety-four of *The Indian Act* by section four of chapter twenty-two of the Statutes of 1888, is hereby amended by adding thereto the following subsection:—

"2. In this section the expression 'Indian,' in addition to its ordinary signification as defined in section two of this Act, shall extend to and include any person, male or female, who is reputed to belong to a particular band, or who follows the Indian mode of life, or any child of such person."

S.C. 1894,  
c. 32, s. 6.

R.S.C. 1886, c. 43, cont'd.

**95.** The commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicant has been sold, bartered, exchanged, supplied or given to any Indian or non-treaty Indian, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, upon the evidence of one credible witness, other than the informer or prosecutor,—or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone, if he is a credible person,—be liable to a penalty not exceeding three hundred dollars and not less than fifty dollars for each such offence, with costs of prosecution,—which penalty shall be applied as provided in the next preceding section; and in default of immediate payment of such penalty and costs, any person so convicted shall be committed to any common gaol, house of correction, lock-up or other place of confinement by the judge, magistrate or two justices of the peace, or Indian agent, before whom the conviction has taken place, for a term not exceeding six months and not less than one month, with or without hard labor, or until such penalty and costs are paid. 43 V., c. 28, s. 90, *part.*

same are furnished.

Penalties and their application.

Imprisonment in default of payment.

Of commanders of vessels, on board of which the

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

Penalty or imprisonment, or both.

Evidence of Indians.

No penalty in cases specified.

**96.** Every Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or who sells, exchanges with, barter, supplies or gives to any other Indian or non-treaty Indian, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, upon the evidence of one credible witness, other than the informer or prosecutor,—or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone, if he is a credible person,—be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labor, or to a penalty not exceeding one hundred dollars and not less than twenty-five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. 43 V., c. 28, s. 90, *part.*

**97.** In all cases arising under the three sections next preceding, Indians or non-treaty Indians shall be competent witnesses. 43 V., c. 28, s. 90, *part.*

**98.** No penalty shall be incurred when the intoxicant is made use of in case of sickness under the sanction of a medical man or under the directions of a minister of religion 43 V., c. 28, s. 90, *part.*

S.C. 1890,  
c. 29,  
s. 8.

S. 98 amended.

**S.** Section ninety-eight of the said Act is hereby amended by adding the following words at the end thereof: "And the burden of proof that the intoxicant has been so made use of shall be on the accused."

R.S.C. 1886, c. 43, cont'd.

Giving intoxicants to Indian or being found drunk in reserve, &c. **99.** Every one who gives or supplies an intoxicant to an Indian or non-treaty Indian on an order, verbal or written, shall be liable to all the penalties to which he would have been liable if he had sold the same without such

order; and every person found drunk in the house, tent, wigwam or other domicile of an Indian, or gambling therein, and every person found within an Indian village, settlement or reserve after sunset, and who refuses to leave after having been requested so to do by an Indian agent or chief, shall be liable to all the fines and penalties to which he would have been liable if he had supplied intoxicants to Indians, and under similar process. 47 V., c. 27, s. 13. Punishment.

Section 99 amended.

**7.** Section ninety-nine of *The Indian Act* is hereby repealed and the following substituted therefor:—

S.C. 1894, c. 32, s. 7.

Arrest and punishment of gamblers, drunken persons, and persons having intoxicants.

**99.** Any constable or peace officer may arrest without warrant any person or Indian found gambling, or drunk, or with intoxicants in his possession, on any part of a reserve, and may detain him until he can be brought before a justice of the peace, and such person or Indian shall be liable upon summary conviction to imprisonment for a term not exceeding three months or to a penalty not exceeding fifty dollars and not less than ten dollars, with costs of prosecution, half of which penalty shall belong to the informer.”

**100.** The keg, barrel, case, box, package or receptacle from which any intoxicant has been sold, exchanged, bartered, supplied or given, as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified, —and any intoxicant imported, manufactured or brought into and upon any reserve or special reserve, or into the house, tent, wigwam or place of abode, or on the person of any Indian or non-treaty Indian, or suspected to be upon any reserve or special reserve, may, upon a search warrant in that behalf being granted by any judge, police magistrate, stipendiary magistrate or justice of the peace be searched for, and if found, seized by any Indian superintendent, agent or bailiff, or other officer connected with the Indian Department, or by any constable, wheresoever found on such land or in such place or on the person of such Indian or non-treaty Indian; and on complaint before any judge, police magistrate, stipendiary magistrate, justice of the peace or Indian agent, he may, on the evidence of any credible witness that this Act has been violated in respect thereof, declare the same forfeited, and cause the same to be forthwith destroyed; and may condemn the Indian or person in whose possession the same is found to pay a penalty not exceeding one hundred dollars and not less than fifty dollars, and the costs of prosecution: Keg, &c., in which intoxicants are carried, to be forfeited. Intoxicants and vessels containing them may be searched for, seized and destroyed by order of J.P. Penalty for having the same in possession.

2. A moiety of such penalty shall belong to the prosecutor and the other moiety to Her Majesty, for the purposes hereinbefore mentioned; and in default of immediate payment, the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement, with or without hard labor, for any term not exceeding six months, and not less than two months, unless such penalty and costs are sooner paid. 43 V., c. 28, s. 91;—44 V., c. 17, s. 11;—45 V., c. 30, s. 3. Application of penalty. Imprisonment in default of payment.

R.S.C. 1886, c. 43, cont'd.

**101.** If it is proved before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, that any vessel, boat, canoe or conveyance of any description, upon the sea or sea coast, or upon any river, lake or stream, is employed in carrying any intoxicant,

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

to be supplied to Indians or non-treaty Indians, such vessel, boat, canoe or conveyance so employed may be seized and declared forfeited, as in the next preceding section mentioned, and sold, and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned. 43 V., c. 28, s. 92;—45 V., c. 30, s. 3.

Articles exchanged for intoxicants may be seized and forfeited.

**102.** Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which, in violation of this Act, the consideration, either wholly or in part, is an intoxicant, is forfeited to Her Majesty and may be seized, as is hereinbefore provided in respect to any receptacle of any intoxicant, and may be sold, and the proceeds thereof paid to Her Majesty, for the purposes hereinbefore mentioned. 43 V., c. 28, s. 93.

No intoxicant to be introduced at any council or meeting of Indians respecting surrender of reserve.

**103.** No one shall introduce any intoxicant at any council or meeting of Indians held for the purpose of discussing or of assenting to a release or surrender of a reserve or portion thereof, or for the purpose of assenting to the issuing of a timber or other license; and every person who introduces, at such meeting, and every agent or officer employed by the Superintendent General, or by the Governor in Council, who introduces, allows or countenances by his presence, the use of such intoxicant among such Indians, a week before, or at, or a week after, any such council or meeting, shall incur a penalty of two hundred dollars, recoverable by action in any court of competent jurisdiction,—a moiety of which penalty shall belong to the informer. 43 V., c. 28, s. 38.

Intoxicated Indians, how to be dealt with.

Penalties.

**104.** Any constable may, without process of law, arrest any Indian or non-treaty Indian whom he finds in a state of intoxication, and convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he is sober; and such Indian or non-treaty Indian shall, when sober, be brought before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent, and if convicted of being so found in a state of intoxication, shall be liable to imprisonment in any common gaol, house of correction, lock-up or other place of confinement, for a term not exceeding one month, or to a penalty not exceeding thirty dollars and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. 43 V., c. 28, s. 94, *part*;—45 V., c. 30, ss. 3 and 5, *part*.

R.S.C. 1886, c. 43, cont'd.

S.C. 1887,  
c. 33, s. 10.

Section 104 repealed; new provision

**10.** The one hundred and fourth section of the said Act is hereby repealed and the following section substituted therefor:—

Indians found intoxicated.  
Penalties.

**104.** Every Indian who is found in a state of intoxication shall be liable on summary conviction thereof to imprisonment for any term not exceeding one month or to a penalty not exceeding thirty dollars and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent."

May be arrested without warrant and confined till sober.  
To be tried when sober.

"2 Any constable or other peace officer may, without warrant, arrest any Indian or non-treaty Indian found in a state of intoxication, and convey him to any common gaol, house of correction, lock-up or other place of confinement there to be kept until he is sober; and such Indian or non-treaty Indian shall, when sober, be brought for trial before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent.

Further penalty if Indian refuses to state where he obtained the intoxicant.

**105.** If any Indian or non-treaty Indian who has been so convicted, refuses, upon examination, to state or give information of the person, place and time from whom, where and when, he procured such intoxicant, and if from any other Indian or non-treaty Indian, then, if within his know-

ledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days, or to an additional penalty not exceeding fifteen dollars and not less than three dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. 43 V., c. 28, s. 94, part;—45 V., c. 30, ss. 3 and 5, part.

**106.** Every person who, being the keeper of any house, tent or wigwam, allows or suffers any Indian woman to be or remain in such house, tent or wigwam, knowing, or having probable cause for believing, that such Indian woman is in or remains in such house, tent or wigwam, with the intention of prostituting herself therein, is guilty of an offence against this Act, and shall, on summary conviction before any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, be liable to a penalty not exceeding one hundred dollars and not less than ten dollars, or to imprisonment in any gaol or place of confinement for a term not exceeding six months:

Penalties on keepers of houses committing certain offences.

2. Every Indian who keeps, frequents, or is found in a disorderly house, tent or wigwam used for such a purpose as aforesaid, shall be liable to the same penalty and on similar process. 43 V., c. 28, s. 95;—45 V., c. 30, s. 3;—47 V., c. 27, s. 14.

Penalty for frequenting disorderly houses.



S.C. 1887,  
c. 33, s. 11.  
see also  
Criminal  
Code.

Section 16  
amended.  
*called*  
*in Code*  
Penalty for  
harboring In-  
dian prosti-  
tutes.  
*in force*  
*by 1893.*  
And on keep-  
ers who are  
Indians and  
prostitutes.  
*n. 1892*  
*de 1892*

**11.** Sub-section one of the one hundred and sixth section of the said Act is hereby repealed and the following sub-section substituted therefor:—

**106.** Every person and Indian who, being the keeper of any house, tent or wigwam, allows or suffers any Indian woman to be or remain in such house, tent or wigwam, knowing, or having probable cause for believing, that such Indian woman is in or remains in such house, tent or wigwam, with the intention of prostituting herself therein, or who, being an Indian woman, prostitutes herself therein, is guilty of an offence against this Act, and shall, on summary conviction before any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, be liable to a penalty not exceeding one hundred dollars and not less than ten dollars, or to imprisonment in any gaol or place of confinement for a term not exceeding six months."

**107.** Every person who appears, acts or behaves as master or mistress, or as the person who has the care or management of any house, tent or wigwam, in which any Indian woman is, or remains, for the purpose of prostituting herself therein, shall be deemed and taken to be the keeper thereof, notwithstanding he or she is not in fact the real keeper thereof. 43 V., c. 28, s. 96.

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

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

To what judges only appeal shall lie from conviction under preceding sections.

2. No such conviction shall be quashed for want of form, or be removed by *certiorari* into any superior court; and no warrant of commitment shall be held void by reason of any defect therein, if it is therein alleged that the person has been convicted, and if there is a good and valid conviction to sustain the same. 43 V., c. 28, s. 97;—47 V., c. 27, s. 15.

No removal by *certiorari*.

**109.** Every agent who knowingly and falsely informs, or causes to be informed, any person applying to him to purchase

Punishment of agents giving false

information as to lands.

any land within his division and agency, that the same has already been purchased, or who refuses to permit the person so applying to purchase the same according to existing regulations, shall be liable therefor to the person so applying, in the sum of five dollars for each acre of land which the person so applying offered to purchase, recoverable by action of debt in any court of competent jurisdiction. 43 V., c. 28, s. 54.

Penalty.

Recovery.

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

**110.** No agent for the sale of Indian lands shall, within his division, directly or indirectly, except under an order of the Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency; and every such purchase or interest shall be void:

Penalty for violation.

2. Every such agent who so offends shall forfeit his office and incur a penalty of four hundred dollars for every such offence, recoverable in an action of debt by any person who sues for the same. 43 V., c. 28, s. 41.

S.C. 1886, c. 43, cont'd.

**111.** Every one who induces, incites or stirs up any three or more Indians, non-treaty Indians, or half-breeds apparently acting in concert—

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

**To cause breach of peace.** (b) To do any act calculated to cause a breach of the peace, —is guilty of a misdemeanor, and liable to imprisonment for a term not exceeding two years. 47 V., c. 27, s. 1.

**Punishment.**

**112.** Every one who incites any Indian to commit any indictable offence is guilty of felony and liable to imprisonment for any term not exceeding five years. C. S. U. C., c. 128, s. 104.

**Inciting to commit indictable offences.**

**Punishment.**

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

**Sale or gift of ammunition may be prohibited.**

**Penalty for violation.**

2. Every offender against the provisions of this section may be tried in a summary manner by any stipendiary or police magistrate or by any two justices of the peace, or by an Indian agent. 45 V., c. 30, s. 3;—47 V., c. 27, s. 2.

**Summary trial.**

**114.** Every Indian or person who engages in or assists in celebrating the Indian festival known as the "Ponlach" or the Indian dance known as the "Taanawas," is guilty of a misdemeanor, and liable to imprisonment for a term not exceeding six months and not less than two months:

**Celebrating a certain feast or dance.**

**Punishment.**

2. Every Indian or person who encourages, either directly or indirectly, an Indian to get up such a festival or dance, or to celebrate the same, or who assists in the celebration of the same, is guilty of a like offence, and shall be liable to the same punishment. 47 V., c. 27, s. 3.

**Inciting to celebrate the same.**

R.S.C. 1886, c. 43, cont'd.

S.C. 1895,  
c. 35, s. 6.

**6.** Section one hundred and fourteen of *The Indian Act* is hereby repealed and the following substituted therefor :—

Section 114 amended.

“**114.** Every Indian or other person who engages in, or assists in celebrating or encourages either directly or indirectly another to celebrate, any Indian festival, dance or other ceremony of which the giving away or paying or giving back of money, goods or articles of any sort forms a part, or is a feature, whether such gift of money, goods or articles takes place before, at, or after the celebration of the same, and every Indian or other person who engages or assists in any celebration or dance of which the wounding or mutilation of the dead or living body of any human being or animal forms a part or is a feature, is guilty of an indictable offence and is liable to imprisonment for a term not exceeding six months and not less than two months; but nothing in this section shall be construed to prevent the holding of any agricultural show or exhibition or the giving of prizes for exhibits thereat.”

Celebrating certain festivals, dances or ceremonies whereat presents are made or human or animal bodies are mutilated.

Indictable offence.

Proviso.

**115.** Any judge of a court, judge of sessions of the peace, recorder, police magistrate or stipendiary magistrate shall have full power to do alone whatever is authorized by this Act to be done by a justice of the peace or by two justices of the peace. 44 V., c. 17, s. 6.

Who may act as a justice, or as two justices of the peace.

**116.** Any recorder, police magistrate or stipendiary magistrate, appointed for or having jurisdiction to act in any city or town shall, with respect to offences and matters under this Act, have and exercise jurisdiction over the whole county or union of counties or judicial district in which the city or town for which he has been appointed or in which he has jurisdiction is situate. 44 V., c. 17, s. 7.

Jurisdiction in city or town to give jurisdiction in surrounding country or district.

**117.** Every Indian agent shall be *ex officio* a justice of the peace for the purposes of this Act, and shall have the power and authority of two justices of the peace, with jurisdiction wheresoever any violation of the provisions of this Act occurs, or wheresoever it is considered by him most conducive to the ends of justice that any violation aforesaid shall be tried. 44 V., c. 17, s. 12;—45 V., c. 30, s. 3;—47 V., c. 27, ss. 22 and 23.

Indian Agent to be *ex officio* a justice of the peace.

S.C. 1890,  
c. 29, s. 9.

**9.** Section one hundred and seventeen of the said Act is hereby repealed, and the following substituted therefor :—

S. 117 repealed; new provision.

“**117.** Every Indian agent shall be *ex officio* a justice of the peace for the purposes of this Act, and shall have the power and authority of two justices of the peace, with jurisdiction wheresoever any violation of the provisions of this Act occurs, and in all cases of infraction, by Indians, of any of the provisions of chapter one hundred and fifty-seven of the Revised Statutes, intituled “*An Act respecting Offences against Public Morals and Public Convenience*,” or wheresoever it is considered by him most conducive to the ends of justice that any violation aforesaid shall be tried.”

Indian Agent to be *ex officio* a Justice of the Peace.

Powers.

R.S.C. 1886, c. 43, cont'd.

8. The section substituted for section one hundred and seventeen of *The Indian Act* by section nine of chapter twenty-nine of the Statutes of 1890, is hereby repealed and the following substituted therefor:—

Section 117 amended and 1890, c. 29, s. 9.

S.C. 1894, c. 32, s. 8.

“117. Every Indian agent shall, for all the purposes of this Act, or of any other Act respecting Indians, and with respect to any offence against the provisions thereof or against the provisions of section ninety-eight or section one hundred and ninety of *The Criminal Code*, 1892, and with respect to any offence by an Indian against any of the provisions of part XIII. of the said Code, be *ex officio* a justice of the peace, and have the power and authority of two justices of the peace, anywhere within the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined by the Governor in Council, whether the Indian or Indians charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or dealt with, are or are not within his ordinary jurisdiction, charge or supervision as an Indian agent.

Indian agents to be *ex officio* justices of the peace.

Jurisdiction.

“2. In the North-west Territories and the provinces of Manitoba and British Columbia every Indian agent shall for all such purposes and with respect to any such offence be *ex officio* a justice of the peace and have the power and authority of two justices of the peace anywhere in the said Territories or provinces within which his agency is situated, whether or not the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined as aforesaid, extend to the place where he may have occasion to act as such justice or to exercise such power or authority, and whether the Indians charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or otherwise dealt with, are or are not within his ordinary jurisdiction, charge or supervision as Indian agent.”

Special provision as to their jurisdiction in the N. W. Territories, Manitoba and British Columbia.

Section 117 further amended.

7. Section one hundred and seventeen of *The Indian Act* as enacted by section eight of chapter thirty-two of the Statutes of 1894, is hereby repealed, and in lieu thereof it is hereby enacted that every Indian agent shall, for all the purposes of *The Indian Act* or of any other Act respecting Indians, and with respect to any offence against the provisions thereof or against the provisions of section ninety-eight or section one hundred and ninety of *The Criminal Code*, 1892, and with respect to any offence by an Indian or non-treaty Indian against any of the provisions of parts XIII. and XV. of the said Code, be *ex officio* a justice of the peace, and have the power and authority of two justices of the peace, anywhere within the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined by the Governor in Council, whether the Indian or non-treaty Indian charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or dealt with, is or is not within his ordinary jurisdiction, charge or supervision as an Indian agent.

Indian agents to be *ex officio* justices of the peace.

Jurisdiction.

S.C. 1895, c. 35, s. 7.

R.S.C. 1886, c. 43, cont'd.

S.C. 1895,  
c. 35, s. 7  
cont'd.

Special juris-  
diction of In-  
dian agents in  
the N.-W.  
Territories,  
Manitoba and  
British Co-  
lumbia.

"2. In the North-west Territories and the provinces of Manitoba and British Columbia every Indian agent shall for all such purposes and with respect to any such offence be *ex officio* a justice of the peace and have the power and authority of two justices of the peace anywhere in the said territories or provinces, whether or not the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined as aforesaid, extend to the place where he may have occasion to act as such justice or to exercise such power or authority, and whether the Indians charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or otherwise dealt with, are or are not within his ordinary jurisdiction, charge or supervision as Indian agent."

118. If any Indian is convicted of any crime punishable by imprisonment in a penitentiary or other place of confinement, the costs incurred in procuring such conviction, and in carrying out the various sentences recorded, may be defrayed by the Superintendent General, and paid out of any annuity or interest coming to such Indian, or to the band, as the case may be. 43 V., c. 28, s. 82;—47 V., c. 27, s. 12.

Indian under-  
going impris-  
onment for  
crime not to  
receive share  
of annuity  
while im-  
prisoned.

119. Whenever in this Act in which it is provided that the conviction shall take place on the evidence of one credible witness other than the informer or prosecutor, the informer or prosecutor shall, nevertheless, be allowed to give evidence. 44 V., c. 17, s. 13.

Informer may  
give evidence.

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

120. Upon any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever or by whomsoever committed, any court, judge, police or stipendiary magistrate, recorder, coroner, justice of the peace or Indian agent, may receive the evidence of any Indian or non-treaty Indian, who is destitute of the knowledge of God or of any fixed and clear belief in religion, or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian or non-treaty Indian, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as is approved by such court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent, as most binding on the conscience of such Indian or non-treaty Indian. 43 V., c. 28, s. 85;—45 V., c. 30, s. 3, *part*.

Substance of  
evidence of  
Indian to be  
reduced to  
writing and  
signed by him  
and by judge,  
and inter-  
preter.

121. In the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian or non-treaty Indian, as aforesaid, shall be reduced to writing and signed by the Indian (by mark if necessary), giving the same, and verified by the signature or mark of the person acting as interpreter, if any, and by the signature of the judge, magistrate, recorder, coroner, justice of the peace, Indian agent or person before whom such evidence or information is given. 43 V., c. 28, s. 86;—45 V., c. 30, s. 3.

R.S.C. 1886, c. 43, cont'd.

Indian to be cautioned to tell the truth.

**122.** The court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent shall, before taking any such evidence, information or examination, caution every such Indian or non-treaty Indian, as aforesaid, that he will be liable to incur punishment if he does not tell the truth, the whole truth and nothing but the truth. 43 V., c. 28, s. 87;—45 V., c. 30, s. 3.

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

**123.** The written declaration or examination so made, taken and verified of any such Indian or non-treaty Indian, as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal proceeding, when under the like circumstances the written affidavit, examination, deposition or confession of any person might be lawfully read and received as evidence. 43 V., c. 28, s. 88.

Effect of solemn affirmation, &c., of Indian.

**124.** Every solemn affirmation or declaration, in whatsoever form made or taken, by any Indian or non-treaty Indian, as aforesaid, shall be of the same force and effect as if such Indian or non-treaty Indian had taken an oath in the usual form. 43 V., c. 28, s. 89, *part*.

Want of form not to

**125.** No prosecution, conviction or commitment under this Act shall be invalid for want of form, so long as the same is according to the true meaning of this Act. 43 V., c. 28, s. 98.

invalidate conviction.

#### GENERAL PROVISIONS.

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

Indians may not have homesteads in Manitoba, the North-West Territories or Keewatin, except as specified.

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

Undisturbed occupation in a certain case.

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

May be compensated for improvements.

(c.) Nothing in this section shall apply to any person who withdrew from any Indian treaty prior to the first day of October, in the year one thousand eight hundred and seventy-four. 43 V., c. 28, s. 81.

Section not to apply to certain Indians.

**127.** At the election of a chief or chiefs, or at the granting of any ordinary consent required of a band under this Act, those entitled to vote at the council or meeting thereof shall be the male members of the band, of the full age of twenty-one years; and the vote of a majority of such members, at a council or meeting of the band summoned according to its rules, and held in the presence of the Superintendent General, or of an agent acting under his instructions, shall be sufficient to determine such election or grant such consent. 43 V., c. 28, s. 73, *part*.

How and by whom chiefs may be elected.

R.S.C. 1886, c. 43, cont'd.

**128.** If any band has a council of chiefs or councillors, any ordinary consent required of the band may be granted by a vote of a majority of such chiefs or councillors, at a council summoned according to its rules, and held in the presence of the Superintendent General or his agent. 43 V., c. 28, s. 73, *part.*

How consent may be granted if the band has a Council.

**129.** All affidavits required under this Act, or intended to be used in reference to any claim, business or transaction in connection with Indian affairs, may be taken before the judge or clerk of any county or circuit court, or any justice of the peace, or any commissioner for taking affidavits in any court, or the Superintendent General, or the deputy of the Superintendent General, or any inspector of Indian agencies, or any Indian agent, or any surveyor duly licensed and sworn, appointed by the Superintendent General to inquire into, or to take evidence, or report in any matter submitted to or pending before the Superintendent General, or if made out of Canada, before the mayor or chief magistrate of, or the British consul in, any city, town or municipality, or before any notary public. 43 V., c. 28, s. 108, *part.*

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

Certified copies of official papers to be evidence.

**130.** Copies of any records, documents, books or papers belonging to or deposited in the department, attested under the signature of the Superintendent General, or of the deputy of the Superintendent General, shall be evidence in all cases in which the original records, documents, books or papers would be evidence. 43 V., c. 28, s. 109.

Publication of regulations.

**131.** All regulations made under this Act shall be published in the *Canada Gazette*. 44 V., c. 17, s. 1, *part.*

S.C. 1888,  
c. 22, s. 5.

**5.** The said Act is hereby amended by adding the following section thereto:—

New section added.

“**132.** Notwithstanding anything contained in this Act, the Governor in Council may, from time to time, direct that any fine, penalty or forfeiture or any portion thereof which would otherwise belong to the Crown for the public uses of Canada, or be paid to the Minister of Finance and Receiver General for the use of any band of Indians, or which would belong to Her Majesty to form part of the fund for any body of Indians or non-treaty Indians, or which

Application of penalties may be varied.

is ordered to be disposed of in any particular manner, be paid to any Provincial, municipal or local authority.”

R.S.C. 1886, c. 43, cont'd.

**9.** Section one hundred and thirty-two, as added to *The Indian Act* by section five of chapter twenty-two of the Statutes of 1888, is hereby repealed and the following substituted therefor:—

Section 132 amended and 1888, c. 22, s. 5.

S.C. 1894, c. 32, s. 9.

**132.** Every fine, penalty or forfeiture under this Act, except so much thereof as is payable to an informer or person suing therefor, shall belong to Her Majesty for the benefit of the band of Indians with respect to which or to one or more members of which the offence was committed, or to which the offender if an Indian belongs; but the Governor General in Council may from time to time direct that the same be paid

Application of penalties.

Powers of Governor in Council.

to any provincial, municipal or local authority which wholly or in part bears the expense of administering the law under which such fine, penalty or forfeiture is imposed, or that the same be applied in any other manner deemed best adapted to attain the objects of such law or to secure its due administration; and may in case of doubt decide what band is entitled to the benefit of any such fine, penalty or forfeiture.”

**10.** The said Act is hereby amended by adding the following sections thereto:—

New sections added.

S.C. 1890, c. 29, s. 10.

**133.** The Superintendent General may, from time to time, by public notice, declare that, on and after a day therein named, the laws respecting game in force in the Province of Manitoba or The Western Territories, or respecting such game as is specified in such notice, shall apply to Indians within the said Province or Territories, as the case may be, or to Indians in such parts thereof as to him seems expedient.”

Game laws in Manitoba and N.W. Territories.

**134.** No official or employee connected with the inside or outside service of the Department of Indian Affairs, and no missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians, and no school teacher on an Indian reserve, shall trade with any Indian, or sell to him, directly or indirectly, any goods or supplies, cattle or other animals:

Officials of Indian Dept. missionaries and teachers prohibited from trading with Indians.

“2. In Manitoba and the North-West Territories no person or persons shall be allowed, on an Indian reserve, to barter, directly or indirectly, with any Indian, or sell to him any goods or supplies, cattle or other animals, without the special license in writing of the Superintendent General,—which license he may at any time revoke:

In Manitoba and N.-W. T. Indian trader must be licensed.

“3. Every offender against the provisions of this section shall be liable to a fine equal in amount to double the sum received for the goods, supplies, cattle or other animals sold, and in addition to the costs of prosecution before a police magistrate, a stipendiary magistrate, a justice of the peace or the Indian agent for the locality where the offence occurs; and the evidence of the Indian to whom the sale was made, and the production to, or view by, the magistrate or Indian agent of the article or animal sold, shall be sufficient evidence on which to convict.”

Penalty

Costs.

Evidence.

Section 131 amended and 1890, c. 29, s. 10.

**10.** Subsection one of section one hundred and thirty-four added to *The Indian Act* by section ten of chapter twenty-nine of the Statutes of 1890, is hereby amended by inserting after the word “shall,” in the fifth line thereof, the following words: “without the special license, in writing, of the Superintendent General of Indian Affairs, which license he may at any time revoke.”

S.C. 1894, c. 32, s. 10.



R.S.C. 1886, c. 43, cont'd.

S.C. 1890,  
c. 29, s. 10,  
cont'd.

“135. Any offender sentenced by a magistrate or Indian agent, under any provision of this Act or of any amendment thereof, to the payment of a penalty or of costs, or of both, shall, in default of payment, be liable to imprisonment, notwithstanding that such provision does not expressly authorize such imprisonment to be imposed in the event of non-payment of the penalty; but the term of such imprisonment shall not exceed that to which the offender may be sentenced for the offence.”

Imprisonment in default of payment of penalties incurred under this Act.

S.C. 1891,  
c. 30, s. 4.

4. The said Act is hereby further amended by adding the following section thereto:—

Section added.

“136. Where shooting privileges over a reserve or part of a reserve, or fishing privileges in any marsh, pond, river, stream or creek, upon or running through a reserve, have, with the consent of the Indians of the band, been leased or granted to any person, it shall not be lawful for any person not under such lease or grant entitled so to do, or for any Indian other than an Indian of the band, to hunt, shoot, kill or destroy any game animals or birds, or to fish for, take, catch or kill any fish to which such exclusive privilege extends, upon the reserve or part of a reserve, or in any marsh, pond, river, stream or creek covered by such lease or grant; and any person or Indian acting in contravention of this section shall, in addition to any other penalty or liability thereby incurred, be liable, on summary conviction, for every such offence to a penalty not exceeding ten dollars and not less than five dollars, and, in default of payment, to imprisonment for any term not exceeding one month.”

Shooting and fishing privileges.

Penalty.

S.C. 1894,  
c. 32, s. 11.

New sections added.

Powers of Governor in Council as to regulations for attendance at school.

11. The Indian Act is hereby amended by adding the following sections thereto:—

“137. The Governor in Council may make regulations, either general or affecting the Indians of any province or of any named band, to secure the compulsory attendance of children at school.

“2. Such regulations, in addition to any other provisions deemed expedient, may provide for the arrest and conveyance to school, and detention there, of truant children and of children who are prevented by their parents or guardians from attending: and such regulations may provide for the punishment, upon summary conviction, by fine or imprisonment, or both, of parents and guardians, or persons having the charge of children, who fail, refuse or neglect to cause such children to attend school.”

Powers as to establishment of industrial or boarding schools.

Regulations.

“138. The Governor in Council may establish an industrial school or a boarding school for Indians, or may declare any existing Indian school to be such industrial school or boarding school for the purposes of this section.

“2. The Governor in Council may make regulations, which shall have the force of law, for the committal by justices or Indian agents of children of Indian blood under the age of sixteen years, to such industrial school or boarding school, there to be kept, cared for and educated for a period not extending beyond the time at which such children shall reach the age of eighteen years.

Powers as to application of annuities.

“3. Such regulations may provide, in such manner as to the Governor in Council seems best, for the application of the annuities and interest moneys of children committed to such industrial school or boarding school, to the maintenance of such schools respectively, or to the maintenance of the chil-

R.S.C. 1886, c. 43, cont'd.

Powers as to  
direction of  
expenditure of  
capital of  
bands.

“139. The Governor in Council may, with the consent of a band, authorize and direct the expenditure of any capital moneys standing at the credit of such band, in the purchase of land as a reserve for the band or as an addition to its reserve,

S.C. 1894,  
c. 32, s. 11.

or in the purchase of cattle for the band, or in the construction of permanent improvements upon the reserve of the band, or such works thereon or in connection therewith as, in his opinion, will be of permanent value to the band, or will, when completed, properly represent capital.”

New sections  
140 and 141  
added.

Transfer of  
Indian from  
one band to  
another, and  
provision as to  
capital  
moneys in  
such case.

8. *The Indian Act* is hereby amended by adding the following sections thereto :—

S.C. 1895,  
c. 35, s. 8.

“140. When by a majority vote of a band, or the council of a band, an Indian of one band is admitted into membership in another band, and his admission thereinto is assented to by the superintendent general, such Indian shall cease to have any interest in the lands or moneys of the band of which he was formerly a member, and shall be entitled to share in the lands and moneys of the band to which he is so admitted ; but the superintendent general may cause to be deducted from the capital of the band of which such Indian was formerly a member his *per capita* share of such capital and place the same to the credit of the capital of the band into membership in which he had been admitted in the manner aforesaid.

“141. The Governor in Council may reduce the purchase money due or to become due on sales of Indian lands, or reduce or remit the interest on such purchase money, or reduce the rent at which Indian lands have been leased, when he considers the same to be excessive ; and all such reductions heretofore made are hereby confirmed.

Reduction of  
purchase  
money or in-  
terest due on  
sales of Indian  
lands.

“2. A return setting forth all the reductions and remissions made under this section during the preceding fiscal year shall be submitted to both Houses of Parliament on or before the twentieth day of July in each year, if Parliament be then sitting, and otherwise within twenty days after the opening of the then ensuing session of Parliament.”

Returns to  
Parliament.

S.C. 1887, c. 33, s. 1 and 2.

## CHAP. 33.

### An Act to amend "The Indian Act."

[Assented to 23rd June, 1887.]

Preamble.  
R.S.C., c. 43.

WHEREAS it is expedient to amend the Revised Statutes of Canada, chapter forty-three intituled "*An Act respecting Indians*:" Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Determina-  
tion of mem-  
bership of  
band.

1. The Superintendent General, may, from time to time, upon the report of an officer, or other person specially appointed by him to make an inquiry, determine who is or who is not a member of any band of Indians entitled to share in the property and annuities of the band; and the decision of the Superintendent General in any such matter shall be final and conclusive, subject to an appeal to the Governor in Council.

Witnesses  
may be sum-  
moned and  
examined  
under oath.

2. The Superintendent General, his deputy, or other person specially authorized by the Governor in Council, shall have power, by subpoena issued by him, to summon any person before him and to examine such person under oath in respect to any matter affecting Indians, and to compel the production of papers and writings before him relating to such matters; and if any person duly summoned neglects or refuses to appear at the time and place specified in the subpoena upon such person duly served, or refuses to give evidence or to produce the papers or writings demanded of him, may, by warrant under his hand and seal, cause such person, so refusing or neglecting, to be taken into custody and to be imprisoned in the nearest common gaol, as for contempt of court, for a period not exceeding fourteen days.

Penalty for  
non-compli-  
ance with  
summons.

S.C. 1894, c. 32, s. 12.

12. All regulations made by the Governor in Council under this Act shall be published in the *Canada Gazette*, and shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof. <sup>Regulations to be published.</sup>

**CHAPTER 44.**

The Indian Advancement Act.

A. D. 1886.

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

INTERPRETATION.

1. In this Act, unless the context otherwise requires, the expressions used in this Act shall have the same meaning as the same expressions have in "*The Indian Act*," but the expression "reserve" in this Act, includes two or more reserves, and the expression "band" includes two or more bands united for the purposes of this Act by the Order in Council applying it. 47 V., c. 28, s. 2.

Interpretation.

APPLICATION OF ACT.

2. This Act may be made applicable, as hereinafter provided, to any band of Indians in any of the Provinces, or in the North-West Territories of Canada, or in the District of Keewatin, except in so far as it is herein otherwise provided:

To what bands Act may be made applicable.

2. The provisions of "*The Indian Act*" shall continue to apply to every band to which this Act is, from time to time, declared to apply, in so far only as they are not inconsistent with this Act: Provided always, that if it thereafter appears to the Governor in Council that this Act cannot be worked satisfactorily by any band to which it has been declared to apply, the Governor in Council may declare that after a day named in the Order in Council, this Act shall no longer apply to such band, and such band shall thereafter be subject only to "*The Indian Act*," except that by-laws, rules and regulations theretofore made under this Act, and not inconsistent with the seventy-sixth section of "*The Indian Act*," shall continue in force until they are repealed by the Governor in Council. 47 V., c. 28, ss. 1 and 13.

Application of Indian Act.

Proviso: revocation of application of this Act for cause.

As to by-laws.

GENERAL PROVISIONS.

3. Whenever any band of Indians is declared by the Governor in Council to be considered fit to have this Act applied to them, this Act shall so apply, from the time appointed in such Order in Council. 47 V., c. 28, s. 3.

When this Act shall apply.

Division of reserve into sections.

4. Every reserve to which this Act is to apply shall, by the Order in Council applying it, be divided into sections, the number of which shall not exceed six or be less than two, and each section shall have therein a number of male Indians of full age, equal, as nearly as is found convenient, to such proportion of the male Indians of full age resident on the reserve, as one section of the reserve bears to all the sections:

see S.C. 1890, c. 30, s. 1.

Designation of each.

2. The sections shall be distinguished by numbers from one upwards, and the reserve shall be designated in the Order in Council as "*The Indian Reserve*," inserting such name as is thought proper, and the sections shall be designated by the numbers assigned to them respectively. 47 V., c. 28, s. 4.

R.S.C. 1886, c. 44, cont'd.

First election  
of members of  
the council.

5. On a day and at a place, and between the hours prescribed in the Order in Council, the male Indians of the full age of twenty-one years, resident on the reserve, hereinafter termed electors, shall meet for the purpose of electing the members of the council of the reserve:

Who shall be  
deemed  
elected.

2. One or more members, as provided in such Order in Council to represent each section thereof, shall be elected by the electors resident in such section, and the Indian or Indians, as the case may be, having the votes of the greatest number of electors for each section, shall be the councillor or councillors, as the case may be, therefor, provided he or they are respectively possessed of, and living in, a house in the reserve:

Who shall  
preside at the  
election, and  
his powers.

3. The agent for the reserve shall preside at the election, or in his absence some person appointed by him as his deputy, with the consent of the Superintendent General, or some person appointed by the Superintendent General may preside at the said election, and shall take and record the votes of the electors, and may,—subject to appeal to the Superintendent General by or on behalf of any Indian or Indians who deems himself or themselves aggrieved by the action of such agent or deputy, or of such agent or person appointed as aforesaid,—admit or reject the claim of any Indian to be an elector, and may determine who are the councillors for the several sections, and shall report the same to the Superintendent General. 47 V., c. 28, s. 5.

4. In any case of an equality of votes at any such election the agent or person presiding thereat shall have the casting vote.

First meeting  
of councillors.

6. On a day and at a place, and between the hours prescribed by the Superintendent General, if the day fixed for the same is within eight days from the date at which the councillors were elected, the said councillors shall meet and elect one of their number to act as chief councillor, and the councillor so elected shall be the chief councillor. 47 V., c. 28, s. 6.

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

2. If there is a failure to elect on the day appointed for the election, the Superintendent General shall appoint another day on which it shall be held. 47 V., c. 28, s. 7.

Term of office.

Provision for  
failure of elec-  
tion.

R.S.C. 1886, c. 44, cont'd.

8. In the event of a vacancy in the council, by the death or inability to act of any councillor, more than three months before the time for the next election, an election to fill such vacancy shall be held by the agent or his deputy, after such notice to the electors concerned as the Superintendent General directs, at which only the electors of the section represented by the councillor to be replaced shall vote, and to such election the provisions respecting other elections shall apply, so far as they are applicable:

Vacancies,  
how filled.

2. If the councillor to be replaced is the chief councillor, then an election of a chief councillor shall be held in the manner already provided, but the day fixed for such election shall be at least one week after the date when the new councillor is elected:

In office of  
chief councillor.

3. During the time of any vacancy the remaining councillors shall constitute the council, and they may, in the event of a vacancy in the office, appoint a chief from among themselves for the time being. 47 V., c. 28, s. 8.

Remaining  
councillors to  
constitute  
council.

9. The council shall meet for the despatch of business, at such place on the reserve and at such times as the agent for the reserve appoints, but which shall not exceed twelve times or be less than four times in the year for which it is elected, and due notice of the time and place of each meeting shall be given to each councillor by the agent:

Meetings of  
the council.

2. At such meeting the agent for the reserve, or his deputy appointed for the purpose, with the consent of the Superintendent General, shall preside and record the proceedings, and may control and regulate all matters of procedure and form, adjourn the meeting to a time named, or *sine die*, and report and certify all by-laws and other acts and proceedings of the council to the Superintendent General, to which certificate full faith and credence shall be given in all courts and places whatsoever:

Who shall  
preside.

3. He shall address the council and explain and advise them upon their powers and duties, and any matter requiring their consideration, but he shall have no vote on any question to be decided by the council:

Duties of per-  
son pre-  
siding.

4. Each councillor present shall have a vote on every question to be decided by the council, and such question shall be decided by the majority of votes, the chief councillor voting as a councillor and having also a casting vote, in case the votes would otherwise be equal:

Votes.

Quorum.

5. Four councillors shall be a quorum for the despatch of any business. 47 V., c. 28, s. 9.

Council may  
make by-laws,  
&c.

10. The council may make by-laws, rules and regulations, which, if approved and confirmed by the Superintendent General, shall have force as law within and with respect to the reserve, and the Indians residing thereon, upon all or any of the following subjects, that is to say:—

see S.C. 1890,  
c. 30, s. 2.

R.S.C. 1886, c. 44, cont'd.

Religious de- nomination of school teacher.	(a.) The religious denomination to which the teacher or teachers of the school or schools established on the reserve shall belong, as being that of the majority of the Indians resident on the reserve; but the Protestant or Roman Catholic minority on the reserve may also have a separate school or schools, with the approval of and under regulations made by the Governor in Council;	
Health. Order.	(b.) The care of the public health; (c.) The observance of order and decorum at elections of councillors, meetings of the council, and assemblies of Indians on other occasions, or generally, on the reserve, by the appointment of constables and erection of lock-up houses, or by the adoption of other legitimate means;	
Intemperance. Sub-division of reserve.	(d.) The repression of intemperance and profligacy; (e.) The sub-division of the land in the reserve, and the distribution of the same amongst the members of the band: also, the setting apart, for common use, of woodland and land for other purposes;	
Trespass.	(f.) The protection of and the prevention of trespass by cattle, sheep, horses, mules and other domesticated animals: and the establishment of pounds, the appointment of pound-keepers and the regulation of their duties, fees and charges;	
School houses, &c.	(g.) The construction and repair of school houses, council houses and other buildings for the use of the Indians on the reserve, and the attendance at school of children between the ages of six and fifteen years;	
Roads, &c.	(h.) The construction, maintenance and improvement of roads and bridges, and the contributions, in money or labor, and other duties of residents on the reserve, in respect thereof; and the appointment of road masters and fence viewers, and their powers and duties;	
Water courses, &c.	(i.) The construction and maintenance of water courses, ditches and fences, and the obligations of vicinage, the destruction and repression of noxious weeds and the preservation of the wood on the various holdings, or elsewhere, in the reserve;	
Removal of trespassers.	(j.) The removal and punishment of persons trespassing upon the reserve, or frequenting it for improper purposes;	
Revenue.	(k.) The raising of money for any or all of the purposes for which the council may make by-laws, as aforesaid, by assessment and taxation on the lands of Indians enfranchised, or in possession of lands by location ticket in the reserve, the valuation for assessment being made yearly, in such manner and at such times as are appointed by the by-law in that behalf, and being subject to revision and correction by the agent for the reserve, and in force only after it has been submitted to him and corrected, if, and as he thinks 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 is not paid at the time prescribed by the by-law, the amount thereof, with the addition of one-half of one per cent. thereon, may be paid by the Superintendent General to the treasurer out of the share of the Indian in default in any moneys of the band; or if such share is insufficient to pay the same, the defaulter shall, for violation of the by-law imposing the tax, be liable to a penalty equal to the deficiency caused by such default: Provided always, that any Indian deeming himself aggrieved by the decision of the agent, made as hereinbefore provided, may appeal to the Superintendent General, whose decision in the matter shall be final;	Assessment.  Rate.  Payment out of Indian's share on his default.  Appeal.

R.S.C. 1886, c. 44, cont'd.

(l.) The appropriation and payment to the local agent, as treasurer, by the Superintendent General, of so much of the moneys of the band as are required for defraying expenses necessary for carrying out the by-laws made by the council, including those incurred for assistance absolutely necessary for enabling the council or the agent to perform the duties assigned to them; Appropriation of certain funds.

(m.) The imposition of punishment by penalty or by imprisonment, or by both, for any violation of or disobedience to any by-law, rule or regulation made under this Act, committed by any Indian of the reserve; but such penalty shall, in no case, except for non-payment of taxes, exceed thirty dollars, nor the imprisonment thirty days; the proceedings for the imposition of such punishment may be taken before one justice of the peace, under the "*Act respecting summary proceedings before Justices of the Peace*;" and the amount of any such penalty shall be paid over to the treasurer of the band to which the Indian incurring it belongs, for the use of such band; Penalties and enforcement thereof.

(n.) The amendment, repeal or re-enactment of any such by-law, by a subsequent by-law, made and approved as hereinbefore provided. 47 V., c. 28, s. 10. Amending by-laws.

11. Every member of a council elected under the provisions of this Act, who is proved to be a habitual drunkard or to be living in immorality, or to have accepted a bribe, or to have been guilty of dishonesty or of 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 hereinbefore provided. 47 V., c. 28, s. 11. Disqualification in certain cases.

Proof of by-laws, &c.

12. A copy of any by-law, rule or regulation under this Act, approved by the Superintendent General, and purporting to be certified by the agent for the band to which it relates to be a true copy thereof, shall be evidence of such by-law, rule or regulation, and of such approval, without proof of the signature of such agent; and no such by-law, rule or regulation shall be invalidated by any defect of form, if it is substantially consistent with the intent and meaning of this Act. 47 V., c. 28, s. 12.

see S.C. 1890,  
c. 30, s. 3.



An Act to amend "The Indian Advancement Act," chapter forty-four of the Revised Statutes. S.C. 1890, c. 30. (53 Vict.)

## CHAP. 30.

An Act to amend "The Indian Advancement Act," chapter forty-four of the Revised Statutes.

[Assented to 16th May, 1890.]

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

1. Sub-section one of section four of "*The Indian Advancement Act*," is hereby repealed and the following substituted therefor:—

R.S.C.,  
section 4  
amended.

"1. Every reserve to which this Act is to apply may, by the Order in Council applying it, be divided into sections, the number of which shall not exceed six or be less than two, and each section shall have therein a number of male Indians of full age, equal, as nearly as is found convenient, to such proportion of the male Indians of full age resident on the reserve, as one section of the reserve bears to all the sections; or, should the majority of the Indians of the reserve so desire, the whole reserve may form one section,—the wishes of the Indians in respect thereto being first ascertained, in the manner prescribed in "*The Indian Act*," in like matters, and certified to the Superintendent General by the Indian agent.

Division of re-  
serve into sec-  
tions.

Or whole re-  
serve may  
form one sec-  
tion.

2. Paragraph (h) of section ten of the said Act, is hereby repealed, and the following substituted therefor:—

Section 10  
amended.

"(h.) The construction, maintenance and improvement of roads and bridges, and the contributions, in money or labor, and other duties of residents on the reserve, in respect thereof; the size and kind of sleighs to be used on the roads in the winter season, and the manner in which the horse or horses or other beasts of burden shall be harnessed to such sleighs; and the appointment of road masters and fence viewers, and their powers and duties;"

Council may  
make by-laws  
as to roads,  
&c.

3. The said Act is hereby amended by adding the following section thereto:—

Section add-  
ed.

"13. On a day, being one week previous to the day on which the election of the councillors is to be held on any reserve under section five of this Act, and at a place to be appointed by the Indian agent, and between the hours of ten in the forenoon and twelve at noon, a meeting of the electors,—of which meeting due notice shall be given in the manner customary in the band for calling meetings for public purposes—shall be held for the purpose of nominating candidates for election as councillors as aforesaid:

Nomination of  
candidates.

S.C. 1890, c. 30, cont'd.

Chairman of  
meeting.

"2. The Indian agent, or in his absence such person as is appointed by the Superintendent General, or failing such appointment, a chairman to be chosen by the meeting, shall preside over such meeting and shall take and keep the minutes thereof :

Nomination  
necessary.

"3. Only Indians nominated at such meeting shall be recognized as, or permitted to become, candidates for election as aforesaid ; and each nomination to be valid must be made on the motion of an elector of the section of the reserve for the representation whereof the nominee is proposed as a candidate, and the motion must be seconded by another elector of that section :

Time for  
nomination.

"4. The nominations of the candidates shall, so far as practicable, be made consecutively and previously to any speeches being made by the movers and seconders or by any other persons, but nominations may be made up to the hour of twelve o'clock noon :

Proceedings  
after nomina-  
tion.

"5. If only one candidate for any councillorship is proposed, the Indian agent or chairman shall, at twelve o'clock noon, declare such candidate duly elected ; and if two or more candidates are proposed for any councillorship, an election shall be held under the provisions of section five of this Act."



## CHAPTER 81.

## An Act respecting Indians.

## SHORT TITLE.

1. This Act may be cited as the Indian Act. R.S., c. 43, Short title.  
a. 1.

## INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a) 'Superintendent General' means the Superintendent General of Indian Affairs, and 'Deputy Superintendent General' means the Deputy Superintendent General of Indian Affairs; Definitions.  
'Superintendent Gen-  
eral.'
- (b) 'agent' or 'Indian agent' means and includes a commissioner, assistant commissioner, superintendent, agent or other officer acting under the instructions of the Superintendent General; 'Agent.'  
'Indian agent.'
- (c) 'person' means an individual other than an Indian; 'Person.'
- (d) 'band' means any tribe, band or body of Indians who own or are interested in a reserve or in Indian lands in common, of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities or interest moneys for which the Government of Canada is responsible; and, when action is being taken by the band as such, means the band in council; 'Band.'
- (e) 'irregular band' means any tribe, band or body of persons of Indian blood who own no interest in any reserve or lands of which the legal title is vested in the Crown, who possess no common fund managed by the Government of Canada, and who have not had any treaty relations with the Crown; 'Irregular band.'
- (f) 'Indian' means 'Indian.'
- (i) any male person of Indian blood reputed to belong to a particular band,
- (ii) any child of such person,
- (iii) any woman who is or was lawfully married to such person;
- (g) 'non-treaty Indian' means any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even if such person is only a temporary resident in Canada; 'Non-treaty Indian.'

R.S.C. 1906, c. 81, cont'd.

- 'Enfranchised Indian.' (h) 'enfranchised Indian' means any Indian, his wife or minor unmarried child, who has received letters patent granting to him, in fee simple any portion of the reserve which has, upon his application for enfranchisement, been allotted to him, or to his wife and minor children, or any unmarried Indian who has received letters patent for an allotment of the reserve;
- 'Reserve.' (i) 'reserve' means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, and which remains so set apart and has not been surrendered to the Crown, and includes all the trees, wood, timber, soil, stone, minerals, metals and other valuables thereon or therein;
- 'Special reserve.' (j) 'special reserve' means any tract or tracts of land, and everything belonging thereto, set apart for the use or benefit of and held in trust for any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued, or in a person or persons of European descent;
- 'Indian lands.' (k) 'Indian lands' means any reserve or portion of a reserve which has been surrendered to the Crown;
- 'Intoxicants.' (l) 'intoxicants' means and includes all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors, or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, and opium, and any preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them are liquid or solid;
- 'Territories.' (m) 'Territories' means the Northwest Territories and the Yukon Territory. R.S., c. 43, s. 2.

Repealed by S.C. 1919-20, c. 50, s. 3. (see also s. 107 of this Consolidation.)

## PART I.

### INDIANS.

#### *Application.*

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

3. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this Part, or from the operation of any one or more of the sections of this Part, Indians or non-treaty Indians, or any of them, or any band or irregular band of them, or the reserves or special reserves, or Indian lands, or any portions of them, in any province or in the Territories, or in any of them; and may again, by proclamation, from time to time, remove such exemption. R.S., c. 43, s. 3.

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*Department*

R.S., 1906.

R.S.C. 1906, c. 81, cont'd.

*Department of Indian Affairs.*

4. The Minister of the Interior, or the head of any other department appointed for that purpose by the Governor in Council, shall be the Superintendent General of Indian Affairs, and shall, as such, have the control and management of the lands and property of the Indians in Canada. R.S., c. 43, s. 4.

Any Minister may be appointed Superintendent of Indian Affairs.

S.C. 1924,  
c. 47, s. 1.

1. Section four of the *Indian Act*, chapter eighty-one of the Revised Statutes of Canada, 1906, is amended by adding thereto the following subsection:—

“(2) The Superintendent General of Indian Affairs shall have charge of Eskimo affairs.”

Superintendent General to have charge of Eskimo affairs.

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

Department of Indian Affairs.

6. The Department of Indian Affairs shall have the management, charge and direction of Indian affairs. R.S., c. 43, s. 6.

Duties.

7. The Governor in Council may appoint,—

(a) an officer who shall be called the Deputy of the Superintendent General of Indian Affairs, and such other officers, clerks and servants as are requisite for the proper conduct of the business of the Department;

Appointments by Governor in Council.

(b) an Indian commissioner and an assistant Indian commissioner for the provinces of Manitoba, Saskatchewan and Alberta, and the Territories, or an Indian commissioner and an assistant Indian commissioner for Manitoba and that portion of Canada formerly known as the district of Keewatin, and an Indian commissioner and an assistant Indian commissioner for the provinces of Saskatchewan and Alberta and the Territories, except that portion formerly known as the district of Keewatin, and for the Yukon Territory;

(c) an Indian superintendent for British Columbia;

(d) a deputy governor. R.S., c. 43, ss. 7 and 8.

8. The Deputy Governor shall have the power, in the absence of or under instructions of the Governor General, to sign letters patent for Indian lands.

Deputy Governor.

2. The signature of the Deputy Governor to such patents shall have the same force and virtue as if such patents were signed by the Governor General. R.S., c. 43, s. 8.

May sign letters patent.

*Schools.*

9. The Governor in Council may make regulations, either general or affecting the Indians of any province or of any named band, to secure the compulsory attendance of children at school. Regulations.

2. Such regulations, in addition to any other provisions deemed expedient, may provide for the arrest and conveyance to school, and detention there, of truant children and of children who are prevented by their parents or guardians from attending; and such regulations may provide for the punishment, upon summary conviction, by fine or imprisonment, or both, of parents and guardians, or persons having the charge of children, who fail, refuse, or neglect to cause such children to attend school. 57-58 V., c. 32, s. 11. Compulsory attendance.

Power to establish industrial schools.

10. The Governor in Council may establish an industrial school or a boarding school for Indians, or may declare any existing Indian school to be such industrial school or boarding school for the purposes of this and the next following section. 57-58 V., c. 32, s. 11.

1. Section 10 of the *Indian Act*, chapter 81 of the Revised Statutes of Canada, 1906, is repealed and the following is substituted therefor:— R.S., 1906, c. 81 amended.

S.C. 1914, c. 35, s. 1.

“10. The Governor in Council may establish an industrial school or a boarding school for Indians, or may declare any school or institution where children are provided with board and lodging as well as instruction, and with the managing authorities of which the Superintendent General has made an agreement for the admission of an Indian child or children, and for the inspection of the school or institution, to be an industrial school or boarding school for the purposes of this and the next following section.” Power to establish industrial, etc. schools.

Regulations.

11. The Governor in Council may make regulations, which shall have the force of law, for the committal by justices or Indian agents of children of Indian blood under the age of sixteen years, to such industrial school or boarding school, there to be kept, cared for and educated for a period not extending beyond the time at which such children shall reach the age of eighteen years.

As to application of annuities.

2. Such regulations may provide, in such manner as to the Governor in Council seems best, for the application of the annuities and interest moneys of children committed to such industrial school or boarding school, to the maintenance of such schools respectively, or to the maintenance of the children themselves. 57-58 V., c. 32, s. 11.

2. The following section is inserted in the said Act immediately after section 11:— Section added.

“11A. The Governor in Council may take the land of an Indian held under location ticket or otherwise, for school purposes, upon payment to such Indian of the compensation agreed upon, or in case of disagreement such compensation as may be determined in such manner as the Superintendent General may direct.” Taking land for schools.

S.C. 1914, c. 35, s. 2.

S.C. 1919-  
20, c. 50,  
s. 1.

1. Sections nine and eleven of the *Indian Act*, Revised Statutes of Canada, 1906, chapter eighty-one, and section ten of the said Act as enacted by chapter thirty-five of the statutes of 1914, are repealed and the following are substituted therefor:—

“9. (1) The Governor in Council may establish,—

“(a) day schools in any Indian reserve for the children of such reserve;

“(b) industrial or boarding schools for the Indian children of any reserve or reserves or any district or territory designated by the Superintendent General.

Power to establish day schools and industrial or boarding schools.

“(2) Any school or institution the managing authorities of which have entered into a written agreement with the Superintendent General to admit Indian children and provide them with board, lodging and instruction may be declared by the Governor in Council to be an industrial school or a boarding school for the purposes of this Act.

Or to declare any school to be industrial or boarding school.

“(3) The Superintendent General may provide for the transport of Indian children to and from the boarding or industrial schools to which they are assigned, including transportation to and from such schools for the annual vacations.

Transport of children to schools.

“(4) The Superintendent General shall have power to make regulations prescribing a standard for the buildings, equipment, teaching and discipline of and in all schools, and for the inspection of such schools.

Regulations to prescribe standards.

“(5) The chief and council of any band that has children in a school shall have the right to inspect such school at such reasonable times as may be agreed upon by the Indian agent and the principal of the school.

Inspection of schools by chief and council.

Annuities and interest applied to maintenance.

“(6) The Superintendent General may apply the whole or any part of the annuities and interest moneys of Indian children attending an industrial or boarding school to the maintenance of such school or to the maintenance of the children themselves.

Children from 7 to 15 to attend school.

“10. (1) Every Indian child between the ages of seven and fifteen years who is physically able shall attend such day, industrial or boarding school as may be designated by the Superintendent General for the full periods during which such school is open each year. Provided, however, that such school shall be the nearest available school of the kind required, and that no Protestant child shall be assigned to a Roman Catholic school or a school conducted under Roman Catholic auspices, and no Roman Catholic child shall be assigned to a Protestant school or a school conducted under Protestant auspices.

Proviso as to religions.

Trauant officers and compulsory attendance.

“(2) The Superintendent General may appoint any officer or person to be a truant officer to enforce the attendance of Indian children at school, and for such purpose a truant officer shall be vested with the powers of a peace officer, and shall have authority to enter any place where he has reason to believe there are Indian children between the ages of seven and fifteen years, and when requested by the Indian agent, a school teacher or the chief of a band shall examine into any case of truancy, shall warn the truants, their parents or guardians or the person with whom any Indian child resides, of the consequences of truancy, and notify the parent, guardian or such person in writing to cause the child to attend school.

Power to investigate cases of truancy.

Notice to parents, guardians, etc.

R.S.C. 1906, c. 81, cont'd.

Penalty for guardian, parent or others failing to cause child to attend school, after notice.

"(3) Any parent, guardian or person with whom an Indian child is residing who fails to cause such child, being between the ages aforesaid, to attend school as required by this section after having received three days' notice so to do by a truant officer shall, on the complaint of the truant officer, be liable on summary conviction before a justice of the peace or Indian agent to a fine of not more than two dollars and costs, or imprisonment for a period not exceeding ten days or both, and such child may be arrested without a warrant and conveyed to school by the truant officer: Provided that no parent or other person shall be liable to such penalties if such child, (a) is unable to attend school by reason of sickness or other unavoidable cause; (b) has passed the entrance examination for high schools; or, (c) has been excused in writing by the Indian agent or teacher for temporary absence to assist in husbandry or urgent and necessary household duties."

S.C. 1919-20, c. 50, s. 1, cont'd.

Exemptions from penalties.

*Membership of Band.*

Exclusion of natural children from band.

12. Any illegitimate child may, unless he has, with the consent of the band whereof the father or mother of such child is a member, shared in the distribution moneys of such band for a period exceeding two years, be, at any time, excluded from the membership thereof by the Superintendent General. R.S., c. 43, s. 9.

Loss of membership, through residence in a foreign country without leave.

13. Any Indian who has for five years continuously resided in a foreign country without the consent, in writing, of the Superintendent General or his agent, shall cease to be a member of the band of which he was formerly a member; and he shall not again become a member of that band, or of any other band, unless the consent of such band, with the approval of the Superintendent General or his agent, is first obtained. R.S., c. 43, s. 10.

Effect of marriage of Indian woman with any other than an Indian or a non-treaty Indian.

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

2. Where a band has become enfranchised, or has otherwise ceased to exist, such commutation may take place upon the approval of the Superintendent General. R.S., c. 43, s. 11; 53 V., c. 29, s. 1. If band enfranchised.



R.S.C. 1906, c. 81, cont'd.

S.C. 1919-  
20, c. 50,  
s. 2.Effect of  
marriage  
of Indian  
woman.

2. Section fourteen of the said Act is repealed and the following is substituted therefor:—

"14. Any Indian woman who marries any person other than an Indian, or a non-treaty Indian, shall cease to be an Indian in every respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and rents: Provided that such income may be commuted to her at any time at ten years' purchase, with the approval of the Superintendent General."

Superinten-  
dent may  
commute  
income.

15. Any Indian woman who marries an Indian of any other band, or a non-treaty Indian, shall cease to be a member of the band to which she formerly belonged, and shall become a member of the band or irregular band of which her husband is a member.

Marriage of  
Indian  
woman with  
Indian of  
another  
band or  
non-treaty  
Indian.

2. If she marries a non-treaty Indian, while becoming a member of the irregular band of which her husband is a member, she shall be entitled to share equally with the members of the band of which she was formerly a member, in the distribution of their moneys; but such income may be commuted to her at any time at ten years' purchase, with the consent of the band. R.S., c. 43, s. 12.

If she  
marries  
non-treaty  
Indian.

16. No half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian.

As to half-  
breeds in  
Manitoba.

2. No half-breed head of a family, except the widow of an Indian or a half-breed who has already been admitted into a treaty, shall, unless under very special circumstances, which shall be determined by the Superintendent General or his agent, be accounted an Indian or entitled to be admitted into any Indian treaty.

Half-breed  
heads of  
families.

3. Any half-breed who has been admitted into a treaty shall, on obtaining the consent in writing of the Indian commissioner, or in his absence the assistant Indian commissioner, be allowed to withdraw therefrom on signifying his desire so to do in writing, signed by him in the presence of two witnesses, who shall attest his signature on oath before some person authorized by law to administer such oath.

Withdrawal  
from treaty.S.C. 1914, c.  
35, s. 3.

3. Subsection 3 of section 16 of the said Act is amended by striking out the words "Indian Commissioner or in his absence the Assistant Indian Commissioner" in the second and third lines thereof and substituting therefor the words "Superintendent General."

S. 16, ss. 3  
amended.R.S.C. 1906,  
c. 81, s. 16,  
cont'd.

4. Such withdrawal shall include the minor unmarried children of such half-breed. 51 V., c. 22, s. 1.

Minor  
children.S.C. 1914,  
c. 35,  
s. 4.S. 16, ss. 4  
amended.

4. Subsection 4 of section 16 of the said Act is amended by inserting the words "wife and" after the word "the" in the first line thereof.

17. When, by a majority vote of a band, or the council of a band, an Indian of one band is admitted into membership in another band, and his admission thereinto is assented to by the Superintendent General, such Indian shall cease to have any interest in the lands or moneys of the band of which he was formerly a member, and shall be entitled to share in the lands and moneys of the band to which he is so admitted.

Transfer of Indian from one band to another.

2. The Superintendent General may cause to be deducted from the capital of the band of which such Indian was formerly a member his *per capita* share of such capital and place the same to the credit of the capital of the band into membership in which he has been admitted in the manner aforesaid. 58-59 V., c. 35, s. 8.

Share of capital.

Determination of membership of band.

18. The Superintendent General may, from time to time, upon the report of an officer, or other person specially appointed by him to make an inquiry, determine who is or who is not a member of any band of Indians entitled to share in the property and annuities of the band.

Decision of Supt. Gen.

2. The decision of the Superintendent General in any such matter shall be final and conclusive, subject to an appeal to the Governor in Council. 50-51 V., c. 33, s. 1.

#### Reserves.

Reserves to be subject to this Part.

19. All reserves for Indians, or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as they were held heretofore, but shall be subject to the provisions of this Part. R.S., c. 43, s. 14.

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

20. The Superintendent General may authorize surveys, plans and reports to be made of any reserve for Indians, showing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as is required; and may authorize the whole or any portion of a reserve to be subdivided into lots. R.S., c. 43, s. 15.

Possession of land in reserve.

21. No Indian shall be deemed to be lawfully in possession of any land in a reserve, unless he has been or is located for the same by the band, or council of the band, with the approval of the Superintendent General; but no Indian shall be dispossessed of any land on which he has improvements, without receiving compensation for such improvements, at a valuation approved by the Superintendent General, from the Indian who obtains the land, or from the funds of the band, as is determined by the Superintendent General: Provided that prior to the location of an Indian under this section, in the province of Manitoba, Saskatchewan or Alberta, or the Territories, the Indian commissioner may issue a certificate of occupancy to any Indian belonging to a band residing upon a reserve in the aforesaid provinces or territories, of so much land, not exceeding in any case one hundred and sixty acres, as the Indian, with the approval of the commissioner, selects.

Improvements.

Certificate of Indian Commissioner.

Cancellation of certificate by the Indian Commissioner.

2. Such certificate may be cancelled at any time by the Indian commissioner, but shall, while it remains in force, entitle the holder thereof, as against all others, to lawful possession of the lands described therein. R.S., c. 43, s. 16; 53 V., c. 29, s. 2.

Location  
ticket in  
triplicate.

22. When the Superintendent General approves of any location as aforesaid, he shall issue, in triplicate, a ticket granting a location title to such Indian, one triplicate of which he shall retain in a book to be kept for the purpose; and the other two of which he shall forward to the local agent.

2. The local agent shall deliver to the Indian in whose favour it is issued one of such duplicates so forwarded, and shall cause the other to be copied into a register of the band, provided for the purpose, and shall file the same. R.S., c. 43, s. 17.

Delivery of  
ticket to  
Indian.

23. The conferring of any such location title shall not have the effect of rendering the land covered thereby subject to seizure under legal process, and such title shall be transferable only to an Indian of the same band, and then only with the consent and approval of the Superintendent General, whose consent and approval shall be given only by the issue of a ticket, in the manner prescribed in the last preceding section. R.S., c. 43, s. 18.

Effect of  
such ticket  
limited.

24. Every Indian and every non-treaty Indian, in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or the Territories, who had, previously to the selection of a reserve, possession of and who has made permanent improvements on a plot of land which upon such selection becomes included in, or surrounded by, a reserve, shall have the same privileges, in respect of such plot, as an Indian enjoys who holds under a location title. R.S., c. 43, s. 19.

Privileges of  
Indians  
having im-  
proved lands  
included in  
reserves in  
certain  
provinces.

#### *Descent of Property.*

25. Indians may devise or bequeath property of any kind in the same manner as other persons: Provided that no devise or bequest of land in a reserve or of any interest therein unless to the daughter, sister or grand-children of the testator, shall be made to any one not entitled to reside on such reserve, and that no will purporting to dispose of land in a reserve or any interest therein shall be of any force or effect unless or until the will has been approved by the Superintendent General, and that if a will be disapproved by the Superintendent General the Indian making the will shall be deemed to have died intestate; and the Superintendent General may approve of a will generally and disallow any disposition thereby made of land in a reserve or of any interest in such land, in which case the will so approved shall have force and effect except so far as such disallowed disposition is concerned, and the Indian making the will shall be deemed to have died intestate as to the land or interest the disposition of which is so disallowed. 57-58 V., c. 32, s. 1.

Indians may  
devise pro-  
perty by  
will.

1. (1) Section twenty-five of the *Indian Act*, chapter eighty-one of the Revised Statutes of Canada, 1906, is amended by striking out the words "no devise or bequest of land in a reserve or of any interest therein unless to the daughter, sister or grandchildren of the testator, shall be made to any one not entitled to reside on such reserve, and that."

Will of Indian devising property to be approved.

S.C. 1918, c. 26, s. 1.

(2) Section twenty-five of the said Act is further amended by adding thereto the following subsection:—

"(2) No one who is not entitled to reside on the reserve shall by reason of any devise or bequest or by reason of any intestacy be entitled to hold land in a reserve, but any land in a reserve devised by will or devolving on an intestacy, to some one not entitled to reside on the reserve, shall be sold by the Superintendent General to some member of the band and the proceeds thereof shall be paid to such devisee or heir."

Land devised or bequeathed to non-resident, to be sold.

26. Upon the death of an Indian intestate his property of all kinds, real and personal, movable and immovable, including any recognized interest he may have in land in a reserve, shall descend as follows:—

Distribution of estate in case of intestacy.

(a) one-third of the inheritance shall devolve upon his widow, if she is a woman of good moral character, and the

One-third to widow.

remainder upon his children, if all are living, or, if any who are dead have died without issue; or,

Otherwise children inherit the whole.

(b) If there is no widow, or if the widow is not of good moral character, the whole inheritance shall devolve upon his children in equal shares, if all are living, or, if any who are dead have died without issue;

Representation of de-funct heir.

(c) If one or more of the children are living, and one or more are dead, having had lawful issue, the inheritance so far as the same does not descend to the widow, shall devolve upon the children who are living, and the descendants of such children as have died, so that each child who is living shall receive such share as would have descended to him if all the children of the intestate who have died leaving issue had been living, and so that the descendants of each child who is dead shall inherit in equal shares the share which their parent would have received if living;

Inheritance per stirpes.

(d) If the descendants of the intestate entitled to share in the inheritance are of unequal degrees of consanguinity to the intestate, the inheritance shall devolve so that those who are in the nearest degree of consanguinity shall take the shares which would have descended to them, had all the descendants in the same degree of consanguinity who have died leaving issue, been living, and so that the issue of the descendants who have died shall respectively take the shares which their parents, if living, would have received: Provided that the Superintendent General may, in his discretion direct that the widow, if she is of good moral character, shall have the right, during her widowhood, to occupy any land in the reserve of the band to which the deceased belonged of which he was the recognized owner, and to have the use of any property of the deceased for which, under the provisions of this Part, he was not liable to taxation.

Superintendent General, sole judge of character of widow.

2. The Superintendent General shall be the sole and final judge as to the moral character of the widow of any intestate Indian. 57-58 V., c. 32, s. 1.

R.S.C. 1906, c. 81, cont'd.

Administra-  
tion of pro-  
perty of  
minors,

**27.** During the minority of the children of an Indian who dies intestate, the administration and charge of the property to which they are entitled as aforesaid shall devolve upon the widow, if any, of the intestate, if she is of good moral character; and, in such case, as each male child attains the age of twenty-one years, and as each female child attains that age, or with the consent of the widow, marries before that age, the share of such child shall, subject to the approval of the Superintendent General, be conveyed or delivered to him or her.

Removal of  
widow from  
administra-  
tion.

2. The Superintendent General may, at any time, remove the widow from such administration and charge and confer the same upon some other person, and, in like manner, may remove such other person and appoint another, and so, from time to time, as occasion requires.

3. The Superintendent General may, whenever there are minor children, appoint a fit and proper person to take charge of such children and their property, and may remove such person and appoint another, and so, from time to time, as occasion requires. 57-58 V., c. 32, s. 1.

Appointment  
of guardians  
to minors.

S.C. 1914, Section  
c. 35, s. 5. Administer-  
ing Indian  
estates.

**5.** The following section is inserted in the said Act immediately after section 27:—

“**27A.** The Superintendent General may appoint a person or persons to administer the estate of any deceased Indian and may make such general regulations and such orders in particular cases as he deems necessary to secure the satisfactory administration of such estates.”

S.C. 1924,  
c. 47,  
s. 2.

**2.** Section twenty-seven of the said Act, as enacted by section five of chapter thirty-five of the statutes of 1914, is repealed, and the following is substituted therefor:—

“**27A.** The Superintendent General may appoint a person or persons to administer the estate of any deceased or insane Indian, and may make such general regulations and such orders in particular cases as he deems necessary to secure the satisfactory administration of such estates.”

Administra-  
tion of  
Indian  
estates.

**28.** In case any Indian dies intestate without issue, leaving a widow of good moral character, all his property of whatever kind shall devolve upon her, and if he leaves no widow the same shall devolve upon the Indian nearest of kin to the deceased: Provided that any interest which he may have had in land in a reserve shall be vested in His Majesty for the benefit of the band owning such reserve if his nearest of kin is more remote than a brother or sister. 57-58 V., c. 32, s. 1.

Death of  
Indian with-  
out issue,  
widow to  
inherit,  
otherwise  
nearest of  
kin to  
inherit.

S.C. 1924,  
c. 47, s. 3.

**3.** Section twenty-eight of the said Act is repealed, and the following is substituted therefor:—

“**28.** In case any Indian dies intestate without issue, leaving a widow, all his property of whatever kind shall devolve upon her, and if he leaves no widow the same shall devolve upon the nearest of kin to the deceased: Provided that any interest which he may have had in land in a reserve shall be vested in His Majesty for the benefit of the band owning such reserve if his nearest of kin is more remote than a brother or sister.”

Inheritance  
of Indian  
dying  
without  
issue.

R.S.C. 1906, c. 81, cont'd.

**29.** The property of a married Indian woman who dies intestate shall descend in the same manner and be distributed in the same proportions as that of a male Indian who dies intestate, her widower, if any, taking the share which the widow of such male Indian would take. Property of a married Indian woman.

2. The other provisions of this Part respecting the descent of property shall in like manner apply to the case of an intestate married woman, the word widower being substituted for the word widow in each case. Idem.

3. The property of an unmarried Indian woman who dies intestate shall descend in the same manner as if she had been a male. 57-58 V., c. 32, s. 1. Idem.

**30.** A claimant of land in a reserve or of any interest therein as devisee or legatee or heir of a deceased Indian shall not be held to be lawfully in possession thereof or to be the recognized owner thereof until he shall have obtained a location ticket therefor from the Superintendent General. 57-58 V., c. 32, s. 1. In any case location ticket requisite for possession by heir.

**31.** The Superintendent General may decide all questions which arise under this Part, respecting the distribution among those entitled thereto of the property of a deceased Indian, and he shall be the sole and final judge as to who the persons so entitled are. Superintendent general to decide disputes.

2. The Superintendent General may do whatsoever in his judgment will best give to each claimant his share according to the true intent and meaning of this Part, and to that end, if he thinks fit, may direct the sale, lease or other disposition of such property or any part thereof, and the distribution or application of the proceeds or income thereof, regard being always had in any such disposition to the restriction upon the disposition of property in a reserve. 57-58 V., c. 32, s. 1. His powers.

**32.** Notwithstanding anything in this Part it shall be lawful for the courts having jurisdiction in that regard in Probate and letters of

administra-  
tion.

the case of persons other than Indians, with but not without the consent of the Superintendent General, to grant probate of the wills of Indians and letters of administration of the estate and effects of intestate Indians, in which case such courts and the executors and administrators obtaining such probate, or thereby appointed, shall have the like jurisdiction and powers as in other cases, except that no disposition shall, without the consent of the Superintendent General, be made of or dealing had with regard to any right or interest in land in a reserve or any property for which, under the provisions of this Part, an Indian is not liable to taxation. 57-58 V., c. 32, s. 1.

3.

*Trespassing on Reserves.*

Only Indians of the band to reside on or use the reserve.

**33.** No person, or Indian other than an Indian of the band, shall without the authority of the Superintendent General, reside or hunt upon, occupy or use any land or marsh, or reside upon or occupy any road, or allowance for road, running through any reserve belonging to or occupied by such band.

Certain contracts, etc., to be void.

2. All deeds, leases, contracts, agreements or instruments of whatsoever kind made, entered into, or consented to by any Indian, purporting to permit persons or Indians other than Indians of the band to reside or hunt upon such reserve, or to occupy or use any portion thereof, shall be void. 57-58 V., c. 32, s. 2.

R.S.C. 1906, c. 81, cont'd.

Removal of  
trespassers  
and their  
cattle, etc.

**34.** If any Indian is illegally in possession of any land on a reserve, or if any person, or Indian other than an Indian of the band, without the license of the Superintendent General,—

- (a) settles, resides or hunts upon, occupies, uses, or causes or permits any cattle or other animals owned by him, or in his charge, to trespass on any such land or marsh; or,
- (b) fishes in any marsh, river, stream or creek on or running through a reserve; or,
- (c) settles, resides upon or occupies any road, or allowance for road, on such reserve;

the Superintendent General or such other officer or person as he thereunto deposes and authorizes, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith as the case may be,—

Warrant.

- (a) to remove from the said land, marsh or road, or allowance for road, every such person or Indian and his family, so settled, or who is residing or hunting upon, or occupying, or is illegally in possession of the same; or,
- (b) to remove such cattle or other animals from such land or marsh; or,
- (c) to cause such person or Indian to cease fishing in any marsh, river, stream or creek, as aforesaid; or,
- (d) to notify such person or Indian to cease using, as aforesaid, the said lands, river, streams, creeks or marshes, roads or allowance for roads.

2. The person to whom such warrant is directed, shall execute the same, and, for that purpose, shall have the same powers as in the execution of criminal process. Execution.

3. The expenses incurred in any such removal or notification, or causing to cease fishing, shall be borne, as the case may be, by the person removed or notified, or caused to cease fishing, or who owns the cattle or other animals removed, or who has them in charge, and may be recovered from him as the costs in any ordinary action or suit, or if the trespasser is an Indian, such expenses may be deducted from his share of annuity and interest money, if any such are due to him. Costs.

4. Any such person or Indian other than an Indian of the band may be required orally or in writing by an Indian agent, a chief of the band occupying the reserve, or a constable, as the case may be,— Removal.

- (a) to remove with his family, if any, from the land, marsh or road, or allowance for road, upon which he is or has so settled, or is residing or hunting, or which he so occupies; or,
- (b) to remove his cattle from such land or marsh; or,
- (c) to cease fishing in any such marsh, river, stream or creek as aforesaid; or,
- (d) to cease using as aforesaid any such land, river, stream, creek, marsh, road or allowance for road. R.S., c. 43, s. 22; 54-55 V., c. 30, s. 1.

R.S.C. 1906, c. 81, cont'd.

**35.** If any person or Indian, after he has been removed or notified as aforesaid, or after any cattle or other animals owned by him or in his charge have been removed as aforesaid,—

Removal and punishment of persons returning after having been removed.

- (a) returns to, settles, resides or hunts upon or occupies or uses as aforesaid any of the said land or marsh; or,
- (b) causes or permits any cattle or other animals owned by him or in his charge to return to any of the said land or marsh; or,
- (c) returns to any marsh, river, stream or creek on or running through a reserve, for the purpose of fishing therein; or,
- (d) returns to, settles or resides upon or occupies any of the said roads or allowances for roads;

the Superintendent General, or any officer or person deputed or authorized, as aforesaid, upon view, or upon proof on oath before him, to his satisfaction, that the person or Indian has,—

- (a) returned to, settled, resided or hunted upon or occupied or used as aforesaid any of the said lands or marshes; or,
- (b) caused or permitted any cattle or other animals owned by him, or in his charge, to return to any of the said land or marsh; or,
- (c) returned to any marsh, river, stream or creek on or running through a reserve for the purpose of fishing therein; or,
- (d) returned to, settled or resided upon or occupied any of the said roads or allowances for roads;

Warrant to sheriff to arrest and commit to gaol.

shall direct and send his warrant, signed and sealed, to the sheriff of the proper county or district, or to any literate person therein, commanding him forthwith to arrest such person or Indian, and bring him before any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, who may, on summary conviction, commit him to the common gaol of the said county or district, or if there is no gaol in the said county or district, or if the reserve is not situated within any county or district, then the gaol nearest to the said reserve in the province, there to remain for the time ordered in the warrant of commitment.

Limit of imprisonment.

2. The length of imprisonment aforesaid shall not exceed thirty days for the first offence, and thirty days additional for each subsequent offence.

Direction of warrant.

3. If the said reserve is not situated within any county or district, such warrant shall be directed and sent to some literate person within such reserve. R.S., c. 43, s. 23.



R.S.C. 1906, c. 81, cont'd.

**Arrest and imprisonment.** **36.** Such sheriff or other person shall accordingly arrest the said person or Indian, and deliver him to the keeper of the proper gaol, who shall receive such person or Indian, and imprison him in the said gaol for the term aforesaid. R.S., c. 43, s. 24.

**Judgment to be drawn up and filed.** **37.** The Superintendent General, or such officer or person aforesaid, shall cause the judgment or order against the offender to be drawn up and filed in his office.

**Final.** **2.** Such judgment shall not be appealed from, or removed by *certiorari* or otherwise, but shall be final. R.S., c. 43, s. 25.

S.C. 1910,  
c. 28, s. 1.

**1.** *The Indian Act*, chapter 81 of the Revised Statutes, 1906, is amended by inserting the following heading and section immediately after section 37 thereof:—

R.S., c. 81 amended.  
Section added.

*"Recovery of Possession of Reserves.*

**"37A.** If the possession of any lands reserved or claimed to be reserved for the Indians is withheld, or if any such lands are adversely occupied or claimed by any person, or if any trespass is committed thereon, the possession may be recovered for the Indians, or the conflicting claims may be adjudged and determined, or damages may be recovered, in an action at the suit of His Majesty on behalf of the Indians, or of the band or tribe of Indians claiming possession or entitled to the declaration, relief or damages claimed.

Recovery of possession of reserves withheld or adversely occupied.

Damages.

**"2.** The Exchequer Court of Canada shall have jurisdiction to hear and determine any such action.

Exchequer Court jurisdiction.

**"3.** Any such action may be instituted by information of the Attorney General of Canada upon the instructions of the Superintendent General of Indian Affairs.

Attorney General may institute action.

**"4.** Nothing in this section shall impair, abridge or in anywise affect any existing remedy or mode of procedure provided for cases, or any of them, to which this section applies."

Existing remedies preserved.

S.C. 1911,  
c. 14, s. 4.

**4.** Subsection 1 of section 37A of the said Act, as enacted by section 1 of chapter 28 of the statutes of 1910, is hereby repealed and the following is substituted therefor:—

Section 37A amended

**"37A.** If the possession of any lands reserved or claimed to be reserved for the Indians, or of any lands of which the Indians or any Indian or any band or tribe of Indians claim the possession or any right of possession, is withheld, or if any such lands are adversely occupied or claimed by any person, or if any trespass is committed thereon, the possession may be recovered for the Indians or Indian or band or tribe of Indians, or the conflicting claims may be adjudged and determined or damages may be recovered in an action at the suit of His Majesty on behalf of the Indians or Indian or of the band or tribe of Indians entitled to or claiming the possession or right of possession or entitled to or claiming the declaration, relief or damages."

Recovery of possession of reserves withheld or adversely occupied.

Damages

R.S.C. 1906, c. 81, cont'd.

*Sale or Barter.*

Governor in Council may make regulations as to sale or barter of produce by Indians.

**38.** The Governor in Council may make regulations for prohibiting or regulating the sale, barter, exchange or gift by any band or irregular band of Indians, or by any Indian of any band or irregular band, in the province of Manitoba, Saskatchewan or Alberta, or the Territories, of any grain or root crops, or other produce grown upon any reserve, and may further provide that such sale, barter, exchange or gift shall be null and void, unless the same are made in accordance with such regulations. R.S., c. 43, s. 30.

**39.** No person shall buy or otherwise acquire from any band or irregular band of Indians, or from any Indian, any grain, root crops, or other produce from upon any reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories. R.S., c. 43, s. 30.

Buying of produce prohibited.

**40.** If any such grain or root crops, or other produce as aforesaid, are unlawfully in the possession of any person with- in the intent and meaning of this Part, or of any regulations made by the Governor in Council under this Part, any person acting under the authority, either general or special, of the Superintendent General, may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same; and he shall deal therewith as the Superintendent General, or any officer or person thereunto by him authorized, directs. R.S., c. 43, s. 31.

Superintendent general may order seizure of produce unlawfully possessed by any person.

**41.** The Governor in Council may make regulations for prohibiting the cutting, carrying away or removing from any reserve or special reserve, of any hard or sugar-maple tree or sapling. R.S., c. 43, s. 32.

Governor in Council may prohibit cutting of trees on reserve.

R.S.C. 1906, c. 81, cont'd.

**42.** No official or employee connected with the inside or outside service of the Department of Indian Affairs, and no missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians, and no school teacher on an Indian reserve, shall, without the special license in writing of the Superintendent General, trade with any Indian, or sell to him directly or indirectly, any goods or supplies, cattle or other animals.

Trading with Indians prohibited without license of Superintendent General.

2. The Superintendent General may at any time revoke the license so given by him. 53 V., c. 29, s. 10; 57-58 V., c. 32, s. 10.

Revocation of license.

**43.** No person shall barter directly or indirectly with any Indian on a reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories, or sell to any such Indian any goods or supplies, cattle or other animals without the special license in writing of the Superintendent General.

Bartering with Indians without a license prohibited.

2. The Superintendent General may, at any time, revoke the license by him given.

Revocation of license.

3. Upon prosecution of any offender against the provisions of this and the last preceding section, the evidence of the Indian to whom the sale was made, and the production to, or view by, the magistrate or Indian agent of the article or animal sold, shall be sufficient evidence on which to convict. 53 V., c. 29, s. 10.

Evidence.

*Roads and Bridges.*

**44.** Indians residing upon any reserve shall be liable, if so directed by the Superintendent General, or any officer or person

Indians liable to

work on public roads on reserves, and to what extent.

by him thereunto authorized, to perform labour upon the public roads laid out or used in or through, or abutting upon such reserve, which labour shall be performed under the sole control of the Superintendent General, or officer or person aforesaid, who may direct when, where and how and in what manner such labour shall be applied, and to what extent the same shall be imposed upon any Indian who is a resident upon the reserve.

Powers of Superintendent General.

2. The Superintendent General, or person or officer aforesaid shall have the like power to enforce the performance of such labour by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the province or territory in which such reserve is situate; for the non-performance of statute labour; but the labour to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same province, territory, county or other local division, under the laws requiring and regulating such labour and the performance thereof. 61 V., c. 34, s. 1.

Band to cause roads to be kept in order.

**45.** Every band of Indians shall cause the roads, bridges, ditches and fences within its reserve to be put and maintained in proper order, in accordance with the instructions received, from time to time, from the Superintendent General, or from the agent of the Superintendent General.

Work may be done at cost of band.

2. Whenever in the opinion of the Superintendent General, such roads, bridges, ditches and fences are not so put or maintained in order, he may cause the work to be performed at the cost of the band, or of the particular Indian in default, as the case may be, either out of its or his annual allowances or otherwise. R.S., c. 48, s. 34.

R.S.C. 1906, c. 81, cont'd.

*Lands taken for Public Purposes.*

Consent of Governor in Council. **46.** No portion of any reserve shall be taken for the purposes of any railway, road or public work without the consent of the Governor in Council, and, if any railway, road, or public work passes through or causes injury to any reserve, or, if any act occasioning damage to any reserve is done under the authority of an Act of Parliament or of the legislature of any province, compensation shall be made therefor to the Indians of the band in the same manner as is provided with respect to the lands or rights of other persons.

Compensation. Arbitration. **2.** The Superintendent General shall, in any case in which an arbitration is had, name the arbitrator on behalf of the Indians, and shall act for them in any matter relating to the settlement of such compensation.

Payment. **3.** The amount awarded in any case shall be paid to the Minister of Finance for the use of the band of Indians for whose benefit the reserve is held, and for the benefit of any Indian who has improvements taken or injured. R.S., c. 43, s. 35; 50-51 V., c. 33, s. 5.

**1.** Subsection 1 of section 46 of *The Indian Act*, chapter 81 of the Revised Statutes, 1906, is repealed, and the following is substituted therefor:—

R.S., c. 81, s. 46 amended.

S.C. 1911, c. 14, s. 1.

**“46.** No portion of any reserve shall be taken for the purpose of any railway, road, public work, or work designed for any public utility without the consent of the Governor in Council, but any company or municipal or local authority having statutory power, either Dominion or provincial, for taking or using lands or any interest in lands without the consent of the owner may, with the consent of the Governor in Council as aforesaid, and subject to the terms and conditions imposed by such consent, exercise such statutory power with respect to any reserve or portion of a reserve; and in any such case compensation shall be made therefor to the Indians of the band, and the exercise of such power, and the taking of the lands or interest therein and the determination and payment of the compensation shall, unless otherwise provided by the order in council evidencing the consent of the Governor in Council, be governed by the requirements applicable to the like proceedings by such company, municipal or local authority in ordinary cases.”

Compensation for lands taken for public purposes.

*Surrender and Forfeiture of Lands in Reserve.*

**47.** If, by the violation of the conditions of any trust respecting any special reserve, or by the breaking up of any society, corporation or community, or, if by the death of any person or persons without a legal succession or trusteeship, in whom the title to a special reserve is held in trust, the said title lapses or becomes void in law, the legal title shall become vested in His Majesty in trust, and the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve.

Title to vest in His Majesty, if title of reserves held in trust lapses.

**2.** The trustees of any special reserve may, at any time, surrender the same to His Majesty in trust, whereupon the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve. R.S., c. 43, s. 37.

Surrender of certain reserves to His Majesty in trust.

R.S.C. 1906, c. 81, cont'd.

**48.** Except as in this Part otherwise provided, no reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Part: Provided that the Superintendent General may lease, for the benefit of any Indian, upon his application for that purpose, the land to which he is entitled without such land being released or surrendered, and may, without surrender, dispose to the best advantage, in the interests of the Indians, of wild grass and dead or fallen timber.

Sale or release of reserves.  
Proviso.

S.C. 1919,  
c. 56, s. 1.

**1.** Section forty-eight of the *Indian Act*, chapter eighty-one of the Revised Statutes of Canada, 1906, is amended by adding thereto the following clause immediately after the last word thereof:—

“Provided also that the Governor in Council may make regulations enabling the Superintendent General without surrender to issue leases for surface rights on Indian reserve, upon such terms and conditions as may be considered proper in the interest of the Indians covering such area only as may be necessary for the mining of the precious metals by any one otherwise authorized to mine such metals, said terms to include provision of compensating any occupant of land for any damage that may be caused thereon as determined by the Superintendent General.”

Leases of surface rights may be granted in connection with mining for precious metals.

**49.** Except as in this Part otherwise provided, no release or surrender of a reserve, or a portion of a reserve, held for a the use of the Indians of any band, or of any individual Indian, shall be valid or binding, unless the release or surrender shall be assented to by a majority of the male members of the band of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose, according to the rules of the band, and held in the presence of the Superintendent General, or of an officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General.

Release or surrender of a reserve, when valid.  
Assent of band.

2. No Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near, and is interested in the reserve in question.

Who may vote.

3. The fact that such release or surrender has been assented to by the band at such council or meeting shall be certified on oath by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some of the chiefs or principal men present thereat and entitled to vote, before some judge of a superior, county or district court, stipendiary magistrate or justice of the peace, or, in the case of reserves in the province of Manitoba, Saskatchewan or Alberta, or the Territories, before the Indian commissioner, and in the case of reserves in British Columbia, before the visiting Indian Superintendent for British Columbia, or, in either case, before some other person or officer specially thereunto authorized by the Governor in Council.

Proof of assent.

S.C. 1918,  
c. 26, s. 2.

**2.** Subsection three of section forty-nine of the said Act is amended by striking out all of the subsection after the word “before” in the sixth line thereof and substituting therefor the words “any person having authority to take affidavits and having jurisdiction within the place where the oath is administered.”

Proof of assent to release or surrender.

Approval of Governor in Council.

4. When such assent has been so certified, as aforesaid, such release or surrender shall be submitted to the Governor in Council for acceptance or refusal. R.S., c. 43, s. 39; 61 V., c. 34, s. 3.

R.S.C. 1906, c. 81, s. 49, cont'd.

2. The said Act is amended by inserting the following section immediately after section 49 thereof:—

Section added.

S.C. 1911, c. 14, s. 2.

"49A. In the case of an Indian reserve which adjoins or is situated wholly or partly within an incorporated town or city having a population of not less than eight thousand, and which reserve has not been released or surrendered by the Indians, the

Inquiry and report by Exchequer Court as to removal of Indians.

Governor in Council may, upon the recommendation of the Superintendent General, refer to the judge of the Exchequer Court of Canada for inquiry and report the question as to whether it is expedient, having regard to the interest of the public and of the Indians of the band for whose use the reserve is held, that the Indians should be removed from the reserve or any part of it.

Order in Council.

"2. The order in council made in the case shall be certified by the Clerk of the Privy Council to the Registrar of the Exchequer Court of Canada, and the judge of the court shall thereupon proceed as soon as convenient to fix a time and place, of which due notice shall be given by publication in *The Canada Gazette*, and otherwise as may be directed by the judge, for taking the evidence and hearing and investigating the matter.

Notice of inquiry.

Powers of Court.

"3. The judge shall have the like powers to issue subpoenas, compel the attendance and examination of witnesses, take evidence, give directions, and generally to hear and determine the matter and regulate the procedure as in proceedings upon information by the Attorney General within the ordinary jurisdiction of the court, and shall assign counsel to represent and act for the Indians who may be opposed to the proposed removal.

Counsel.

Compensation for special loss and damage to be ascertained.

"4. If the judge finds that it is expedient that the band of Indians should be removed from the reserve or any part of it, he shall proceed, before making his report, to ascertain the amounts of compensation, if any, which should be paid respectively to individual Indians of the band for the special loss or damages which they will sustain in respect of the buildings or improvements to which they are entitled upon the lands of the reserve for which they are located; and the judge shall, moreover, consider and report upon any of the other facts or circumstances of the case which he may deem proper or material to be considered by the Governor in Council.

Transmission of proceedings.

"5. The judge shall transmit his findings, with the evidence and a report of the proceedings, to the Governor in Council, who shall lay a full report of the proceedings, the evidence and the findings before Parliament at the then current or next ensuing session thereof, and upon such findings being approved by resolution of Parliament the Governor in Council may thereupon give effect to the said findings and cause the reserve, or any part thereof from which it is found expedient to remove the Indians, to be sold or leased by public auction after three months advertisement in the public press, upon the best terms which, in the opinion of the Governor in Council, may be obtained therefor.

Sale or lease of lands.

Disposition of proceeds.

"6. The proceeds of the sale or lease, after deducting the usual percentage for management fund, shall be applied in compensating individual Indians for their buildings or improvements as found by the judge, in purchasing a new reserve for the Indians removed, in transferring the said Indians with their effects thereto, in erecting buildings upon the new reserve, and in

S.C. 1911,  
c. 14, s. 2  
cont'd.

providing the Indians with such other assistance as the Superintendent General may consider advisable; and the balance of the proceeds, if any, shall be placed to the credit of the Indians: Provided that the Government shall not cause the Indians to be removed, or disturb their possession, until a suitable reserve has been obtained and set apart for them in lieu of the reserve from which the expediency of removing the Indians is so established as aforesaid. Proviso  
New reserve.

"7. For the purpose of selecting, appropriating and acquiring the lands necessary to be taken, or which it may be deemed expedient to take, for any new reserve to be acquired for the Indians as authorized by the last preceding sub-section, whether they are Crown lands or not, the Superintendent General shall have all the powers conferred upon the Minister by *The Expropriation Act*, and such new reserve shall, for the purposes aforesaid, be deemed to be a public work within the definition of that expression in *The Expropriation Act*; and all the provisions of *The Expropriation Act*, in so far as applicable and not inconsistent with this Act, shall apply in respect of the proceedings for the selection, survey, ascertainment and acquisition of the lands required and the determination and payment of the compensation therefor: Provided, however, that the Superintendent General shall not exercise the power of expropriation unless authorized by the Governor in Council." Expropriation of lands for new reserve  
R.S., c. 143.

Act not to confirm invalid releases or surrenders.

50. Nothing in this Part shall confirm any release or surrender which, but for this Part, would have been invalid; and no release or surrender of any reserve, or portion of a reserve, to any person other than His Majesty, shall be valid. R.S., c. 43, s. 40.

Indian lands to be held for the same purpose as heretofore.

51. All Indian lands which are reserves or portions of reserves surrendered, or to be surrendered, to His Majesty, shall be deemed to be held for the same purpose as heretofore; and shall be managed, leased and sold as the Governor in Council directs, subject to the conditions of surrender and the provisions of this Part. R.S., c. 43, s. 41.

*Sale and Transfer of Indian Lands.*

Effect of former certificate of sale or receipts.

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

Evidence of possession.

2. Such certificate or receipt shall be *prima facie* evidence of possession by such person, or the assignee, under an instrument registered as aforesaid in any such action or suit. R.S., c. 43, s. 42.

Register of assignments to be kept.

**53.** The Superintendent General shall keep a book for registering, at the option of the persons interested, the particulars of any assignment made, as well by the original purchaser or lessee of Indian lands, or his heirs or legal representatives, as by any subsequent assignee of any such lands, or the heirs or legal representatives of such assignee. R.S., c. 43, s. 43.

**54.** Upon any such assignment being produced to the Superintendent General, and, except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the place of such execution, and the names, residences and occupations of the witnesses, or, as to lands in the province of Quebec, upon the production of any such assignment executed in notarial form, or of a notarial copy thereof, the Superintendent General shall cause the material parts of the assignment to be registered in the said book, and shall cause to be endorsed on the assignment a certificate of such registration signed by himself or by the Deputy Superintendent General, or any other officer of the Department by him authorized to sign such certificates. 53 V., c. 29, s. 4.

Registration of assignments.

**55.** Every such assignment so registered shall be valid against any assignment previously executed, which is subsequently registered or is unregistered.

Effect of assignment and registration.

2. No such registration shall be made until all the conditions of the sale, grant or location are complied with or dispensed with by the Superintendent General.

Requirements.

3. Every assignment registered as aforesaid shall be unconditional in its terms. R.S., c. 43, s. 43.

Unconditional.

**56.** If any subscribing witness to any such assignment is dead, or is absent from Canada, the Superintendent General may register such assignment upon the production of an affidavit proving the death or absence of such witness, and his handwriting, or the handwriting of the person making such assignment. R.S., c. 43, s. 44.

Proof for registration.

**57.** No agent for the sale of Indian lands shall, within his division, directly or indirectly, except under an order of the Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency; and every such purchase or interest shall be void. R.S., c. 43, s. 110.

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

*Tax Sales.*

**58.** Whenever the proper municipal officer having, by the law of the province in which the land affected is situate, authority to make or execute deeds or conveyances of lands sold for taxes, makes or executes any deed or conveyance purporting to grant or convey Indian lands which have been sold or located, but not patented, or the interest therein of the locatee or purchaser from the Crown, and such deed or conveyance recites or purports to be based upon a sale of such lands or such interest for taxes, the Superintendent General may approve of such deed or conveyance, and act upon and treat it as a valid transfer of all the right and interest of the original locatee or purchaser from the Crown, and of every person claiming under

Conveyance of lands sold for taxes.

Superintendent General may approve.



him in or to such land to the grantee named in such deed or conveyance.

Effect of such approval.

2. When the Superintendent General has signified his approval of such deed or conveyance by endorsement thereon, the grantee shall be substituted in all respects, in relation to the land so conveyed, for the original locatee or purchaser from the Crown, but no such deed or conveyance shall be deemed to confer upon the grantee any greater right or interest in the land than that possessed by the original locatee or purchaser from the Crown. 51 V., c. 22, s. 2.

Issue of patent.

59. The Superintendent General may cause a patent to be issued to the grantee named in such deed or conveyance on the completion of the original conditions of the location or sale, unless such deed or conveyance is declared invalid by a court of competent jurisdiction in a suit or action instituted by some person interested in such land within two years after the date of the sale for taxes, and unless within such delay notice of such contestation has been given to the Superintendent General. 51 V., c. 22, s. 2.

Time for registration.

60. Every such deed or conveyance shall be registered in the office of the Superintendent General within two years from the date of the sale for taxes; and unless the same is so registered, it shall not be deemed to have preserved its priority, as against a purchaser in good faith from the original locatee or purchaser from the Crown, in virtue of an assignment registered prior to the date of the registration of the deed or conveyance based upon a sale for taxes as aforesaid. 51 V., c. 22, s. 2.

*Cancellation.*

In cases of fraud, mistake, or non-observance of conditions.

61. If the Superintendent General is satisfied that any purchaser or lessee of any Indian lands, or any person claiming under or through him, has been guilty of any fraud or imposition, or has violated any of the conditions of the sale or lease, or if any such sale or lease has been made or issued in error or mistake, he may cancel such sale or lease and resume the land therein mentioned, or dispose of it as if no sale or lease thereof had ever been made. R.S., c. 43, s. 46.

S.C. 1924,  
c. 47, s.  
4.

4. Section sixty-one of the said Act is amended by adding thereto the following subsections:—

“(2) (a) In any case where the Superintendent or the Deputy Superintendent General gives or has given notice to a purchaser or lessee of Indian lands or to his

Cancellation effective from date of entry.

assignee, agent, executor, administrator or representative, of his intention to cancel a sale or lease under the provisions of this section, and in pursuance of such notice enters or has entered in the records of the Department the formal cancellation of such sale or lease, such entry of cancellation shall be and be deemed to have been effective from the date thereof to cancel and annul the said sale or lease, and any payments made on account of such sale or lease shall be and be deemed to have been forfeited.

Signatures  
to notices.

(b) In any such case as described in the preceding subsection the notice of cancellation shall be deemed to be and to have been sufficient if signed by the Superintendent General, the Deputy Superintendent General, or by any officer of the Department of Indian Affairs by the direction and with the authority of the Superintendent General or the Deputy Superintendent General; and moreover the notice shall be deemed to be and to have been duly given and served upon or delivered to the purchaser or lessee, or to his assignee, agent, executor, administrator or representative as aforesaid if posted prepaid or franked to his last known address.

Service.

Proceedings  
to be  
instituted  
within one  
year.

(3) No action, suit or other proceeding, either at law or in equity, shall lie or be instituted, prosecuted or maintained against His Majesty or against the Superintendent General, or the Attorney General, or any officer of the Government of Canada, claiming any relief or declaration against or in respect of the cancellation or forfeiture of any such sale or lease, or payments on account thereof by means of any such notice as aforesaid, unless the same was or shall have been instituted within one year from the date of the giving of the said notice.

List of  
cancellations  
laid before  
Parliament.

(4) Within the first fifteen days of each session of Parliament, the Superintendent General shall cause to be laid before both Houses of Parliament a list of all such sales or leases, cancelled during the twelve months next preceding that session, or since the date of the beginning of the then last session.

Rights  
preserved.

(5) This Act shall not affect any rights under any judgment rendered before the date of the passing of this Act, or under any action, suit or other proceeding instituted before the first day of May, nineteen hundred and twenty-four."

*Ejectment.*

Obtaining  
possession  
after such  
cancellation,  
in case of  
resistance.

62. Whenever any purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale or lease thereof, as aforesaid, or whenever any person is wrongfully in possession of any Indian lands and refuses to vacate or abandon possession of the same, the Superintendent General may apply to the judge of the county court of the county or district in which the land lies, or to any judge of a superior court, or in the Northwest Territories to any stipendiary magistrate, for an order in the nature of a writ of *habere facias possessionem*, or writ of possession.

Order as to  
writ of pos-  
session.

2. The said judge or magistrate, upon proof to his satisfaction that the right or title of the person to hold such land has been revoked or cancelled, as aforesaid, or that such person is wrongfully in possession of Indian lands, shall grant an order requiring the purchaser, lessee or person in possession to deliver up the same to the Superintendent General, or person by him authorized to receive such possession.

3. The order shall have the same force as a writ of *habere facias possessionem*, or writ of possession. Effect.

R.S.C. 1906, c. 81, cont'd.

4. The sheriff, or any bailiff or person to whom it has been entrusted for execution by the Superintendent General, shall execute the same in like manner as he would execute such writ in an action of ejectment or a possessory action. Execution of order.

5. The costs of and incident to any proceedings under this section or any part thereof shall be paid by any party to such proceedings or by the Superintendent General, as the judge or magistrate orders. Costs. R.S., c. 43, s. 47; 54-55 V., c. 30, s. 3.

*Rent.*

63. Whenever any rent payable to the Crown on any lease of Indian lands is in arrear, the same may be recovered,— Enforcing payment of rent due to the Crown.

(a) by warrant of distress issued by the Superintendent General or any agent or officer appointed under this Part and authorized by the Superintendent General to act in such cases, and with like proceedings thereon as in ordinary cases of landlord and tenant directed to any person or persons by him named therein; or

(b) by warrant of distress, and with like proceedings thereon as in case of a distress warrant by a justice of the peace for non-payment of a pecuniary penalty issued by him and directed as aforesaid; or

(c) by action of debt, as in ordinary cases of rent in arrear, brought therefor in the name of the Superintendent General.

2. Demand of rent shall not be necessary in any case. No demand required. R.S., c. 43, s. 48.

*Powers of Superintendent General.*

64. When by law or by any deed, lease or agreement relating to Indian lands, any notice is required to be given, or any act to be done by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Superintendent General. To act and give notice for the Crown. R.S., c. 43, s. 49.

65. Whenever it is found that, by reason of false survey or error in the books or plans in the Department of Indian Affairs, or in the late Indian branch of the Department of the Interior, any grant, sale or appropriation of land is deficient, or whenever any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Superintendent General may order the purchase money of so much land as is deficient with the interest thereon from the time of the application therefor to be paid to the original purchaser in land or money as the Superintendent General directs. Cases of deficiency of land.

Compensation.

2. If the land has passed from the original purchaser, and the claimant was ignorant of a deficiency at the time of his purchase, the Superintendent General may order payment as aforesaid of the purchase money for so much of the land as is deficient which the claimant has paid.

Limitation of time for claim.

3. No such claim shall be entertained unless application is made within five years from the date of the patent, and unless the deficiency is equal to one-tenth of the whole quantity described as contained in the particular lot or parcel of land granted. R.S., c. 43, s. 52.

R.S.C. 1906, c. 81, cont'd.

**Game laws.** **66.** The Superintendent General may, from time to time, by public notice, declare that, on and after a day therein named, the laws respecting game in force in the province of Manitoba, Saskatchewan or Alberta, or the Territories, or respecting such game as is specified in such notice, shall apply to Indians within the said province or Territories, as the case may be, or to Indians in such parts thereof as to him seems expedient. 53 V., c. 29, s. 10.

**Witnesses may be summoned and examined under oath.** **67.** The Superintendent General, his deputy, or other person specially authorized by the Governor in Council, shall have power, by subpoena issued by him, to require any person to appear before him, and to bring with him any papers or writings relating to any matter affecting Indians, and to examine such person under oath in respect to any such matter.

**Failure of witness to appear.** 2. If any person duly summoned by subpoena as aforesaid neglects or refuses to appear at the time and place specified in the subpoena, or refuses to give evidence or to produce the papers or writings demanded of him, the Superintendent General, his deputy or such other person may, by warrant under his hand and seal, cause such person so refusing or neglecting to be taken into custody and to be imprisoned in the nearest common gaol as for contempt of court, for a period not exceeding fourteen days. 50-51 V., c. 33, s. 2.

**3.** (1) Section sixty-seven of the said Act is amended by inserting the words "or Indian" immediately after the word "person" in the third line thereof.

Indian may be summoned as witness.

S.C. 1918, c. 26, s. 3.

(2) Subsection two of section sixty-seven is amended by adding the words "or Indian" immediately after the word "person" in the first and sixth lines thereof.

*Patents.*

**Patents. how to be prepared, signed and registered.** **68.** Every patent for Indian lands shall be prepared in the Department of Indian Affairs, and shall be signed by the Superintendent General or his deputy or by some other person thereunto specially authorized by order of the Governor in Council, and, when so signed, shall be registered by an officer specially appointed for that purpose by the Registrar General,

and then transmitted to the Secretary of State of Canada, by whom, or by the Under Secretary of State, the same shall be countersigned and the Great Seal thereto caused to be affixed: **Proviso.** Provided that every such patent for land shall be signed by the Governor or by the Deputy Governor appointed under this Part for that purpose. R.S., c. 43, s. 45.

R.S.C. 1906, c. 81, cont'd.

**69.** On any application for a patent by the heir, assignee or devisee of the original purchaser from the Crown, the Superintendent General may receive proof, in such manner as he directs and requires, in support of any claim for a patent, when the original purchaser is dead; and upon being satisfied that the claim has been equitably and justly established, may allow the same, and cause a patent to issue accordingly: Provided that nothing in this section shall limit the right of a person claiming a patent to land in the province of Ontario to make application at any time to the Commissioner, under the Act respecting claims to lands in Upper Canada for which no patents have been issued, being chapter eighty of the Consolidated Statutes of Upper Canada. R.S., c. 43, s. 45.

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

Proviso.

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

Cancellation of erroneous letters patent.

2. Such correct letters patent shall relate back to the date of those so cancelled, and have the same effect as if issued at the date of such cancelled letters patent. R.S., c. 43, s. 50.

Issue of correct ones in their stead.

**71.** In all cases in which grants or letters patent have been issued for the same land, inconsistent with each other, through error, and in all cases of sales or appropriations of the same land, inconsistent with each other, the Superintendent General may, in cases of sale, cause a repayment of the purchase money, with interest.

Inconsistent patents of the same land.

2. When the land has passed from the original purchaser, or has been improved before a discovery of the error, the Superintendent General may, in substitution, assign land or grant a certificate entitling the person to purchase Indian lands of such value, and to such extent as he deems just and equitable under the circumstances: Provided that no such claim shall be entertained unless it is preferred within five years from the discovery of the error. R.S., c. 43, s. 51.

Compensation in certain cases.

Proviso.

**72.** Whenever patents for Indian lands have been issued through fraud or in error or improvidence, the Exchequer Court of Canada or a superior court in any province may, in respect of lands situate within its jurisdiction, upon information, action, bill or plaint, respecting such lands, and upon hearing the parties interested, or upon default of the said parties after such notice of proceeding as the said courts shall respectively order, decree such patents to be void; and, upon a registry of such decree in the Department of Indian Affairs, such patents shall be void to all intents.

Certain courts may void patents

issued in error, etc.

Effect of registry of decree.

Practice in such cases.

2. The practice in such cases shall be regulated by orders, from time to time, made by the said courts respectively. R.S., c. 43, s. 53; 53 V., c. 29, s. 5.

R.S.C. 1906, c. 81, cont'd.

*Timber Lands.*

Licenses to cut trees, by whom and how to be granted.

**73.** The Superintendent General, or any officer or agent authorized by him to that effect, may grant licenses to cut trees on ungranted Indian lands, or on reserves at such rates and subject to such conditions, regulations and restrictions, as are, from time to time, established by the Governor in Council, and such conditions, regulations and restrictions shall be adapted to the locality in which such reserves or lands are situated. R.S., c. 43, s. 54.

For what time.

**74.** No license shall be so granted for a longer period than twelve months from the date thereof; and if, in consequence of any incorrectness of survey or other error or cause whatsoever, a license is found to comprise land included in a license of a prior date, or land not being reserve, or ungranted Indian lands, the license granted shall be void in so far as it comprises such land, and the holder or proprietor of the license so rendered void shall have no claim upon the Crown for indemnity or compensation by reason of such avoidance. R.S., c. 43, s. 55.

As to error in description, etc.

License must describe lands and kind of trees to be cut.

**75.** Every license shall describe the lands upon which the trees may be cut, and the kind of trees which may be cut, and shall confer, for the time being, on the licensee the right to take and keep possession of the land so described, subject to such regulations as are made.

To vest property in trees cut.

2. Every license shall vest in the holder thereof all rights of property in all trees of the kind specified, cut within the limits of the license during the term thereof, whether such trees are cut by the authority of the holder of such license or by any other person, with or without his consent.

Rights of licensee as to trespassers.

3. Every license shall entitle the holder thereof to seize, in revendication or otherwise, such trees and the logs, timber or other product thereof, if found in the possession of any unauthorized person, and also to institute any action or suit against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any.

4. All proceedings pending at the expiration of any license may be continued to final termination, as if the license had not expired. 61 V., c. 34, s. 4. Continuing proceedings.

**76.** Every person who obtains a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Superintendent General, a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square or other timber, manufactured and carried away under such license, which return shall be sworn to by the holder of the license or his agent, or by his foreman. Return to be made by licensee.

2. Every person who refuses or neglects to make such return, or who evades, or attempts to evade, any regulation made by the Governor in Council in that behalf, shall be held to have cut without authority, and the timber or other product made shall be dealt with accordingly. R.S., c. 43, s. 57. Effect of neglect to make such return.

R.S.C. 1906, c. 81, cont'd.

**77.** All trees cut, and the logs, timber or other product thereof, shall be liable for the payment of the dues thereon, so long as and wheresoever the same, or any part thereof, are found, whether in the original logs or manufactured into deals, boards or other stuff.

Trees cut and their product liable for payment of dues.

2. All officers or agents entrusted with the collection of such dues may follow and seize and detain the same wherever they are found until the dues are paid or secured. R.S., c. 43, s. 58.

May be seized and detained.

**78.** No instrument or security taken for dues, either before or after the cutting of the trees, as collateral security, or to facilitate collection, shall in any way affect the lien for such dues, but the lien shall subsist until the said dues are actually discharged. R.S., c. 43, s. 59.

Security taken for dues not to affect lien.

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

Sale of seized timber after certain delay.

2. The net proceeds of such sale, after deducting the amount of dues, expenses, and costs incurred, shall be handed over to the owner or claimant of such timber, upon his applying therefor and proving his right thereto. R.S., c. 43, s. 60.

Proceeds.

**80.** Any officer or agent acting under the Superintendent General may seize or cause to be seized in His Majesty's name any logs, timber, wood or other products of trees, or any trees themselves, cut without authority on Indian lands or on a reserve, wherever they are found, and place the same under proper custody until a decision can be had in the matter from competent authority. 50-51 V., c. 33, s. 6.

Seizure of trees cut without authority.

Presumption of law in case of mixture of timber cut on Indian lands or reserves, with timber cut elsewhere.

**81.** When the logs, timber, wood, or other products of trees, or the trees themselves cut without authority on Indian lands or on a reserve, have been made up or intermingled with other trees, wood, timber, logs, or other products of trees into a crib, dram or raft, or in any other manner, so that it is difficult to distinguish the timber cut on Indian lands or on a reserve without license, from the other timber with which it is made up or intermingled, the whole of the timber so made up or intermingled shall be held to have been cut without authority on Indian lands or on a reserve, and shall be seized and forfeited and sold by the Superintendent General or any officer or agent acting under him, unless evidence satisfactory to him is adduced showing the probable quantity not cut on Indian lands or on a reserve. 50-51 V., c. 33, s. 7.

Seizing officer may command assistance in name of Crown.

**82.** Every officer or person seizing trees, logs, timber or other products of trees in the discharge of his duty under this Part may, in the name of the Crown, call in any assistance necessary for securing and protecting the same. R.S., c. 43, s. 64.

R.S.C. 1906, c. 81, cont'd.

Burden of proof, in certain cases, to be on claimant.

**83.** Whenever any trees, logs, timber or other product of trees are seized for non-payment of Crown dues, or for any other cause of forfeiture, or whenever any prosecution is brought in respect of any penalty or forfeiture under this Part, and any question arises whether said dues have been paid or whether the trees, logs, timber or other product were cut on lands other than any of the lands aforesaid, the burden of proving payment, or on what land the same were cut, as the case may be, shall lie on the owner or claimant and not on the officer who seizes the same, or the person who brings such prosecution. R.S., c. 43, s. 65.

Condemnation in default of notice of claim.

**84.** All trees, logs, timber or other product of trees seized under this Part shall be deemed to be condemned unless the person from whom they are seized, or the owner thereof within one month from the day of the seizure, gives notice to the seizing officer, or nearest officer or agent of the Superintendent General that he claims, or intends to claim them, and unless within one month from the day of giving such notice he initiates, in some court of competent jurisdiction, proceedings for the purpose of establishing his claim.

Sale.

2. In default of such notice and initiation of proceedings, the officer or agent seizing shall report the circumstances to the Superintendent General, who may order the sale by the said officer or agent of such trees, logs, timber or other products. 61 V., c. 34, s. 5.

Proceedings for trial of validity of seizure.

**85.** Any judge of any superior, county or district court, or any stipendiary magistrate, police magistrate or Indian agent, may, in a summary way, under the provisions of Part XV. of the Criminal Code, try and determine such seizures; and may,

pending the trial, order the delivery of the trees, or the logs, timber or other product to the alleged owner, on receiving security by bond, with two good and sufficient sureties, first approved by the said agent, to pay double the value of such trees, logs, timber or other product, in case of their condemnation. Delivery on security given.

2. Such bond shall be taken in the name of the Superintendent General, for His Majesty, and shall be delivered up to and kept by the Superintendent General. Bond to be given.

3. If such seized trees, logs, timber or other product are condemned, the value thereof shall be paid forthwith to the Superintendent General or agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered. R.S., c. 43, s. 67. Value of condemned trees to be paid to the Superintendent General.

**86.** Every one who avails himself of any false statement or false oath to evade the payment of dues under this Part, shall forfeit the timber in respect of which the dues are attempted to be evaded. R.S., c. 43, s. 68. Forfeiture of timber for attempt to evade payment.

*Management of Indian Moneys.*

**87.** All moneys or securities of any kind applicable to the support or benefit of Indians, or any band of Indians, and all moneys accrued or hereafter to accrue from the sale of any Indian lands or the proceeds of any timber on any Indian lands or a reserve shall, subject to the provisions of this Part, be applicable to the same purposes, and be dealt with in the same manner as they might have been applied to or dealt with but for the passing of this Part. R.S., c. 43, s. 69. Indian moneys to be dealt with as heretofore.



S.C. 1910,  
c. 28, s. 2.

2. Section 87 of the said Act is amended by adding thereto <sup>S. 87</sup> the following subsection:— <sup>amended.</sup>

moneys and securities to be approved by Superintendent General.

“2. No contract or agreement binding or purporting to bind, or in any way dealing with the moneys or securities referred to in this section, or with any moneys appropriated by Parliament for the benefit of Indians, made either by the chiefs or councillors of any band of Indians or by the members of the said band, other than and except as authorized by and for the purposes of this Part of the Act, shall be valid or of any force or effect unless and until it has been approved in writing by the Superintendent General.” <sup>Contracts affecting Indian</sup>

88. The Governor in Council may reduce the purchase money due or to become due on sales of Indian lands, or reduce or remit the interest on such purchase money, or reduce the rent at which Indian lands have been leased, when he considers the same excessive. <sup>Reduction of purchase money due on sales of Indian lands.</sup>

2. A return setting forth all the reductions and remissions made under this section during the fiscal year shall be submitted to both Houses of Parliament within twenty days after the expiration of such year, if Parliament is then sitting, and, if Parliament is not then sitting, within twenty days after the opening of the next ensuing session of Parliament. 5S-59 V., c. 35, s. 8. <sup>Returns of reductions to Parliament.</sup>

89. With the exception of such sum not exceeding fifty per centum of the proceeds of any land, and not exceeding ten per centum of the proceeds of any timber or other property, as is agreed at the time of the surrender to be paid to the members of the band interested therein, the Governor in Council may, subject to the provisions of this Part, direct how and in what manner, and by whom, the moneys arising from the disposal of Indian lands, or of property held or to be held in trust for Indians, or timber on Indian lands or reserves, or from any other source for the benefit of Indians, shall be invested from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given. <sup>Investment and management of Indian funds may be regulated by Governor in Council.</sup>

S.C. 1919,  
c. 36, s. 2.

2. Subsection one of section eighty-nine is amended by striking out the words “and not exceeding ten per centum of the proceeds of any” in the second and third lines thereof. <sup>Minimum with respect to amount to be paid to members of band struck out.</sup>

R.S.C. 1906,  
c. 81, s. 89,  
cont'd.

In what particulars.

2. The Governor in Council may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Part, and may authorize and direct the expenditure of such moneys for surveys, for compensation to Indians for improvements or any interest they had in lands taken from them, for the construction or repair of roads, bridges, ditches and watercourses on such reserves or lands, for the construction and repair of school buildings and charitable institutions, and by way of contribution to schools attended by such Indians. 6 E. VII., c. 20, s. 1.

R.S.C. 1906, c. 81, cont'd.

**1.** Subsection two of section eighty-nine of the *Indian Act*, chapter eighty-one of *The Revised Statutes of Canada, 1906*, is amended by adding thereto the following proviso:—

“Provided, however, that where the capital standing to the credit of a band does not exceed the sum of two thousand dollars the Governor in Council may direct and authorize the expenditure of such capital for any purpose which may be deemed to be for the general welfare of the band.”

S.C. 1926-27,  
c. 32, s. 1.

If capital  
does not  
exceed \$2,000.

Power of  
Governor in  
Council as  
to direction  
of expendi-  
ture of capi-  
tal of band.

**90.** The Governor in Council may, with the consent of a band, authorize and direct the expenditure of any capital moneys standing at the credit of such band, in the purchase of land as a reserve for the band or as an addition to its reserve, or in the purchase of cattle for the band, or in the construction of permanent improvements upon the reserve of the band, or such works thereon or in connection therewith as, in his opinion, will be of permanent value to the band, or will, when completed, properly represent capital. 57-58 V., c. 32, s. 11.

**5.** Subsection one of section ninety of the said Act is repealed and the following is substituted therefor:—

“**90.** (1) The Governor in Council may, with the consent of a band, authorize and direct the expenditure of any capital moneys standing at the credit of such band, in the purchase of land as a reserve for the band or as an addition to its reserve, or in the purchase of cattle, implements or machinery for the band, or in the construction of permanent improvements upon the reserve of the band, or such works thereon or in connection therewith as, in his opinion, will be of permanent value to the band, or will, when completed, properly represent capital or in the making of loans to members of the band to promote progress, no such loan, however, to exceed in amount one-half of the appraised value of the interest of the borrower in the lands held by him.”

S.C. 1924,  
c. 47, s. 5.

Power of  
Governor in  
Council over  
expenditure  
of capital.

R.S.C. 1906, c. 81, cont'd.

S.C. 1914,  
c. 35, s. 4.Direction of  
expenditure of  
capital of  
band,  
without  
consent.

**4.** Section ninety of the said Act is amended by adding thereto the following subsections:—

“(2) In the event of a band refusing to consent to the expenditure of such capital moneys as the Superintendent General may consider advisable for any of the purposes mentioned in subsection one of this section, and it appearing to the Superintendent General that such refusal is detrimental to the progress or welfare of the band, the Governor in Council may, without the consent of the band, authorize and direct the expenditure of such capital for such of the said purposes as may be considered reasonable and proper.

Lease of  
lands in a  
reserve if  
band or  
individual  
neglects  
cultivation.

“(3) Whenever any land in a reserve whether held in common or by an individual Indian is uncultivated and the band or individual is unable or neglects to cultivate the same, the Superintendent General, notwithstanding anything in this Act to the contrary, may, without a surrender, grant a lease of such lands for agricultural or grazing purposes for the benefit of the band or individual, or may employ such persons as may be considered necessary to improve or cultivate such lands during the pleasure of the Superintendent General, and may authorize and direct the expenditure of so much of the capital funds of the band as may be considered necessary for the improvements of such land, or for the purchase of such stock, machinery, material or labour as may be considered necessary for the cultivation or grazing of the same, and in such case all the proceeds derived from such lands, except a reasonable rent to be paid for any individual holding, shall be placed to the credit of the band: Provided that in the event of improvements being made on the lands of an individual the Superintendent General may deduct the value of such improvements from the rental payable for such lands.”

Proceeds of  
sales to be  
paid to Min-  
ister of  
Finance.

**91.** The proceeds arising from the sale or lease of any Indian lands, or from the timber, hay, stone, minerals or other valuables thereon, or on a reserve, shall be paid to the Minister of Finance to the credit of the Indian fund. R.S., c. 43, s. 71.

Powers of  
Sup't. Gen'l.

**92.** The Superintendent General may,—

- (a) stop the payment of the annuity and interest money of as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the Superintendent General, guilty of deserting his family, or of conduct justifying his wife or family in separating from him, or who is separated from his family by imprisonment, and apply the same towards the support of the wife or family of such Indian; or,
- (b) stop the payment of the annuity and interest money of any Indian parent of an illegitimate child, and apply the same to the support of such child; or,
- (c) stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any woman who deserts her husband or family and lives immorally with another man, and apply the same to the support of the family so deserted; or,

R.S.C. 1906, c. 81, cont'd.

(d) whenever sick or disabled, or aged or destitute Indians are not provided for by the band of which they are members, furnish sufficient aid from the funds of the band for the relief of such sick, disabled, aged or destitute Indians. R.S., c. 43, s. 74; 61 V., c. 34, ss. 7 and 8.

S. 92  
amended.

Sanitary  
regulations.

6. Section 92 of the said Act is amended by adding thereto the following:—

“(e) Make such regulations as he deems necessary for the prevention or mitigation of disease; the frequent and effectual cleansing of streets, yards and premises; the removal of nuisances and unsanitary conditions; the cleansing, purifying, ventilating and disinfecting of premises by the owners and occupiers or other persons having the care or ordering thereof; the supplying of such medical aid, medicine and other articles and accommodation as the Superintendent General may deem necessary for preventing or mitigating an outbreak of any communicable disease; entering and inspecting any premises used for human habitation in any locality in which conditions exist which in the opinion of the Superintendent General are unsanitary, or such as to render the inhabitants specially liable to disease, and for directing the alteration or destruction of any such building which is, in the opinion of the Superintendent General, unfit for human habitation; preventing the overcrowding of premises used for human habitation by limiting the number of dwellers in such premises; preventing and regulating the departure of persons from, and the access of persons to, infected localities; preventing persons or conveyances from passing from one locality to another; detaining persons or conveyances who or which have been exposed to infection for inspection or disinfection until the danger of infection is past; the removal or keeping under surveillance of persons living in infected localities; and any other matter which, in the opinion of the Superintendent General, the general health of the Indians of any locality may require.

In conflict of  
authority,  
rule to  
prevail.

“2. In the event of any conflict between any regulation made by the Superintendent General and any rule or regulation made by any band, the regulations made by the Superintendent General shall prevail.”

Regulations.

5. (1) Section ninety-two of the said Act, as amended by section six of chapter thirty-five of the statutes of 1914, is amended by adding thereto the following paragraph:—

Taxation of  
dogs, and  
protection of  
sheep.

“(f) May make by-laws for the taxation, control and destruction of dogs and for the protection of sheep, and such by-laws may be applied to such reserves or parts thereof from time to time as the Superintendent General may direct.”

(2) The said section is further amended by adding thereto the following subsection:—

Penalties.

“(3) In any regulations or by-laws made under the provisions of this section, the Superintendent General may provide for the imposition of a fine not exceeding thirty dollars or imprisonment not exceeding thirty days, for the violation of any of the provisions thereof.”

S.C. 1914,  
c. 35, s. 6.

S.C. 1918,  
c. 26, s. 5.

R.S.C. 1906, c. 81, cont'd.

S.C. 1926-27,  
c. 32, s. 2.

**2. Subsection one of section ninety-two of the said Act, as amended by section six of chapter thirty-five of the statutes of 1914, and by section five of chapter twenty-six of the statutes of 1918, is further amended by adding thereto the following paragraph:—**

**“(g) Make regulations governing the operation of pool rooms, dance halls and other places of amusement on Indian Reserves.”**

Regulations.  
Operation of  
pool rooms,  
etc.

#### *Election of Chiefs.*

**93.** Whenever the Governor in Council deems it advisable for the good government of a band, to introduce the elective system of chiefs and councillors or headmen, he may provide that the chief and councillors or headmen of any band shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall in such case be elected for a term of three years.

Governor in  
Council may  
provide for  
election of  
chiefs.

2. The councillors or headmen may be in the proportion of two for every two hundred Indians.

Councillors  
or headmen.

3. No band shall have more than one chief and fifteen councillors or headmen.

Numbers.

4. Any band composed of at least thirty members may have a chief. 61 V., c. 34, s. 9.

Band of 30.

**94.** Life chiefs and councillors or headmen now living may continue to hold rank until death or resignation, or until their removal by the Governor in Council for dishonesty, intemperance, immorality or incompetency.

As to present  
life chiefs.

2. In the event of the Governor in Council providing that the chief and councillors or headmen of a band shall be elected, the life chiefs and councillors or headmen shall not exercise powers as such unless elected under the provision aforesaid. 61 V., c. 34, s. 9.

Election  
required for  
exercise of  
powers.

**95.** An election may be set aside by the Governor in Council, on a report of the Superintendent General, if it is proved by two witnesses before the Indian agent for the locality, or such other person as is deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election.

Reason for  
which an  
election may  
be set aside.

2. Every Indian who is proved guilty of such fraud or irregularity, or connivance thereat, may be declared ineligible for re-election for a period not exceeding six years, if the Governor in Council, on the report of the Superintendent General, so directs. 61 V., c. 34, s. 9.

Punishment  
of fraud at  
election.

**96.** Any elected or life chief and any councillor or headman, or any chief or councillor or headman chosen according to the custom of any band, may, on the ground of dishonesty, intemperance, immorality or incompetency, be deposed by the Governor in Council and declared ineligible to hold the office of chief or councillor or headman for a period not exceeding three years. 61 V., c. 34, s. 9.

Grounds on  
which chief,  
etc., may be  
deposed.

R.S.C. 1906, c. 81, cont'd.

*Regulations to be made by Chiefs.*

- Chiefs to make regulations as to schools. **97.** The chief or chiefs of any band in council may, subject to confirmation by the Governor in Council, make rules and regulations as to the religious denomination to which the teacher of the school established on the reserve shall belong.
- Denominations. 2. If the majority of the band belongs to any one religious denomination, the teacher of the school established on the reserve shall belong to the same denomination.
- Minority. 3. The Protestant or Catholic minority of any band may, with the approval of and under regulations made by the Governor in Council, have a separate school established on the reserve. R.S., c. 43, s. 76.
- Other cases. **98.** The chief or chiefs of any band in council may likewise and subject to such confirmation, make rules and regulations as to,—
- Health. (a) the care of the public health;
- Order. (b) the observance of order and decorum at assemblies of the Indians in general council, or on other occasions;
- Intemperance. (c) the repression of intemperance and profligacy;

**3. Paragraph (c) of subsection one of section ninety-eight of the said Act is repealed and the following is substituted therefor:—**

S.C. 1926-27,  
c. 32, s. 3.

**"(c) The prevention of disorderly conduct and nuisances."** Disorderly conduct.

- Trespass. (d) the prevention of trespass by cattle, and the protection of sheep, horses, mules and cattle;
- Roads, etc. (e) the construction and maintenance of watercourses, roads, bridges, ditches and fences;
- School houses. (f) the construction and repair of school houses, council houses and other Indian public buildings, and the attendance at school of children between the ages of six and fifteen years;
- Pounds. (g) the establishment of pounds and the appointment of pound-keepers;
- Locating of land. (h) the locating of the band in their reserves, and the establishment of a register of such locations;
- Weeds. (i) the repression of noxious weeds.
- Governor in Council may provide for punishment for violation. 2. The Governor in Council may by the rules and regulations aforesaid provide for the imposition of punishment by fine, penalty or imprisonment, or both for violation of any of such rules or regulations.
- Limit of penalty. 3. The fine or penalty shall in no case exceed thirty dollars, and the imprisonment shall in no case exceed thirty days.
- Criminal Code to apply. 4. The proceedings for the imposition of such punishment shall be taken under Part XV. of the Criminal Code. R.S., c. 43, s. 76.

R.S.C. 1906,  
c. 81, cont'd.

*Taxation.*

- Liability of Indians to taxation. **99.** No Indian or non-treaty Indian shall be liable to be taxed for any real or personal property, unless he holds, in his individual right, real estate under a lease or in fee simple, or personal property outside of the reserve or special reserve, in which case he shall be liable to be taxed for such real or personal property at the same rate as other persons in the locality in which it is situate. R.S., c. 43, s. 77.

R.S.C. 1906, c. 81, cont'd.

**100.** No taxes shall be levied on the real property of any Indian, acquired under the enfranchisement clauses of this Part, until the same has been declared liable to taxation by proclamation of the Governor in Council, published in the *Canada Gazette*. R.S., c. 43, s. 77.

As to taxes on property of an enfranchised Indian.

**101.** All land vested in the Crown or in any person in trust or for the use of any Indian or non-treaty Indian or any band or irregular band of Indians or non-treaty Indians shall be exempt from taxation, except those lands which, having been surrendered by the bands owning them, though unpatented, have been located by or sold or agreed to be sold to any person; and, except as against the Crown and any Indian located on the land, the same shall be liable to taxation in like manner as other lands in the same locality: Provided that nothing herein contained shall interfere with the right of the Superintendent General to cancel the original sale or location of any land, or shall render such land liable to taxation until it is again sold or located. 51 V., c. 22, s. 3.

Exemption from taxation.

#### *Legal Rights of Indians.*

**102.** No person shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgment or otherwise, upon real or personal property of any Indian or non-treaty Indian, except on real or personal property subject to taxation under the last three preceding sections: Provided that any person selling any article to an Indian or non-treaty Indian may take security on such article for any part of the price thereof which is unpaid. R.S., c. 43, s. 78.

No lien or charge to be taken on property of Indians.

**103.** Indians and non-treaty Indians shall have the right to sue for debts due to them, or in respect of any tort or wrong inflicted upon them, or to compel the performance of obligations contracted with them: Provided that, in any suit or action between Indians, or in any case of assault in which the offender is an Indian, no appeal shall lie from any judgment, order or conviction by any police magistrate, stipendiary magistrate, or two justices of the peace or an Indian agent, when the sum adjudged or the penalty imposed does not exceed ten dollars. R.S., c. 43, s. 79.

As to rights of action by Indians.

**104.** No pawn taken from any Indian or non-treaty Indian for any intoxicant shall be retained by the person to whom such pawn is delivered; but the thing so pawned may be sued for and shall be recoverable, with costs of suit, in any court of competent jurisdiction by the Indian or non-treaty Indian who pawned the same. R.S., c. 43, s. 80.

Things pawned by Indians for intoxicants not to be retained.

Exemption from seizure.

**105.** No presents given to Indians or non-treaty Indians, and no property purchased or acquired with or by means of any annuities granted to Indians, or any part thereof, and in the possession of any band of such Indians, or of any Indian of any band or irregular band, shall be liable to be taken, seized or distrained for any debt, matter or cause whatsoever.

R.S.C. 1906, c. 81, cont'd.

S. 105 amended.

Presents, annuities, money and property exempt from seizure.

**3.** Subsection 1 of section 105 of the said Act is repealed and the following is substituted therefor:—

**'105.** No presents given to Indians or non-treaty Indians, and no annuities or interest on funds, and no moneys appropriated by Parliament, held for any band of Indians, and no property purchased or acquired with or by means of any such annuities or income or moneys, and whether in the possession of any band of such Indians or of any Indian of any band or irregular band or not, shall be liable to be taken, seized, distrained, attached or in any way made the subject of judicial process for any debt, matter or cause whatsoever."

S.C. 1910, c. 28, s. 3.

Traffic in presents and property restricted.

**2.** No such presents or property shall, in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or in the Territories be sold, bartered, exchanged, or given by any band or irregular band of Indians, or any Indian of any such band to any person or Indian other than an Indian of such band.

Animals, farming implements, etc., deemed presents.

**3.** Animals given to Indians under treaty stipulations, and the progeny thereof, and farming implements, tools and any other articles given to Indians under treaty stipulations shall be held to be presents within the meaning of this section.

Sale, etc., null and void.

**4.** Every such sale, barter, exchange or gift shall be null and void unless such sale, barter, exchange or gift is made with the written assent of the Superintendent General or his agent. R.S., c. 43, s. 81; 53 V., c. 29, s. 7.

S. 105 amended.

**7.** Section 105 of the said Act is amended by adding the following subsection thereto:—

**"5.** No Indian or non-treaty Indian in the provinces of Manitoba, British Columbia, Saskatchewan or Alberta, or in the Territories, shall without the written consent of the Indian Agent sell, barter, exchange or give to any person or Indian other than an Indian of such band, or kill or destroy any animal or the progeny thereof given to him or to the band under treaty stipulations, or loaned or conditionally given to him or to the band by the Government. Any Indian who violates any of the provisions of this subsection shall be liable on summary conviction to a penalty, not exceeding twenty-five dollars with costs of prosecution or to imprisonment not exceeding two months, or to both fine and imprisonment."

S.C. 1914, c. 35, s. 7.

Selling, &c., live stock.

Presents, unlawfully in possession of any person, may be seized.

**106.** If any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians, are or is unlawfully in the possession of any person, within the true intent and meaning of the last preceding section, any person acting under the authority of the Superintendent General may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same, and shall deal therewith as the Superintendent General directs. R.S., c. 43, s. 81.



R.S.C. 1906, c. 81, cont'd.

S.C. 1926-27,  
c. 32, s. 4.

**4.** The said Act is amended by inserting the following section immediately after section one hundred and six thereof:—

**"106A.** No title to any Indian grave-house, carved grave-pole, totem-pole, carved house-post or large rock embellished with paintings or carvings on an Indian reserve, shall be acquired by any means whatsoever by any person without the written consent of the Superintendent General of Indian Affairs, and no Indian grave-house, carved grave-pole, totem-pole, carved house-post or large rock embellished with paintings or carvings, on an Indian reserve shall be removed, taken away, mutilated, disfigured, defaced or destroyed without such written consent.

Acquisition  
of totem  
poles, etc.,  
forbidden.

Penalty.

Any person violating any of the provisions of this section shall be liable on summary conviction to a penalty not exceeding two hundred dollars, with costs of prosecution, and in default of payment to imprisonment for a term not exceeding three months, and any article removed or taken away contrary to the provisions of this section may be seized on the instructions of the Superintendent General and dealt with as he may direct."

*Enfranchisement.*

Special ap-  
plication of  
this Part.

**107.** The provisions of this Part respecting enfranchisement of Indians shall not apply to any band of Indians in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or the Territories, except in so far as such provisions are, by proclamation of the Governor in Council, from time to time, extended to any band of Indians in any of the said provinces or territories. R.S., c. 43, s. 82.

S.C. 1919-20,  
c. 50, s. 3.

**3.** Paragraph (h) of section two, and sections one hundred and seven to one hundred and twenty-three, both inclusive, of the said Act are repealed and the following are substituted therefor:—

Enfranchise-  
ment of  
Indians.

**"107.** (1) The Superintendent General may appoint a Board to consist of two officers of the Department of Indian Affairs and a member of the Band to which the Indian or Indians under investigation belongs, to make enquiry and report as to the fitness of any Indian or Indians to be enfranchised. The Indian member of the Board shall be nominated by the council of the Band, within thirty days after the date of notice having been given to the council, and in default of such nomination, the appointment shall be made by the Superintendent General. In the course of such enquiry it shall be the duty of the Board to take into consideration and report upon the attitude of any such Indian towards his enfranchisement, which attitude shall be a factor in determining the question of fitness. Such report shall contain a description of the land occupied by each Indian, the amount thereof and the improvements thereon, the names, ages and sex of every Indian whose interests it is anticipated will be affected, and such other information as the Superintendent General may direct such Board to obtain.

Enquiry and  
report as to  
fitness of  
Indians to be  
enfranchised.

R.S.C. 1906, c. 81, cont'd.

**1. Subsection one of section one hundred and seven of the *Indian Act*, Revised Statutes of Canada, 1906, chapter eighty-one, as enacted by chapter fifty of the statutes of 1920, is repealed, and the following is substituted therefor:—**

**"107. (1) Upon the application of an Indian of any band, or upon the application of a band on a vote of a majority of the male members of such band of the full age of twenty-one years at a meeting or council thereof summoned for that purpose, according to the rules of the band and held in the presence of the Superintendent General or of an officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General, a Board may be appointed by the Superintendent General to consist of two officers of the Department of Indian Affairs and a member of the band to which the Indian or Indians under investigation belongs, to make enquiry and report as to the fitness of any Indian or Indians to be enfranchised. The Indian member of the Board shall be nominated by the council of the band, within thirty days after the date of notice having been given to the council, and in default of such nomination, the appointment shall be made by the Superintendent General. In the course of such enquiry it shall be the duty of the Board to take into consideration and report upon the attitude of any such Indian towards his enfranchisement, which attitude shall be a factor in determining the question of fitness. Such report shall contain a description of the land occupied by each Indian, the amount thereof and the improvements thereon, the names, ages and sex of every Indian whose interests it is anticipated will be affected, and such other information as the Superintendent General may direct such Board to obtain".**

Enquiry as to fitness of Indian for enfranchisement in future to be at request of Indian or of band.

S.C. 1922,  
c. 26, s. 1.

**"(2) On the report of the Superintendent General that any Indian, male or female, over the age of twenty-one years is fit for enfranchisement, the Governor in Council may by order direct that such Indians shall be and become enfranchised at the expiration of two years from the date of such order or earlier if requested by such Indian, and from the date of such enfranchisement the provisions of the *Indian Act* and of any other Act or law making any distinction between the legal rights, privileges, disabilities and liabilities of Indians and those of His Majesty's other subjects, shall cease to apply to such Indian or to his or her minor unmarried children, or, in the case of a married male Indian, to the wife of such Indian, and every such Indian and child and wife shall thereafter have, possess and enjoy all the legal powers, rights and privileges of His Majesty's other subjects, and shall no longer be deemed to be Indians within the meaning of any laws relating to Indians.**

Governor in Council may enfranchise Indians, on approval of report of Superintendent.

Effect of enfranchisement.

S.C. 1919-20,  
c. 50, s. 3.

R.S.C. 1906, c. 81, cont'd.

S.C. 1924,  
c. 47, s. 6.

**6. Subsection two of section one hundred and seven of the said Act as enacted by section three of chapter fifty of the statutes of 1920 is amended by adding at the end thereof the following:—**

“Provided that where a wife is living apart from her husband, the enfranchisement of the husband shall not carry with it the enfranchisement of his wife except on her own written request to be so enfranchised.”

Procedure  
where wife  
living apart.

S.C. 1919-20,  
c. 50, s. 3.

Right of  
Indian to  
choose name,  
and to be  
known by  
same.

“(3) An Indian over the age of twenty-one years shall have the right to choose the christian name and surname by which he or she wishes to be enfranchised and thereafter known, and from the date of the order of enfranchisement such Indian shall thereafter be known by such names, and if no such choice is made such Indian shall be enfranchised by and bear the name or names by which he or she has been theretofore commonly known.

Letters  
patent for  
his land to  
be issued to  
Indian upon  
enfranchise-  
ment.

“(4) Upon the issue of an order of enfranchisement the Superintendent General shall, if any Indian enfranchised holds any land on a reserve, cause letters patent to be issued to such Indian for such land: Provided that such Indian shall pay to the funds of the band such amount per acre for the land he holds as the Superintendent General considers to be the value of the common interest of the band in such land, and such payment shall be a charge against the share of such Indian in the funds of the band. The Superintendent General shall also pay to each Indian upon enfranchisement his or her share of the funds to the credit of the band, including such amount as the Superintendent General determines to be his or her share of the value of the common interest of the band in the lands of the reserve or reserves, or share of the principal of the annuities of the band capitalized at five per centum, out of such moneys as are provided by Parliament for the purpose or which may be otherwise available for such purpose. The land and money of any minor, unmarried children may be held for the benefit of such minor or may be granted or paid in whole or in part to the father, or, if the father is dead, to the mother, or in either case to such person as the Superintendent General may select for such purpose for the maintenance of such minor, and the land and money of the wife shall be granted and paid to the husband, unless in any case the Superintendent General shall direct that the whole or any part thereof be granted or paid to the wife herself, in which case the same shall be granted or paid to the wife.

Receives  
his share  
of funds.

Land and  
money of  
children and  
wife.

Payments  
from funds of  
band, if no  
land.

“(5) If such Indian holds no land in a reserve he or she shall be paid from the funds of the band such amount as the Superintendent General determines to be his or her share of the value of the common interest of the band in the lands of the reserve or reserves, and shall also be paid his or her share of the funds or annuities of the band capitalized as aforesaid.

R.S.C. 1906, c. 81, cont'd.

Indians not members of band, and non-treaty Indians, enfranchised, and granted letters patent.

"(6) Every Indian who is not a member of the band and every non-treaty Indian who, with the acquiescence of the band and approval of the Superintendent General, has been permitted to reside on the reserve or to obtain a holding or location thereon, may be enfranchised and given letters patent for such land as a member of the band, provided that such Indian or non-treaty Indian shall pay to the credit of the band the value of the common interest of the band in the land for which he receives a patent.

S.C. 1919-20,  
c. 50, s. 3,  
cont'd.

"(7) On the issue of the letters patent to any enfranchised Indian for any land he may be entitled to, or the payment from the capital funds or annuities of the band, as above provided, such Indian and his or her minor unmarried children and, in the case of a male married Indian, the wife of such Indian shall cease to have any further claims whatsoever against any common property or funds of the band.

Claims on funds of band cease on issue of letters patent.

7. Section one hundred and seven of the said Act as enacted by section three of chapter fifty of the statutes of 1920, and as amended by section one of chapter twenty-six of the statutes of 1922, is further amended by adding thereto the following subsection:—

S.C. 1924,  
c. 47, s. 7.

"(8) Section one hundred and twenty-two A as enacted by section six, chapter twenty-six of the statutes of 1918, was not intended to and shall be deemed not to have been repealed by section three of chapter fifty of the statutes of 1920, and any act or thing done under the provisions of said section one hundred and twenty-two A shall be and is hereby declared to be valid and effective."

Enfranchisement of Indians, section 122A revised.

Proceedings for enfranchisement.

108. Whenever any male Indian or unmarried Indian woman, of the full age of twenty-one years, makes application to the Superintendent General to be enfranchised, the Superintendent General shall instruct the agent of the band of which the applicant is a member, to call upon the latter to furnish a certificate, under oath, before a judge of any court of justice, by the priest, clergyman or minister of the religious denomination to which the applicant belongs, or by a stipendiary magistrate or two justices of the peace, to the effect that to the best of the knowledge and belief of the deponent or deponents, the applicant for enfranchisement is, and has been for at least five years previously, a person of good moral character, temperate in his or her habits, and of sufficient intelligence to be qualified to hold land in fee simple, and otherwise to exercise all the rights and privileges of an enfranchised person. R.S., c. 43, s. 83.

R.S.C. 1906, c. 81, cont'd.

S.C. 1919-20,  
c. 50, s. 3.  
Repeals R.S.C.  
1906, c. 81,  
s. 108.

**"108.** Where an Indian is undergoing a period of probation in accordance with the provisions of sections one hundred and seven to one hundred and twenty-two, inclusive, heretofore in force, such Indian may on the recommendation of the Superintendent General be enfranchised by order of the Governor in Council, and given letters patent for the lands held by such Indian under location ticket issued to him or her in respect of such enfranchisement, and paid his or her share of the capital funds at the credit of the band or share of the principal of the annuities of the band capitalized at five per centum as aforesaid, out of such moneys as are provided for the purpose by Parliament or which may be otherwise available for such purpose.

Enfranchisement of Indian on probation.

Receives letters patent and payment of share of fund.

**109.** Upon receipt of such a certificate, the agent shall, with the least possible delay, submit the same to a council of the band of which the applicant is a member; and he shall then inform the Indians assembled at such council, that thirty days will be given within which affidavits made before a judge or a stipendiary magistrate will be received, containing reasons, if any there are, of a personal character affecting the applicant, why such enfranchisement should not be granted to the applicant. R.S., c. 43, s. 84.

To be submitted to council of band.

S.C. 1919-20,  
c. 50, s. 3.  
Repeals R.S.C.  
1906, c. 81,  
s. 109.

**"109.** When a majority of the members of a band is enfranchised, the common land or other public property of the band shall be equitably allotted to members of the band, and thereafter the residue, if any, of such land or public property may be sold by the Superintendent General and the proceeds of such sale placed to the credit of the funds of the band to be divided as provided in section one hundred and seven: Provided, however, that the Governor in Council may reserve and set apart from the funds of the band such sum as the Superintendent General may consider necessary for the perpetual care and protection of any Indian cemetery or burial plot belonging to such Indians, and any other common property which in the opinion of the Superintendent General should be preserved as such. And provided also that no part of such land or other property shall be sold to any person other than a member of the band except by public auction after three months' advertisement in the public press.

Disposal of common lands or public property.

Care of Indian cemeteries, and common property which should be preserved.

Sales at public auction.

**110.** At the expiration of the thirty days aforesaid, the agent shall forward to the Superintendent General all affidavits which have been filed with him in the case, as well as one made by himself before a judge or a stipendiary magistrate, containing his reasons for or against the enfranchisement of the applicant.

Affidavits to be sent to Superintendent General.

2. If the Superintendent General, after examining the evidence, decides in favour of the applicant, he may grant to the applicant a location ticket for the land occupied by him or her as a probationary Indian, or for such proportion thereof as appears to the Superintendent General fair and proper. R.S., c. 43, s. 85.

Location ticket to be granted.

R.S.C. 1906, c. 81, cont'd.

**110.** The Governor in Council shall have power to make regulations for the carrying out of the provisions of the three sections immediately preceding this section, and subject to the provisions of this Act for determining how the land, capital moneys and other property of a band, or any part thereof, shall be divided, granted and paid, upon the enfranchisement of any Indian or Indians belonging to such band or having any interest in any of the property of such

Regulations to enforce these provisions.

S.C. 1919-20, c. 50, s. 3, Repeals R.S.C. 1906, c. 81, s. 110.

Final decision of Governor in Council.

band, and to decide any questions arising under the said sections, and the decision of the Governor in Council thereon shall be final and conclusive.

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

Certain educational acquirements to confer enfranchisement.

2. The Superintendent General may give him a suitable allotment of land from the lands belonging to the band of which he is a member: Provided that, if he is not the recognized holder of a location on the reserve by ticket or otherwise, he shall first obtain the consent of the band and the approval of the Superintendent General to such allotment. R.S., c. 43, s. 86.

Allotment in such case.

Report to Parliament.

**111.** The Minister shall, within fifteen days after the opening of each session of Parliament, submit to both Houses of Parliament a list of the Indians enfranchised under this Act during the previous fiscal year, and the amount of land and money granted and paid to each Indian so enfranchised."

S.C. 1919-20, c. 50, s. 3 repeals R.S.C. 1906, c. 81, s. 111.

**112.** After the expiration of three years, or, if the conduct of such Indian has not been satisfactory, after such longer period as the Superintendent General deems necessary, the Governor in Council may, on the report of the Superintendent General, order the issue of letters patent, granting to such Indian the land in fee simple, which has been allotted to him by location ticket.

Patent may issue after probation.

Conditions.

2. Such letters patent shall contain a provision that such Indian shall not have power to sell, lease or otherwise alienate the land except with the sanction of the Governor in Council.

Compliance not necessary.

3. In such cases compliance with the provisions of this Part respecting leases or surrender of lands in a reserve shall not be necessary. R.S., c. 43, s. 87.

R.S.C. 1906, c. 81, cont'd.

**Enfranchised Indian to declare name chosen and be known by same.** **113.** Every such Indian shall, before the issue of such letters patent, declare to the Superintendent General the name and surname by which he wishes to be enfranchised and thereafter known, and, on his receiving such letters patent, in such name and surname, he shall be held to be enfranchised, and he shall thereafter be known by such name or surname; and, if such Indian is a married man, his wife and minor unmarried children shall also be held to be enfranchised.

**Wife and minor children also enfranchised.**

2. From the date of such letters patent, the provisions of this Part and of any Act or law making any distinction between the legal rights, privileges, disabilities and liabilities of Indians and those of His Majesty's other subjects, shall cease to apply to such Indian, or his wife or his minor unmarried children, and he and they shall no longer be deemed Indians within the meaning of the laws relating to Indians, except in so far as regards their right to participate in the annuities and interest moneys, and rents and councils of the band to which they belonged. R.S., c. 43, s. 88.

**Children attaining their majority before their father's probation expires.**

**114.** Any children of a probationary Indian, who, having been minors and unmarried when the probationary ticket was granted to such Indian, arrive at the full age of twenty-one years before the letters patent are issued to such Indian, may, at the discretion of the Governor in Council, receive letters patent in their own names, subject to the same restrictions and reservations as are contained in the letters patent issued to their parent, for their respective shares of the land allotted under the said ticket, at the same time that letters patent are granted to their parent. R.S., c. 43, s. 88.

**Children found unqualified or being married.**

**115.** If any Indian child who arrives at the full age of twenty-one years, during his or her parent's probationary period, is not qualified for enfranchisement, or if any child of such parent, who was a minor at the commencement of such period, is married during such period, a quantity of land equal to the share of such child shall be deducted, in such manner as the Superintendent General directs, from the allotment made to such Indian parent on receiving his probationary ticket. R.S., c. 43, s. 88.

**116.** The children of any widow who becomes either a probationary or enfranchised Indian shall be entitled to the same privileges as those of a male head of a family in like circumstances. R.S., c. 43, s. 90.

**Children of widow enfranchised.**

R.S.C. 1906, c. 81, cont'd.

**117.** Whenever any member of a band, for three years immediately succeeding the date on which he was granted letters patent upon his enfranchisement as aforesaid, or for any longer period that the Superintendent General deems necessary, by his exemplary good conduct and management of property proves that he is qualified to receive his share of the moneys of such band, the Governor in Council may, on the report of the Superintendent General to that effect, order that the said Indian be paid his share of the capital funds at the credit of the band, or his share of the principal of the annuities of the band, estimated as yielding five per centum out of such moneys as are provided for the purpose by Parliament.

Payment to individual Indian of share of moneys of band.

2. If such Indian is a married man he shall be paid his wife's and minor unmarried children's shares of such funds and principal moneys, and if such Indian is a widow, she shall also be paid her minor unmarried children's shares. 58-59 V., c. 35, s. 4.

Married men and widows' shares.

**118.** The unmarried children of such married Indians who, during the probationary period for payment of such moneys become of age, if qualified by the character for integrity, morality and sobriety which they bear, shall receive their own share of such moneys, when their parents are paid.

Shares of unmarried children of full age.

2. If not so qualified, before they receive payment of such moneys, they must themselves pass through the probationary period. 58-59 V., c. 35, s. 4.

Probationary period required.

**119.** All such Indians, and their unmarried minor children, who are paid their shares of the principal moneys of their band, as aforesaid, shall thenceforward cease, in every respect, to be Indians of any class within the meaning of this Part, or Indians within the meaning of any other Act or law. 58-59 V., c. 35, s. 4.

Enfranchisement of individual Indians so receiving shares.

**120.** If any probationary Indian fails in qualifying to become enfranchised, or dies before the expiration of the required probation, his claim, or the claim of his heirs, to the land for which a probationary ticket was granted, or the claim of any unqualified Indian, or of any Indian who marries during his or her parent's probationary period, to the land deducted under the operation of this Part from his or her parent's probationary allotment, shall, in all respects, be the same as that conferred by an ordinary location ticket under this Part. R.S., c. 43, s. 89.

If Indian fails to qualify or dies before expiration of probation.

Rules for allotting lands to probationary Indians.

Proviso.

**121.** In allotting land to probationary Indians, the quantity to be allotted to the head of a family shall be in proportion to the number of such family, compared with the total quantity of land in the reserve, and the whole number of the band: Provided that the Superintendent General may determine what quantity shall be allotted to each member for enfranchisement purposes, and that each female of any age, and each male under fourteen years of age, shall receive at least one-half the quantity allotted to each male of fourteen years of age and over. R.S., c. 43, s. 91.



R.S.C. 1906, c. 81, cont'd.

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

**122.** Every Indian who is not a member of the band, and every non-treaty Indian, who, with the consent of the band and the approval of the Superintendent General, has been permitted to reside upon the reserve, or to obtain a location thereon, may, on being assigned a suitable allotment of land by the Superintendent General for enfranchisement, become enfranchised on the same terms and conditions as a member of the band: Provided that such enfranchisement shall not confer upon such Indian any right to participate in the annuities, interest moneys, rents or councils of the band.

Effect of enfranchising.

2. Such enfranchisement shall confer upon such Indian the same legal rights and privileges, and make such Indian subject to such disabilities and liabilities as affect His Majesty's other subjects. R.S., c. 43, s. 92.

S.C. 1918,  
c. 26, s. 6.

**6.** The following section is inserted immediately after section one hundred and twenty-two:—

" **122A.** (1) If an Indian who holds no land in a reserve, does not reside on a reserve and does not follow the Indian mode of life, makes application to be enfranchised, and satisfies the Superintendent General that he is self-supporting and fit to be enfranchised, and surrenders all claims whatsoever to any interest in the lands of the band to which he belongs, and accepts his share of the funds at the credit of the band including the principal of the annuities of the band, to which share he would have been entitled had he been enfranchised under the foregoing sections of the Act, in full of all claims to the property of the band, or in case the band to which he belongs has no funds or principal of annuities, surrenders all claim whatsoever to any property of the band, the Governor in Council may order that such Indian be enfranchised and paid his said share if any, and from the date of such order such Indian, together with his wife and unmarried minor children, shall be held to be enfranchised.

Enfranchisement of Indians.

"(2) Any unmarried Indian woman of the age of twenty-one years, and any Indian widow and her minor unmarried children, may be enfranchised in the like manner in every respect as a male Indian and his said children.

Indian women.

"(3) This section shall apply to the Indians in any part of Canada."

Application.

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

**123.** If any band, at a council summoned for the purpose according to their rules, and held in the presence of the Superintendent General, or an agent duly authorized by him to attend such council, decides to allow every member of the band who chooses, and who is found qualified, to become enfranchised, and to receive his or her share of the principal moneys of the band, and sets apart for each such member a suitable allotment of land for the purpose, any applicant belonging to such band, or the wife and children of any such applicant, may, after such decision, be dealt with as provided in the foregoing provisions respecting enfranchisement and the payment to enfranchised Indians of their shares of the capital funds at the credit of the band or of the estimated principal of the annuities of the band to which they are entitled. 58-59 V., c. 35, s. 5.

R.S.C. 1906, c. 81, cont'd.

*Offences and Penalties.*

Residing,  
etc., upon  
any reserve  
without  
authority.

**124.** Every person, or Indian other than an Indian of the band, who, without the authority of the Superintendent General, resides or hunts upon, occupies or uses any land or marsh, or who resides upon or occupies any road, or allowance for road, running through any reserve belonging to or occupied by such band shall be liable, upon summary conviction, to imprisonment for a term not exceeding one month or to a penalty not exceeding ten dollars and not less than five dollars, with costs of prosecution, half of which penalty shall belong to the informer. 57-58 V., c. 32, s. 2.

Penalty.

**125.** Any person or Indian who, being lawfully required by an Indian agent, a chief of the band occupying a reserve, or a constable,—

Refusing  
to remove  
from reserve  
on demand  
of chief.

- (a) to remove with his family, if any, from the land, marsh, road, or allowance for road upon which he is or has settled or is residing or hunting, or which he occupies; or,
- (b) to remove his cattle from such land or marsh; or,
- (c) to cease fishing in any marsh, river, stream or creek on or running through a reserve; or,
- (d) to cease using, occupying, settling or residing upon any land, river, stream, creek, marsh, road or allowance for a road in a reserve;

fails to comply with such requirement, shall, upon summary conviction, be liable to a penalty of not less than five dollars and not more than ten dollars for every day during which such failure continues, and, in default of payment, to be imprisoned for a term not exceeding three months. 54-55 V., c. 30, s. 1.

Penalty.

**126.** Every Indian, not being an Indian of the band, who, in the case where shooting privileges over a reserve or part of a reserve, or fishing privileges in any marsh, pond, river, stream or creek upon or running through a reserve, have, with the consent of the Indians of the band, been leased or granted to any person, and, in such case, every person not, under such lease or grant, entitled so to do, who hunts, shoots, kills or destroys any game animals or birds, or who fishes for, takes, catches or kills any fish to which such exclusive privilege extends, upon the reserve or part of a reserve, or in any marsh, pond, river, stream or creek covered by such lease or grant, shall, in addition to any other penalty or liability thereby incurred, be liable, on summary conviction, for every such offence to a penalty not exceeding ten dollars and not less than five dollars, and, in default of payment, to imprisonment for any term not exceeding one month. 54-55 V., c. 30, s. 4.

Shooting or  
fishing on  
reserved  
territory.

Penalty.

**127.** Every person, or Indian, other than an Indian of the band to which the reserve belongs, who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away or removes from any of the lands, roads or allowances for roads in a reserve, any of the trees, saplings, shrubs, underwood, timber, cordwood or part of a tree, or hay, or removes any

Trespassing  
on reserves  
and cutting  
or removing

R.S.C. 1906, c. 81, cont'd.

- of the stone, soil, minerals, metals or other valuables from the said lands, roads or allowances for roads, shall, on summary conviction thereof before any stipendiary magistrate, police magistrate or any two justices of the peace or an Indian agent, incur in each case the costs of prosecution and,—
- Trees.** (a) for every tree he cuts, carries away or removes, a penalty of twenty dollars;
- Timber.** (b) for cutting, carrying away or removing any of the saplings, shrubs, underwood, timber, cordwood or part of a tree or hay, if under the value of one dollar, a penalty of four dollars; and, if over the value of one dollar, a penalty of twenty dollars;
- Stone, soil, minerals.** (c) for removing any of the stone, soil, minerals, metals, or other valuables aforesaid, a penalty of twenty dollars.
- Punishment in case of default of payment.** 2. In default of immediate payment of the said penalties and costs, such magistrate, justices of the peace, or Indian agent may issue a warrant directed to any person or persons by him or them named therein, to levy the amount of the said penalties and costs by distress and sale of the goods and chattels of the person or Indian liable to pay the same, or may, without proceeding by distress and sale, upon non-payment of such penalties and costs, order the person or Indian liable therefor to be imprisoned in the common gaol of the county or district in which the said reserve or any part thereof lies for a term not exceeding thirty days, if the penalty does not exceed twenty dollars, or for a term not exceeding three months, if the penalty exceeds twenty dollars.
- Issue of warrant, etc.** 3. The Superintendent General, or such other officer or person as he shall authorize in that behalf may issue the warrant on any such conviction; or may, without proceeding by distress and sale, make such order upon such conviction as such magistrate, justices of the peace or Indian agent could make; and similar proceedings may be had upon the warrant so issued as if it had been issued by the magistrate, justices of the peace or Indian agent before whom the person was convicted.
- Committal in default of distress.** 4. If upon the return of any warrant for distress and sale, the amount thereof has not been made, or if any part of it remains unpaid, such magistrate, or justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as aforesaid, may commit the person in default to the common gaol, as aforesaid, for a term not exceeding thirty days, if the sum claimed upon the said warrant does not exceed twenty dollars, or for a term not exceeding three months if the sum exceeds twenty dollars.
- Application of penalties.** 5. All such penalties shall be paid to the Minister of Finance, and shall be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council directs. R.S., c. 43, s. 26; 53 V., c. 29, s. 3.

R.S.C. 1906, c. 81, cont'd.

**128.** Every Indian of the band who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose,— Indians without a license, tree-passing on reserves.

- (a) cuts, carries away or removes from land in a reserve held by another Indian under a location title or by an Indian otherwise recognized by the Department as the occupant thereof any of the trees, cordwood, or part of a tree, saplings, shrubs, underwood, timber or hay thereon, or removes from such land any of the stone, soil, minerals, metals or other valuables; or,
- (b) cuts, carries away or removes from any portion of the reserve of his band, for sale and not for the immediate use of himself and his family any trees, timber, cordwood or part of a tree, saplings, shrubs, underwood or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables therefrom, for sale, as aforesaid; or,
- (c) unless with the consent of the band and the approval of the Superintendent General, cuts or uses any pine or large timber for any purpose other than for building on his own location or farm;

shall incur the penalties provided in the last preceding section in respect to Indians of other bands and other persons. Penalty.

2. The same proceedings may be had for the recovery thereof as are provided for in the said section. 50-51 V., c. 33, s. 4. Proceedings for recovery.

**129.** Every person who buys or otherwise acquires from any Indian or band or irregular band of Indians in the province of Manitoba, Saskatchewan or Alberta, or the Territories, any grain, root crops or other produce contrary to regulations made by the Governor in Council in that behalf, shall, on summary conviction before a stipendiary magistrate, police magistrate or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. R.S., c. 43, s. 30. Buying from Indians contrary to regulations of Governor in Council. Penalty.

**130.** Every person who cuts, carries away or removes from any reserve or special reserve, any hard or sugar-maple tree or sapling, or buys or otherwise acquires from any Indian or non-treaty Indian, or other person, any hard or sugar-maple tree or sapling so cut, carried away or removed from any reserve or special reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories, contrary to regulation made in that behalf by the Governor in Council, shall, on summary conviction before a stipendiary magistrate, police magistrate, or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both. R.S., c. 43, s. 32. Cutting and removing trees from reserve contrary to regulations of Governor in Council. Penalty.

R.S.C. 1906, c. 81, cont'd.

Trading  
without  
license.

**131.** Every person being,—

- (a) an official or employee connected with the inside or outside service of the Department of Indian Affairs; or,
- (b) a missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians; or,
- (c) a school teacher on an Indian reserve; and,
- (d) in the province of Manitoba, Saskatchewan or Alberta, or the Territories;

Penalty.

who, on a reserve, without the special license in writing of the Superintendent General, trades with any Indian or directly or indirectly sells to him any goods or supplies, cattle or other animals, shall be liable to a fine equal in amount to double the sum received for the goods, supplies, cattle or other animals sold, and, in addition, to the costs of prosecution before a police magistrate, a stipendiary magistrate, a justice of the peace or the Indian agent for the locality where the offence occurs. 53 V., c. 29, s. 10; 57-58 V., c. 32, s. 10.

Cutting trees  
or assisting  
in cutting  
trees on  
Indian lands.

**132.** If any person without authority, cuts or employs, or induces any other person to cut, or assists in cutting any trees of any kind on Indian lands or on any reserve, or removes or carries away, or employs, or induces or assists any other person to remove or carry away any trees of any kind so cut from any Indian lands or reserve, he shall not acquire any right to the trees so cut, or any claim to any remuneration for cutting or preparing the same for market, or conveying the same to or towards market.

Confers no  
property or  
right to re-  
muneration.

If trees can-  
not be  
seized.

2. When the trees or logs or timber or any products thereof have been removed, so that the same cannot, in the opinion of the Superintendent General, conveniently be seized, he shall, in addition to the loss of his labour and disbursements, incur a penalty of three dollars for each tree, rafting stuff excepted, which he is proved to have cut or caused to be cut or carried away.

Penalty.

Recovery of  
penalty.

3. Such penalty shall be recoverable with costs at the suit and in the name of the Superintendent General or resident agent in any court having jurisdiction in civil matters to the amount of the penalty.

Proof of  
authority.

4. In all such cases, it shall be incumbent on the person charged to prove his authority to cut.

What shall  
be sufficient  
evidence.

5. The averment of the person seizing or prosecuting that he is duly employed under the authority of this Part shall be sufficient proof thereof, unless the defendant proves the contrary. R.S., c. 43, s. 61.

Buying or  
acquiring  
presents  
given to  
Indians.

**133.** Every person or Indian other than an Indian of the band who, without the written consent of the Superintendent General or his agent, the burden of proof concerning which shall be on the accused, buys or otherwise acquires any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians or any part thereof, is guilty of an offence, and liable on summary conviction, to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months. R.S., c. 43, s. 81; 53 V., c. 29, s. 6. Penalty.

R.S.C. 1906, c. 81, cont'd.

**134.** Every agent for the sale of Indian lands who, within his division, directly or indirectly, except under an order of the Governor in Council, purchases any land which he is appointed to sell, or becomes proprietor of or interested in any such land, during the time of his agency shall forfeit his office and incur a penalty of four hundred dollars for every such offence, recoverable in an action of debt by any person who sues for the same. R.S., c. 43, s. 110.

*Land sale agent purchasing Indian land.*  
*Penalty.*

**135.** Every one who by himself, his clerk, servant or agent, and every one who in the employment or on the premises of another directly or indirectly on any pretense or by any device,—

*Every person*

(a) sells, barter, supplies or gives to any Indian or non-treaty Indian, or to any person male or female who is reputed to belong to a particular band, or who follows the Indian mode of life, or any child of such person any intoxicant, or causes or procures the same to be done or attempts the same or connives thereat; or,

*Selling intoxicants to Indians.*

(b) opens or keeps or causes to be opened or kept on any reserve or special reserve a tavern, house or building in which any intoxicant is sold, supplied or given; or,

*Opening and keeping a tavern on a reserve.*

(c) is found in possession of any intoxicant in the house, tent, wigwam, or place of abode of any Indian or non-treaty Indian or of any person on any reserve or special reserve, or on any other part of any reserve or special reserve; or,

*Having intoxicants in his possession in house of Indian.*

(d) sells, barter, supplies or gives to any person on any reserve or special reserve any intoxicant;

*Selling intoxicants on reserve.*

shall, on summary conviction before any judge, police magistrate, stipendiary magistrate, or two justices of the peace or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding three hundred dollars and not less than fifty dollars with costs of prosecution, or to both penalty and imprisonment in the discretion of the convicting judge, magistrate, justices of the peace or Indian agent.

*Penalty.*

2. A moiety of every such penalty shall belong to the informer or prosecutor, and the other moiety thereof to His Majesty to form part of the fund for the benefit of that body of Indians or non-treaty Indians with respect to one or more members of which the offence was committed. 51 V., c. 22, s. 4; 57-58 V., c. 32, s. 6.

*Application of penalty.*

R.S.C. 1906, c. 81, cont'd.

Commander of vessel whereon intoxicants are sold guilty of offence.

Penalty.

Application of penalties.

Indians having intoxicants and selling the same to Indians.

Penalty.

Exception in case of illness.

Proof.

Arrest without warrant of any person or Indian with intoxicants.

Penalty.

**136.** The commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicant has been sold, bartered, exchanged, supplied or given to any Indian or non-treaty Indian, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, be liable to a penalty not exceeding three hundred dollars and not less than fifty dollars for each such offence, with costs of prosecution, and in default of immediate payment of such penalty and costs, any person so convicted shall be committed to any common gaol, house of correction, lock-up or other place of confinement by the judge, magistrate or two justices of the peace, or Indian agent, before whom the conviction has taken place, for a term not exceeding six months and not less than one month, with or without hard labour, or until such penalty and costs are paid.

2. The penalty shall be applied as provided in the last preceding section. R.S., c. 43, s. 95.

**137.** Every Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or who sells, exchanges with, barter, supplies or gives to any other Indian or non-treaty Indian, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding one hundred dollars and not less than twenty-five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. R.S., c. 43, s. 96.

**138.** No penalty shall be incurred when the intoxicant is made use of in case of sickness under the sanction of a medical man or under the directions of a minister of religion.

2. The burden of proof that the intoxicant has been so made use of shall be on the accused. R.S., c. 43, s. 98; 53 V., c. 29, s. 8.

**139.** Any constable or peace officer may arrest without warrant any person or Indian found gambling, or drunk, or with intoxicants in his possession, on any part of a reserve, and may detain him until he can be brought before a justice of the peace, and such person or Indian shall be liable upon summary conviction to imprisonment for a term not exceeding three months or to a penalty not exceeding fifty dollars and not less than ten dollars, with costs of prosecution, half of which pecuniary penalty shall belong to the informer. 57-58 V., c. 32, s. 7.

R.S.C. 1906, c. 81, cont'd.

**Offences.**

Gambling, drinking or possession of liquor on Indian reserve.  
Penalty.

**4.** Section one hundred and thirty-nine of the said Act is amended by adding thereto the following subsection:—

“(2) Any person or Indian who has been gambling or has been drunk on an Indian reserve, or has had liquor in his possession on an Indian reserve, shall be liable on summary conviction to imprisonment for any term not exceeding three months, or to a penalty not exceeding fifty dollars and not less than ten dollars, with costs of prosecution, half of which pecuniary penalty shall belong to the informer.”

S.C. 1919-20,  
c. 50, s. 4.

**140.** The keg, barrel, case, box, package or receptacle from which any intoxicant has been sold, exchanged, bartered, supplied or given, as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified; and any intoxicant imported, manufactured or brought into and upon any reserve or special reserve, or into the house, tent, wigwam or place of abode, or on the person of any Indian or non-treaty Indian, or suspected to be upon any reserve or special reserve, may be searched for under a search warrant in that behalf granted by any judge, police magistrate, stipendiary magistrate or justice of the peace, and, if found, seized by any Indian superintendent, agent or bailiff, or other officer connected with the Department of Indian Affairs, or by any constable, wheresoever found on such land or in such place or on the person of such Indian or non-treaty Indian.

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

Search.

Seizure.

2. On complaint before any judge, police magistrate, stipendiary magistrate, justice of the peace or Indian agent, he may, on evidence that this Act has been violated in respect of any such intoxicant or of any such keg, barrel, case, box, package, receptacle or vessel, or contents thereof, declare the same forfeited, and cause the same to be forthwith destroyed.

Destruction of kegs, etc.

3. Such judge, magistrate, justice of the peace or Indian agent may condemn the Indian or person in whose possession the same is found to pay a penalty not exceeding one hundred dollars and not less than fifty dollars, and the costs of prosecution; and, in default of immediate payment, the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement, with or without hard labour, for any term not exceeding six months, and not less than two months, unless such penalty and costs are sooner paid.

Indian or person found in possession to be punished.  
Penalty.

4. A moiety of such penalty shall belong to the prosecutor, and the other moiety to His Majesty for the purpose hereinbefore mentioned. R.S., c. 43, s. 100.

Application of penalty.

**141.** If it is proved before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, that any vessel, boat, canoe or conveyance of any description, upon the sea or sea-coast, or upon any river, lake or stream, is employed in carrying any intoxicant, to be supplied to Indians or non-treaty Indians, such vessel, boat, canoe or conveyance so employed may be seized and declared forfeited, as in the last preceding section mentioned, and sold, and the proceeds thereof paid to His Majesty for the purpose hereinbefore mentioned. R.S., c. 43, s. 101.

Vessels used in carrying intoxicants for Indians, to be forfeited and sold.

Proceeds.



R.S.C. 1906, c. 81, cont'd.

Articles exchanged for intoxicants to be forfeited and sold.

**142.** Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which, in violation of this Act, the consideration, either wholly or in part, is an intoxicant, shall be forfeited to His Majesty and may be seized, as is hereinbefore provided in respect to any receptacle of any intoxicant, and may be sold, and the proceeds thereof paid to His Majesty, for the purpose hereinbefore mentioned. R.S., c. 43, s. 102.

Introducing intoxicants at Indian council or meeting.

**143.** Every person who introduces any intoxicant at any council or meeting of Indians held for the purpose of discussing or assenting to a release or surrender of a reserve or portion thereof or for the purpose of assenting to the issuing of a license, and every agent or officer employed by the Superintendent General, or by the Governor in Council, who introduces, allows or countenances by his presence the use of such intoxicant among such Indians during the week before or at or the week after such council or meeting, shall incur a penalty of two hundred dollars recoverable by action in any court of competent jurisdiction.

Penalty.

Application of penalty.

2. A moiety of such penalty shall belong to the informer. R.S., c. 43, s. 103.

Indian intoxicated.

**144.** Every Indian who is found in a state of intoxication shall be liable on summary conviction thereof to imprisonment for any term not exceeding one month, or to a penalty not exceeding thirty dollars and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. 50-51 V., c. 33, s. 10.

Penalty.

Arrest without warrant of intoxicated Indian.

**145.** Any constable or other peace officer may, without warrant, arrest any Indian or non-treaty Indian found in a state of intoxication, and convey him to any common gaol, house of correction, lock-up, or other place of confinement, there to be kept until he is sober; and such Indian or non-treaty Indian shall, when sober, be brought for trial before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent. 50-51 V., c. 33, s. 10.

Refusal to state where intoxicant was procured.

**146.** If any Indian or non-treaty Indian who has been so convicted, refuses, upon examination, to state or give information of the person from whom, the place where, and the time when, he procured such intoxicant, and if from any other Indian or non-treaty Indian, then, if within his knowledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days, or to an additional penalty not exceeding fifteen dollars and not less than three dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. R.S., c. 43, s. 105.

Penalty.

R.S.C. 1906, c. 81, cont'd.

5. The said Act is amended by inserting the following section immediately after section one hundred and forty-six thereof:—

S.C. 1926-27,  
c. 32, s. 5.

Certificate of analyst to be accepted as prima facie evidence.

"146A. In any prosecution under this Act the certificate of analysis of a provincial or dominion analyst shall be accepted as *prima facie* evidence of the fact stated therein as to the alcoholic or narcotic content of the sample analyzed."

147. Every agent who knowingly and falsely informs, or causes to be informed, any person applying to him to purchase any land within his division and agency, that the same has already been purchased, or who refuses to permit the person so applying to purchase the same according to existing regulations, shall be liable therefor to the person so applying, in the sum of five dollars for each acre of land which the person so applying offered to purchase, recoverable by action of debt in any court of competent jurisdiction. R.S., c. 43, s. 109.

Agent giving false information as to lands.

Penalty.

148. Every person who, after public notice by the Superintendent General prohibiting the sale, gift, or other disposal to Indians in any part of the province of Manitoba, Saskatchewan or Alberta, or the Territories, of any fixed ammunition or ball cartridge, without the permission in writing of the Superintendent General, sells or gives, or in any other manner conveys to any Indian, in the portion of the said provinces or Territories to which such notice applies, any fixed ammunition or ball cartridge, shall, on summary conviction before any stipendiary or police magistrate or by any two justices of the peace, or by an Indian agent, be liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months, or to both penalty and imprisonment, within the limits aforesaid, at the discretion of the court before which the conviction is had. R.S., c. 43, s. 113.

Sale, etc., of ammunition when prohibited.

Penalty.

149. Every Indian or other person who engages in, or assists in celebrating or encourages either directly or indirectly another to celebrate any Indian festival, dance or other ceremony of which the giving away or paying or giving back of money, goods or articles of any sort forms a part, or is a feature, whether such gift of money, goods or articles takes place before, at, or after the celebration of the same, or who engages or assists in any celebration or dance of which the wounding or mutilation of the dead or living body of any human being or animal forms a part or is a feature, is guilty of an indictable offence and is liable to imprisonment for a term not exceeding six months and not less than two months: Provided that nothing in this section shall be construed to prevent the holding of any agricultural show or exhibition or the giving of prizes for exhibits thereat. 58-59 V., c. 35, s. 6.

Celebrating festivities, dances or ceremonies at which presents are made, or bodies mutilated.

Penalty.

7. Section one hundred and forty-nine of the said Act is amended by striking out the word "indictable" in the tenth line thereof, and by inserting after the word "liable" in the eleventh line the words "on summary conviction."

Illegal celebrations.

S.C. 1918,  
c. 26, s. 7.

R.S.C. 1906, c. 81, cont'd.

S.C. 1914,  
c. 35, s. 8.

**8.** Section 149 of the said Act is amended by adding the following subsection thereto:—

S. 149  
amended.

"2. Any Indian in the province of Manitoba, Saskatchewan, Alberta, British Columbia, or the Territories who participates in any Indian dance outside the bounds of his own reserve, or who participates in any show, exhibition, performance, stampede or pageant in aboriginal costume without the consent of the Superintendent General of Indian Affairs or his authorized Agent, and any person who induces or employs any Indian to take part in such dance, show, exhibition, performance, stampede or pageant, or induces any Indian to leave his reserve or employs any Indian for such a purpose, whether the dance, show, exhibition, stampede or pageant has taken place or not, shall on summary conviction be liable to a penalty not exceeding twenty-five dollars, or to imprisonment for one month, or to both penalty and imprisonment."

Restriction.  
Indian  
dances. &c.

S.C. 1926-27,  
c. 32, s. 6.

**6.** The said Act is amended by inserting the following section immediately after section one hundred and forty-nine thereof:—

Receiving  
money for the  
prosecution  
of a claim.

"149A. Every person who, without the consent of the Superintendent General expressed in writing, receives, obtains, solicits or requests from any Indian any payment or contribution or promise of any payment or contribution for the purpose of raising a fund or providing money for the prosecution of any claim which the tribe or band of Indians to which such Indian belongs, or of which he is a member, has or is represented to have for the recovery of any claim or money for the benefit of the said tribe or band, shall be guilty of an offence and liable upon summary conviction for each such offence to a penalty not exceeding two hundred dollars and not less than fifty dollars or to imprisonment for any term not exceeding two months."

**150.** Every fine, penalty or forfeiture under this Act, except so much thereof as is payable to an informer or person suing therefor, shall belong to His Majesty for the benefit of the band of Indians with respect to which or to one or more members of which the offence was committed, or to which the

Application  
of penalties.

Governor in  
Council may  
apply the  
same other-  
wise.

offender, if an Indian, belongs: Provided that the Governor in Council may from time to time direct that the same be paid to any provincial, municipal or local authority which wholly or in part bears the expense of administering the law under which such fine, penalty or forfeiture is imposed, or that the same be applied in any other manner deemed best adapted to attain the objects of such law or to secure its due administration, and may in case of doubt decide what band is entitled to the benefit of any such fine, penalty or forfeiture. 57-58 V., c. 32, s. 9.

R.S.C. 1906, c. 81, cont'd.

*Evidence and Procedure.*

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

**151.** Upon any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever or by whomsoever committed, any court, judge, police or stipendiary magistrate, recorder, coroner, justice of the peace or Indian agent, may receive the evidence of any Indian or non-treaty Indian, who is destitute of the knowledge of God or of any fixed and clear belief in religion, or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian or non-treaty Indian, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as is approved by such court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent, as most binding on the conscience of such Indian or non-treaty Indian. R.S., c. 43, s. 120.

Substance of evidence of Indian to be reduced to writing and signed.

**152.** In the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian or non-treaty Indian, as aforesaid, shall be reduced to writing and signed by the Indian, by mark if necessary, giving the same, and verified by the signature or mark of the person acting as interpreter, if any, and by the signature of the judge, magistrate, recorder, coroner, justice of the peace, Indian agent or person before whom such evidence or information is given. R.S., c. 43, s. 121.

Indian to be cautioned to tell the truth.

**153.** The court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent shall, before taking any such evidence, information or examination, caution every such Indian or non-treaty Indian, as aforesaid, that he will be liable to incur punishment if he does not tell the truth, the whole truth and nothing but the truth. R.S., c. 43, s. 122.

Effect of solemn affirmation of Indian.

**154.** Every solemn affirmation or declaration, in whatsoever form made or taken, by any Indian or non-treaty Indian, as aforesaid, shall be of the same force and effect as if such Indian or non-treaty Indian had taken an oath in the usual form. R.S., c. 43, s. 124.

**155.** The written declaration or examination so made, taken and verified, of any such Indian or non-treaty Indian, as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal proceeding when under the like circumstances the written affidavit, examination; deposition or confession of any person might be lawfully read and received as evidence.

Written declaration, etc., of Indian may be used in evidence.

2. Copies of any records, documents, books or papers belonging to or deposited in the Department, attested under the signature of the Superintendent General or of the Deputy of the Superintendent General, shall be evidence in all cases in which the original records, documents, books or papers would be evidence. R.S., c. 43, ss. 123 and 130.

Certified copies of records, official papers, etc., to be evidence.

**156.** In any order, writ, warrant, summons and proceeding whatsoever made, issued or taken by the Superintendent General, or any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, it shall not be necessary to insert or express the name of the person or Indian summoned, arrested, distrained upon, imprisoned or otherwise proceeded against therein, except when the name of such person or Indian is truly given to or known by the Superintendent General, or such officer or person, or such stipendiary magistrate, police magistrate, justice of the peace or Indian agent.

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

2. If the name is not truly given to or known by him, he may name or describe the person or Indian by any part of the name of such person or Indian given to or known by him.

What description shall suffice.

3. If no part of the name is given to or known by him, he may describe the person or Indian proceeded against in any manner by which he may be identified.

Where name unknown.

4. All such proceedings containing or purporting to give the name or description of any such person or Indian, as aforesaid, shall *prima facie* be sufficient. R.S., c. 43, s. 28.

*Prima facie* sufficient.

**157.** All sheriffs, gaolers or peace officers, to whom any such process is directed by the Superintendent General, or by any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, and all other persons to whom such process is directed with their consent, shall obey the same; and all other officers shall, upon reasonable requisition so to do, assist in the execution thereof. R.S., c. 43, s. 29.

Execution of order of Superintendent General by sheriffs, gaolers, etc.

**158.** In all cases of encroachment upon, or of violation of trust respecting any special reserve, proceedings may be taken in the name of His Majesty, in any superior court, notwithstanding the legal title is not vested in His Majesty. R.S., c. 43, s. 36.

His Majesty's name to be used in certain cases.

Who may act as justice or two justices of the peace.

**159.** Any judge of a court, judge of sessions of the peace, recorder, police magistrate or stipendiary magistrate, shall have full power to do alone whatever is authorized by this Part to be done by a justice of the peace or by two justices of the peace. R.S., c. 43, s. 115.

Jurisdiction in city or town to give jurisdiction in surrounding county or district.

**160.** Any recorder, police magistrate or stipendiary magistrate, appointed for or having jurisdiction to act in any city or town shall, with respect to offences and matters under this Part, have and exercise jurisdiction over the whole county or union of counties or judicial district in which the city or town for which he has been appointed or in which he has jurisdiction is situate. R.S., c. 43, s. 116.

R.S.C. 1906, c. 81, cont'd.

Indian agent  
*ex officio*  
justice of  
the peace.

**161.** Every Indian agent shall for all the purposes of this Act or of any other Act respecting Indians, and with respect to,—

- (a) any offence against the provisions of this Act or any other Act respecting Indians; or,
- (b) any offence against the provisions of the Criminal Code respecting the inciting of Indians to commit riotous acts; or,
- (c) any offence by any Indian or non-treaty Indian against any of the provisions of those parts of the Criminal Code relating to vagrancy and offences against morality;

Jurisdiction. be *ex officio* a justice of the peace and have the power and authority of two justices of the peace, anywhere within the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined by the Governor in Council, whether the Indian or non-treaty Indian charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or dealt with, is or is not within his ordinary jurisdiction, charge or supervision as an Indian agent. 58-59 V., c. 35, s. 7.

Special juris-  
diction.

**162.** In the provinces of Manitoba, British Columbia, Saskatchewan and Alberta, and in the Territories, every Indian agent shall, for all such purposes and with respect to any such offence, be *ex officio* a justice of the peace and have the power and authority of two justices of the peace, whether or not the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined as aforesaid, extend to the place where he may have occasion to act as such justice or to exercise such power or authority, and whether the Indians charged with or in any way concerned in or affected by the offence, matter or thing, to be tried, investigated or otherwise dealt with, are or are not within his ordinary jurisdiction, charge or supervision as Indian agent. 58-59 V., c. 35, s. 7.

**163.** If any Indian is convicted of any crime punishable by imprisonment in a penitentiary or other place of confinement, the costs incurred in procuring such conviction, and in carrying out the various sentences recorded, may be defrayed by the Superintendent General, and paid out of any annuity or interest coming to such Indian, or to the band, as the case may be. R.S., c. 43, s. 118.

Indian im-  
prisoned not  
to receive an-  
nuity while  
imprisoned.

R.S.C. 1906, c. 81, cont'd.

*General.*

**164.** No Indian or non-treaty Indian resident in the province of Manitoba, Saskatchewan or Alberta, or the Territories, shall be held capable of having acquired or of acquiring a homestead or pre-emption right under any Act respecting Dominion lands, to a quarter-section, or any parcel of land in any surveyed or unsurveyed lands in the said provinces or territories, or the right to share in the distribution of any lands allotted to half-breeds: Provided that,—

Indians not capable of acquiring homestead.

Proviso.

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

Occupation not to be disturbed.

(b) nothing in this section shall prevent the Superintendent General, if found desirable, from compensating any Indian for his improvements on such a plot of land, without obtaining a formal surrender thereof from the band; and

May be compensated for improvements.

(c) nothing in this section shall apply to any person who withdrew from any Indian treaty prior to the first day of October, in the year one thousand eight hundred and seventy-four. R.S., c. 43, s. 126.

Section not to apply to certain Indians.

**165.** Where shooting privileges over a reserve or part of a reserve, or fishing privileges thereon have, with the consent of the Indians of the band, been leased or granted to any person, it shall not be lawful for any person, not under such lease or grant entitled so to do, or for any Indian other than an Indian of the band, to hunt, shoot, kill or destroy any game animals or birds, or to fish for, take, catch or kill any fish to which such exclusive privilege extends, upon the reserve or part of a reserve. 54-55 V., c. 30, s. 4.

Shooting and fishing privileges.

**166.** At the election of a chief or chiefs, or at the granting of any ordinary consent required of a band under this Part, those entitled to vote at the council or meeting thereof shall be the male members of the band, of the full age of twenty-one years; and the vote of a majority of such members, at a council or meeting of the band summoned according to its rules, and held in the presence of the Superintendent General, or of an agent acting under his instructions, shall be sufficient to determine such election or grant such consent. R.S., c. 43, s. 127.

How and by whom chiefs are to be elected.

How consent may be granted, if band has council.

**167.** If any band has a council of chiefs or councillors, any ordinary consent required of the band may be granted by a vote of a majority of such chiefs or councillors, at a council summoned according to its rules, and held in the presence of the Superintendent General or his agent. R.S., c. 43, s. 128.

No intoxicants to be introduced at any Indian council meeting.

**168.** No one shall introduce any intoxicant at any council or meeting of Indians held for the purpose of discussing or of assenting to a release or surrender of a reserve or portion thereof, or for the purpose of assenting to the issuing of a timber or other license. R.S., c. 43, s. 103.

R.S.C. 1906, c. 81, cont'd.

**Before whom affidavits are to be made under this Act.** **169.** All affidavits required under this Act or intended to be used in reference to any claim, business or transaction in connection with Indian affairs, may be taken before the judge or clerk of any county or circuit court, or any justice of the peace, or any commissioner for taking affidavits in any court, or the Superintendent General, or the deputy of the Superintendent General, or any inspector of Indian agencies, or any Indian agent, or any surveyor duly licensed and sworn, appointed by the Superintendent General to inquire into, or to take evidence, or report in any matter submitted to or pending before the Superintendent General, or if made out of Canada, before the mayor or chief magistrate of, or the British consul in, any city, town or municipality, or before any notary public. R.S., c. 43, s. 129.

**Publication of regulations and laying before Parliament.** **170.** All regulations made by the Governor in Council under this Part shall be published in the *Canada Gazette*, and shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof. R.S., c. 43, s. 131; 57-58 V., c. 32, s. 12.

**Payments for Indian annuities for Ontario and Quebec.** **171.** There shall be payable, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, for Indian annuities for Ontario and Quebec, twenty-six thousand six hundred and sixty-four dollars per annum. R.S., c. 4, s. 5.

**3. Section 171 of the said Act is repealed and the following** New s. 171 **is substituted therefor:—**

**"171.** The annuities payable to Indians in pursuance of the conditions of any treaty expressed to have been entered into on behalf of His Majesty or His predecessors, and for the payment of which the Government of Canada is responsible, shall be a charge upon the Consolidated Revenue Fund of Canada, and be payable out of any unappropriated moneys forming part thereof." Payment of Indian annuities

S.C. 1911,  
c. 14, s. 3.

**PART II.**

**INDIAN ADVANCEMENT.**

*Interpretation.*

**Definitions.** **172.** In this Part, unless the context otherwise requires,—  
**'Reserve.'** (a) 'reserve' includes two or more reserves, and 'band' includes two or more bands united for the purposes of this Part by the order in council applying it;

(b) 'electors' means the male Indians of the full age of **'Electors.'** twenty-one years resident on any reserve to which this Part applies. R.S., c. 44, ss. 1 and 5.



R.S.C. 1906, c. 81, cont'd.

*Application of this Part.*

**173.** This Part may be made applicable, as hereinafter provided, to any band of Indians in any of the provinces, or in the Territories, except in so far as it is herein otherwise provided. R.S., c. 44, s. 2. Application of Part.

**174.** Whenever any band of Indians is declared by the Governor in Council to be considered fit to have this Part applied to it, this Part shall so apply from the time appointed in such order in council. R.S., c. 44, s. 3. When this Part shall apply.

*Application of Part I.*

**175.** The provisions of Part I. of this Act shall continue to apply to every band to which this Part is, from time to time, declared to apply, in so far only as they are not inconsistent with this Part: Provided that, if it thereafter appears to the Governor in Council that this Part cannot be worked satisfactorily by any band to which it has been declared to apply, the Governor in Council may by order in council, declare that after a day named in the order in council, this Part shall no longer apply to such band, and such band shall thereafter be subject only to Part I., except that by-laws, rules and regulations theretofore made under this Part, and not *ultra vires* of the chiefs in council under Part I., shall continue in force until they are repealed by the Governor in Council. R.S., c. 44, s. 2. Application of Part I.  
As to by-laws.

*Division of Reserves.*

**176.** Every reserve to which this Part is to apply may, by the order in council applying it, be divided into sections, the number of which shall not exceed six, and each section shall have therein, as nearly as is found convenient, an equal number of male Indians of the full age of twenty-one years, or, should the majority of the Indians of the reserve so desire, the whole reserve may form one section, the wishes of the Indians in respect thereto being first ascertained in the manner prescribed in Part I. in like matters, and certified to the Superintendent General by the Indian agent. Division of reserves into sections.

2. The sections shall be distinguished by numbers from one upwards, and the reserve shall be designated in the order in council as *The Indian Reserve*, inserting such name as is thought proper, and the sections shall be designated by the numbers assigned to them respectively. R.S., c. 44, s. 4; 53 V., c. 30, s. 1. Designation of each.

*Nominations for Election of Councillors.*

Meeting for election of councillors.

**177.** A meeting of the electors for the purpose of nominating candidates for election as councillors shall be held between the hours of ten o'clock in the forenoon and twelve o'clock at noon, at a place to be appointed by the Indian agent, on a day being one week previous to the day on which the election of councillors is to be held on any reserve as hereinafter provided.

Notice of meeting.

2. Due notice of such meeting shall be given in the manner customary in the band for calling meetings for public purposes. 53 V., c. 30, s. 3.

R.S.C. 1906, c. 81, cont'd.

Chairman to  
preside.

**178.** The Indian agent, or in his absence such person as is appointed by the Superintendent General, or failing such appointment, a chairman to be chosen by the meeting, shall preside over such meeting and shall take and keep the minutes thereof. 53 V., c. 30, s. 3.

Candidates  
and their  
nomination.

**179.** Only Indians nominated at such meeting shall be recognized as, or permitted to become candidates for election as aforesaid; and each nomination to be valid must be made on the motion of an elector of the section of the reserve for the representation whereof the nominee is proposed as a candidate, and the motion must be seconded by another elector of that section. 53 V., c. 30, s. 3.

Time of  
nomination.

**180.** The nominations of the candidates shall, so far as practicable, be made consecutively and previously to any speeches being made by the movers and seconders or by any other persons, but nominations may be made up to the hour of twelve o'clock noon. 53 V., c. 30, s. 3.

Proceedings  
after nomi-  
nation.

**181.** If only one candidate for any councillorship is proposed, the Indian agent or chairman shall, at twelve o'clock noon, declare such candidate duly elected; and if two or more candidates are proposed for any councillorship, an election shall be held under the provisions of this Part. 53 V., c. 30, s. 3.

#### *Elections.*

First election  
of members  
of the coun-  
cil.

**182.** On a day and at a place, and between the hours prescribed in the order in council, the electors shall meet for the purpose of electing the members of the council of the reserve. R.S., c. 44, s. 5.

Who shall  
be deemed  
elected.

**183.** One or more members to represent each section of the reserve, as provided in such order in council, shall be elected by the electors resident in each section, and the Indian or Indians, as the case may be, having the votes of the greatest number of electors for each section, shall be the councillor or councillors, as the case may be therefor, provided he or they are respectively possessed of, and living in, a house in the reserve. R.S., c. 44, s. 5.

**184.** The agent for the reserve shall preside at the election, or in his absence some person appointed by him as his deputy, with the consent of the Superintendent General, or some person appointed by the Superintendent General may preside at the said election, and shall take and record the votes of the electors, and may, subject to appeal to the Superintendent General by or on behalf of any Indian or Indians who deems himself or themselves aggrieved by the action of such agent or deputy, or of such agent or person appointed as aforesaid, admit or reject the claim of any Indian to be an elector, and may determine who are the councillors for the several sections, and shall report the same to the Superintendent General.

Who shall  
preside at  
the election  
and his  
powers.

2. In any case of an equality of votes at any such election the agent or person presiding thereat shall have the casting vote. R.S., c. 44, s. 5.

Chairman to  
have casting  
vote.

R.S.C. 1906, c. 81, cont'd.

*Meetings of Council.*

**185.** On a day and at a place, and between the hours prescribed by the Superintendent General, if the day fixed for the same is within eight days from the date at which the councillors were elected, the said councillors shall meet and elect one of their number to act as chief councillor, and the councillor so elected shall be the chief councillor. R.S., c. 44, s. 6.

First meeting  
of council-  
lors.

**186.** The council shall meet for the despatch of business, at such place on the reserve and at such times as the agent for the reserve appoints, but which shall not exceed twelve times or be less than four times in the year for which it is elected, and due notice of the time and place of each meeting shall be given to each councillor by the agent. R.S., c. 44, s. 9.

Meetings of  
the council.

**187.** At such meeting of the council the agent for the reserve, or his deputy appointed for the purpose with the consent of the Superintendent General, shall,—

Agent at  
such meet-  
ing, his  
duties.

- (a) preside, and record the proceedings;
- (b) control and regulate all matters of procedure and form and adjourn the meeting to a time named or *sine die*;
- (c) report and certify all by-laws and other acts and proceedings of the council to the Superintendent General;
- (d) address the council and explain and advise the members thereof upon their powers and duties.

2. No such agent or deputy shall vote on any question to be decided by the council. R.S., c. 44, s. 9.

Not to vote.

**188.** Full faith and credence shall be given in all courts and places whatsoever to any certificate given by such agent

Faith and  
credence  
given to

his certifi-  
cate.

or deputy under the provisions of paragraph (c) of the last preceding section. R.S., c. 44, s. 9.

Votes.

**189.** Each councillor present shall have a vote on every question to be decided by the council, and such question shall be decided by the majority of votes, the chief councillor voting as a councillor and having also a casting vote, in case the votes would otherwise be equal.

Quorum.

2. Four councillors shall be a quorum for the despatch of any business. R.S., c. 44, s. 9.

*Term of Office, Vacancies, Etc.*

Term of  
office.

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

2. If there is a failure to elect on the day appointed for the election, the Superintendent General shall appoint another day on which it shall be held. R.S., c. 44, s. 7.

R.S.C. 1906, c. 81, cont'd.

Vacancies:  
how filled.

**191.** In the event of a vacancy in the council, by the death or inability to act of any councillor, more than three months before the time for the next election, an election to fill such vacancy shall be held by the agent or his deputy, after such notice to the electors concerned as the Superintendent General directs, at which only the electors of the section represented by the councillor to be replaced shall vote, and to such election the provisions respecting other elections shall apply, so far as they are applicable.

In office of  
chief coun-  
cillor.

2. If the councillor to be replaced is the chief councillor, then an election of a chief councillor shall be held in the manner already provided, but the day fixed for such election shall be at least one week after the date when the new councillor is elected. R.S., c. 44, s. 8.

Remaining  
councillors  
to constitute  
council.

**192.** During the time of any vacancy in the council the remaining councillors shall constitute the council, and they may, in the event of a vacancy in the office, appoint a chief from among themselves for the time being. R.S., c. 44, s. 8.

Disqualifica-  
tions in cer-  
tain cases.

**193.** Every member of a council elected under the provisions of this Part, who is proved to be a habitual drunkard or to be living in immorality, or to have accepted a bribe, or to have been guilty of dishonesty or of 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 hereinbefore provided. R.S., c. 44, s. 11.

*Powers of Council.*

**194.** The council may, by by-law, rule or regulation, approved and confirmed by the Superintendent General, provide that the religious denomination to which the teacher or teachers of the school or schools established on the reserve shall belong, shall be that of the majority of the Indians resident on the reserve: Provided that the Protestant or Roman Catholic minority on the reserve may also have a separate school or schools, with the approval of and under regulations made by the Governor in Council.

Council may  
make by-  
laws as to  
religious  
denomina-  
tion of  
school  
teacher.

2. The council may also make by-laws, rules and regulations, approved and confirmed by the Superintendent General, regulating all or any of the following subjects and purposes, that is to say:—

Also by-laws  
as to.

- (a) The care of the public health;
- (b) The observance of order and decorum at elections of councillors, meetings of the council, and assemblies of Indians on other occasions, or generally, on the reserve, by the appointment of constables and erection of lock-up houses, or by the adoption of other legitimate means;
- (c) The repression of intemperance and profligacy;

Health.  
Order.

Intemper-  
ance.

**7.** Paragraph (c) of subsection two of section one hundred and ninety-four of the said Act is hereby repealed and the following is substituted therefor:—

“(c) The prevention of disorderly conduct and nuisances.”

Disorderly  
conduct.

S.C. 1926-27,  
c. 32, s. 7.

R.S.C. 1906, c. 81, cont'd.

R.S.C. 1906,  
c. 81,  
cont'd.

- (d) The subdivision of the land in the reserve, and the distribution of the same amongst the members of the band; also, the setting apart, for common use, of woodland and land for other purposes; Subdivision of reserve.
- (e) The protection of and the prevention of trespass by cattle, sheep, horses, mules and other domesticated animals; and the establishment of pounds, the appointment of poundkeepers and the regulation of their duties, fees and charges; Trespass.
- (f) The construction and repairs of school houses, council houses and other buildings for the use of the Indians on the reserve, and the attendance at school of children between the ages of six and fifteen years; School houses, etc.
- (g) the construction, maintenance and improvement of roads and bridges, and the contributions, in money or labour, and other duties of residents on the reserve, in respect thereof; the size and kind of sleighs to be used on the roads in the winter season, and the manner in which the horse or horses or other beasts of burden shall be harnessed to such sleighs; and the appointment of roadmasters and fence-viewers, and their powers and duties; Roads, etc.

S.C. 1919-20,  
c. 50, s. 5.

Powers of Council to make by-laws.

5. Subsection two of section one hundred and ninety-four of the said Act is amended by inserting the following paragraph immediately after paragraph (g) thereof:—

“(gg) the construction, maintenance and improvement of water, sewerage and lighting works and systems.”

R.S.C. 1906,  
c. 81,  
cont'd.

Removal of trespassers.

Revenue.

Assessments.

Rates.

Payment of Indian's share on his default.

Appeal.

Appropriation of certain funds.

- (h) The construction and maintenance of watercourses, ditches and fences, and the obligations of vicinage, the destruction and repression of noxious weeds and the preservation of the wood on the various holdings, or elsewhere, in the reserve; Water-courses, etc.
- (i) The removal and punishment of persons trespassing upon the reserve, or frequenting it for improper purposes;
- (j) The raising of money for any or all of the purposes for which the council may make by-laws as aforesaid, by assessment and taxation of the lands of Indians enfranchised, or in possession of lands by location ticket in the reserve: Provided that the valuation for assessment shall be made yearly, in such manner and at such times as are appointed by the by-law in that behalf, and be subject to revision and correction by the agent for the reserve, and shall come into force only after it has been submitted to him and corrected, if and as he thinks justice requires, and approved by him, and that the tax shall be imposed for the year in which the by-law is made, and shall not exceed one-half of one per centum on the assessed value of the land on which it is to be paid; and provided also that any Indian deeming himself aggrieved by the decision of the agent, made as hereinbefore provided, may appeal to the Superintendent General, whose decision in the matter shall be final;
- (k) The appropriation and payment to the local agent, as treasurer, by the Superintendent General, of so much of the moneys of the band as are required for defraying expenses necessary for carrying out the by-laws made by the council, including those incurred for assistance absolutely necessary for enabling the council or the agent to perform the duties assigned to them;

R.S.C. 1906, c. 81, cont'd.

Penalties  
and enforce-  
ment  
thereof.

(1) The imposition of punishment by penalty or by imprisonment, or by both, for any violation of or disobedience to any law, rule or regulation made under this Part, committed by any Indian of the reserve; but such penalty shall, in no case, except for non-payment of taxes, exceed thirty dollars, and the imprisonment shall not exceed thirty days.

Taxes, how  
recovered.

2. If any tax authorized by any by-law, or any part thereof, is not paid at the time prescribed by the by-law, the amount unpaid, with the addition of one-half of one per centum thereof, may be paid by the Superintendent General to the treasurer out of the share in any money of the band of the Indian in default; and, if such share is insufficient to pay the tax, or any portion thereof so remaining unpaid, the defaulter shall be deemed to have violated the by-law imposing the tax, and shall incur a penalty therefor equal to the amount of the tax or the balance thereof remaining unpaid, as the case may be.

Penalty.

Provisions  
for the im-  
position of  
punishment.

3. The proceedings for the imposition of any punishment authorized by this section, or the by-laws, rules or regulations approved and confirmed thereunder, may be taken before one justice of the peace, under Part XV. of the Criminal Code; and the amount of any such penalty shall be paid over to the treasurer of the band to which the Indian incurring it belongs for the use of such band.

4. The by-laws, rules and regulations by this section authorized to be made shall, when approved and confirmed by the Superintendent General, have the force of law within and with respect to the reserve, and the Indians residing thereon. R.S., c. 44, s. 10; 53 V., c. 30, s. 2. Approval.

#### *Evidence.*

195. A copy of any by-law, rule or regulation under this Part, approved by the Superintendent General, and purporting to be certified by the agent for the band to which it relates to be a true copy thereof, shall be evidence of such by-law, rule or regulation, and of such approval, without proof of the signature of such agent; and no such by-law, rule or regulation shall be invalidated by any defect of form, if it is substantially consistent with the intent and meaning of this Part. R.S., c. 44, s. 12. Proof of  
by-laws, etc.

3. The said Act is further amended by adding thereto as Part Three thereof the following provisions:—

S.C. 1919,  
c. 56, s. 3.

#### "PART THREE.

#### "SOLDIER SETTLEMENT.

"196. (1) *The Soldier Settlement Act, 1919*, (excepting sections three, four, eight, nine, ten, eleven, fourteen, twenty-nine, subsection two of fifty-one, and sixty thereof, and excepting the whole of Part Three thereof) with such amendments as may from time to time be made to said Application  
of Soldiers  
Settlement  
Act, 1919.

R.S.C. 1906, c. 81, cont'd.

S.C. 1919,  
c. 56, s. 3  
cont'd.

Act shall, with respect to any 'settler' as defined by said Act who is an 'Indian' as defined by this Act, be administered by the Superintendent General of Indian Affairs.

(2) For the purpose of such administration, the Deputy Superintendent General of Indian Affairs shall have the same powers as the Soldier Settlement Board has under *The Soldier Settlement Act, 1919*, the words 'Deputy Superintendent General of Indian Affairs' being, for such purpose, read in the said Act as substituted for the words 'The Soldier Settlement Board' and for the words 'The Board.'

(3) Said Act, with such exceptions as aforesaid, shall for such purpose, be read as one with this Part of this Act.

Location tickets for common lands of band may be granted.

"197. (1) The Deputy Superintendent General may acquire for a settler who is an Indian, land as well without as within an Indian reserve, and shall have authority to grant to such settler a location ticket for common lands of the band without the consent of the Council of the band, and, in the event of land being acquired or provided for such settler in an Indian reserve, the Deputy Superintendent General shall have power to take security as provided by *The Soldier Settlement Act, 1919*, and to exercise all otherwise lawful rights and powers with respect to such lands, notwithstanding any provisions of the *Indian Act* to the contrary.

(2) Every such grant shall be in accordance with the provisions of said *Soldier Settlement Act, 1919*, and of this Part.

S.C. 1922,  
c. 26, s. 2.

2. Section one hundred and ninety-seven of the said Act, as enacted by chapter fifty-six of the statutes of 1919 (first session), is repealed, and the following is substituted therefor:—

Title for common lands of band may be granted on land acquired for Indian settler. Such lands may be security for advances as under *Soldier Settlement Act 1919*, but only individual Indian interest is acquired.

"197. The Deputy Superintendent General may acquire for a settler who is an Indian, land as well without as within an Indian reserve, and shall have authority to set apart for such settler a portion of the common lands of the band without the consent of the council of the band. In the event of land being so acquired or set apart on an Indian reserve, the Deputy Superintendent General shall have power to take the said land as security for any advances made to such settler, and the provisions of *The Soldier Settlement Act, 1919*, shall, as far as applicable, apply to such transactions. It shall, however, be only the individual Indian interest in such lands that is being acquired or given as security, and the interest of the band in such lands shall not be in any way affected by such transactions."

R.S.C. 1906, c. 81, cont'd.

**Soldier Settlement Board to assist Deputy Supt. General.**

**"198.** The Soldier Settlement Board and its officers and employees shall, upon request of the Deputy Superintendent General of Indian Affairs, aid and assist him, to the extent requested, in the execution of the purposes of this Act, and the said Board may sell, convey and transfer to the said Deputy, for the execution of any such purposes, at such prices as may be agreed, any property held for disposition by such Board.

S.C. 1919,  
c. 56, s. 3.

**Power of Governor in Council to settle doubts and define powers.**

**"199.** (1) In the event of any doubt or difficulty arising with respect to the administration by the Superintendent General of Indian Affairs of the provisions of *The Soldier Settlement Act, 1919*, or as to the powers of the Deputy Superintendent General of Indian Affairs, as by this Act authorized or granted, the Governor in Council may, by order, resolve such doubt or difficulty and may define powers and procedure.

(2) Such order shall not extend the powers which are by *The Soldier Settlement Act, 1919*, provided."



INDIAN ACT. R.S.C. 1927, c. 98.  
(see S.C. 1951, c. 29, ss. 123-124.)



## CHAPTER 98.

### An Act respecting Indians.

#### SHORT TITLE.

1. This Act may be cited as the Indian Act. R.S., Short title.  
c. 81, s. 1.

#### INTERPRETATION.

2. In this Act, unless the context otherwise requires, Definitions.
- (a) "agent" or "Indian agent" means and includes a "Agent."  
commissioner, assistant commissioner, superintendent, "Indian agent."  
agent or other officer acting under the instructions of  
the Superintendent General;
- (b) "band" means any tribe, band or body of Indians "Band."  
who own or are interested in a reserve or in Indian  
lands in common, of which the legal title is vested in  
the Crown, or who share alike in the distribution of  
any annuities or interest moneys for which the Gov-  
ernment of Canada is responsible; and, when action  
is being taken by the band as such, means the band  
in council;
- (c) "Department" means the Department of Indian "Depart-  
ment."  
Affairs;
- (d) "Indian" means "Indian."
- (i) any male person of Indian blood reputed to be-  
long to a particular band,
- (ii) any child of such person,
- (iii) any woman who is or was lawfully married to  
such person;
- (e) "Indian lands" means any reserve or portion of a "Indian  
lands."  
reserve which has been surrendered to the Crown;
- (f) "intoxicants" means and includes all spirits, strong "Intoxi-  
cants."  
waters, spirituous liquors, wines, or fermented or com-  
pounded liquors, or intoxicating drink of any kind  
whatsoever, and any intoxicating liquor or fluid, and  
opium, and any preparation thereof, whether liquid  
or solid, and any other intoxicating drug or substance,  
and tobacco or tea mixed or compounded or impreg-  
nated with opium or with other intoxicating drugs,  
spirits or substances, and whether the same or any of  
them are liquid or solid;
- (g) "irregular band" means any tribe, band or body  
of persons of Indian blood who own no interest in any  
reserve or lands of which the legal title is vested in  
the Crown, who possess no common fund managed  
by the Government of Canada, and who have not had  
any treaty relations with the Crown;

"Irregular  
band."

R.S.C. 1927, c. 98, cont'd.

- "Non-treaty Indian." (h) "non-treaty Indian" means any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even if such person is only a temporary resident in Canada;
- "Person." (i) "person" means an individual other than an Indian;
- "Reserve." (j) "reserve" means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, and which remains so set apart and has not been surrendered to the Crown, and includes all the trees, wood, timber, soil, stone, minerals, metals and other valuables thereon or therein;
- "Special reserve." (k) "special reserve" means any tract or tracts of land, and everything belonging thereto, set apart for the use or benefit of and held in trust for any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued, or in a person or persons of European descent;
- "Superintendent General," and "Deputy." (l) "Superintendent General" means the Superintendent General of Indian Affairs, and "Deputy Superintendent General" means the Deputy Superintendent General of Indian Affairs;
- "Territories." (m) "Territories" means the Northwest Territories and the Yukon Territory. R.S., c. 81, s. 2; 1920, c. 50, s. 3.

## PART I.

### INDIANS.

#### *Application.*

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

3. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this Part, or from the operation of any one or more of the sections of this Part, Indians or non-treaty Indians, or any of them, or any band or irregular band of them, or the reserves or special reserves, or Indian lands, or any portions of them, in any province or in the territories, or in any of them; and may again, by proclamation, from time to time, remove such exemption. R.S., c. 81, s. 3.

#### *Department of Indian Affairs.*

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

2. The Superintendent General of Indian Affairs shall have charge of Eskimo affairs. R.S., c. 81, s. 4; 1924, c. 47, s. 1.

1. Subsection two of section four of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, is repealed.

S.C. 1930,  
c. 25, s. 1.

R.S.C. 1927, c. 98, cont'd.

**5.** There shall be a department of the government of Canada which shall be called the Department of Indian Affairs, over which the Superintendent General shall preside. R.S., c. 81, s. 5. Department of Indian Affairs.

S.C. 1936,  
c. 32, s.  
11(2).

Sections  
repealed.  
R.S., c. 83.  
  
R.S., c. 98.

(2) Sections three, six, seven and nine of the *Geology and Mines Act*, chapter eighty-three of the Revised Statutes of Canada, 1927, and section five and paragraph (a) of subsection one and subsection two of section seven of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, are repealed.

**6.** The Department of Indian Affairs shall have the management, charge and direction of Indian affairs. R.S., c. 81, s. 6. Duties.

**7.** The Governor in Council may appoint  
(a) an officer who shall be called the Deputy of the Superintendent General of Indian Affairs; Appoint-  
ment of  
officers.  
(b) a deputy governor.

2. Such other officers, clerks and servants as are requisite for the proper conduct of the business of the Department may be appointed in the manner authorized by law. R.S., c. 81, s. 7; 1918, c. 12.

S.C. 1936,  
c. 32, s.  
11(2).

Sections  
repealed.  
R.S., c. 83.  
  
R.S., c. 98.

(2) Sections three, six, seven and nine of the *Geology and Mines Act*, chapter eighty-three of the Revised Statutes of Canada, 1927, and section five and paragraph (a) of subsection one and subsection two of section seven of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, are repealed.

**8.** The Deputy Governor shall have the power, in the absence of or under instructions of the Governor General, to sign letters patent for Indian lands. Deputy  
Governor.

2. The signature of the Deputy Governor to such patents shall have the same force and virtue as if such patents were signed by the Governor General. R.S., c. 81, s. 8. May sign  
letters  
patent.

#### *Schools.*

**9.** The Governor in Council may establish  
(a) day schools in any Indian reserve for the children of such reserve; Power to  
establish  
day schools  
and  
industrial  
or boarding  
schools.  
(b) industrial or boarding schools for the Indian children of any reserve or reserves or any district or territory designated by the Superintendent General.

2. Any school or institution the managing authorities of which have entered into a written agreement with the Superintendent General to admit Indian children and provide them with board, lodging and instruction may be declared by the Governor in Council to be an industrial school or a boarding school for the purposes of this Act. Or to declare  
any school  
to be  
industrial  
or boarding  
school.

R.S.C. 1927, c. 98, cont'd.

Transport of children to schools.

**3.** The Superintendent General may provide for the transport of Indian children to and from the boarding or industrial schools to which they are assigned, including transportation to and from such schools for the annual vacations.

Regulations to prescribe standards.

**4.** The Superintendent General shall have power to make regulations prescribing a standard for the buildings, equipment, teaching and discipline of and in all schools, and for the inspection of such schools.

Inspection of schools by chief and council.

**5.** The chief and council of any band that has children in a school shall have the right to inspect such school at such reasonable times as may be agreed upon by the Indian agent and the principal of the school.

Annuities and interest applied to maintenance.

**6.** The Superintendent General may apply the whole or any part of the annuities and interest moneys of Indian children attending an industrial or boarding school to the maintenance of such school or to the maintenance of the children themselves. 1920, c. 50, s. 1.

**2.** Subsection six of section nine of the said Act is repealed and the following substituted therefor:—

“(6) The Superintendent General may apply the whole or any part of the annuities and interest moneys of Indian children attending an industrial or boarding school to the maintenance of such children.”

Annuities and interest applied to maintenance.

S.C. 1930,  
c. 25, s. 2.

Children from 7 to 15 to attend school.

**10.** Every Indian child between the ages of seven and fifteen years who is physically able shall attend such day, industrial or boarding school as may be designated by the Superintendent General for the full periods during which such school is open each year.

**3.** Subsection one of section ten of the said Act is repealed and the following substituted therefor:—

“**10.** (1) Every Indian child between the full ages of seven and sixteen years who is physically able shall attend such day, industrial or boarding school as may be designated by the Superintendent General for the full periods during which such school is open each year; provided that where it has been made to appear to the satisfaction of the Superintendent General that it would be detrimental to any particular Indian child to have it discharged from school on attaining the full age of sixteen years, the Superintendent General may direct that such child be detained at school for such further period as may seem to be advisable, but not beyond the full age of eighteen years, and in such case the provisions of this section with respect to truancy shall apply to such child and its parents, guardians or persons with whom such child resides during such further period of school attendance.”

Children from seven to sixteen to attend school.

S.C. 1930,  
c. 25, s. 3.

As to religions.

2. Such school shall be the nearest available school of the kind required, and no Protestant child shall be assigned to a Roman Catholic school or a school conducted under Roman Catholic auspices, and no Roman Catholic child shall be assigned to a Protestant school or a school conducted under Protestant auspices.

Truant officers and compulsory attendance.

Power to investigate cases of truancy.

Notice to parents, guardians, etc.

Penalty for guardian, parent or others failing to cause child to attend school, after notice.

3. The Superintendent General may appoint any officer or person to be a truant officer to enforce the attendance of Indian children at school, and for such purpose a truant officer shall be vested with the powers of a peace officer, and shall have authority to enter any place where he has reason to believe there are Indian children between the ages of seven and fifteen years, and when requested by the Indian agent, a school teacher or the chief of a band shall examine into any case of truancy, shall warn the truants, their parents or guardians or the person with whom any Indian child resides, of the consequences of truancy, and notify the parent, guardian or such person in writing to cause the child to attend school.

4. Any parent, guardian or person with whom an Indian child is residing who fails to cause such child, being between the ages aforesaid, to attend school as required by this section after having received three days' notice so to do by a truant officer shall, on the complaint of the truant officer, be liable on summary conviction before a justice of the peace or Indian agent to a fine of not more than two dollars and costs, or imprisonment for a period not exceeding ten days or both, and such child may be arrested without a warrant and conveyed to school by the truant officer.

5. No parent or other person shall be liable to such penalties if such child

- (a) is unable to attend school by reason of sickness or other unavoidable cause;
- (b) has passed the entrance examination for high schools; or
- (c) has been excused in writing by the Indian agent or teacher for temporary absence to assist in husbandry or urgent and necessary household duties. 1920, c. 50, s. 1.

Exemptions from penalties.

S.C. 1932-33,  
c. 42, s. 1.

1. Section ten of the *Indian Act*, chapter ninety-eight of the *Revised Statutes of Canada, 1927*, is amended by adding thereto the following subsection:—

“(6) For the purposes of this section, every member of the Royal Canadian Mounted Police Force and any special constable appointed for police duty on an Indian reserve, shall be a truant officer.”

Truant officers.

11. The Governor in Council may take the land of an Indian held under location ticket or otherwise, for school purposes, upon payment to such Indian of the compensation agreed upon, or in case of disagreement such compensation as may be determined in such manner as the Superintendent General may direct. 1914, c. 35, s. 2.

Taking land for schools.

R.S.C. 1927, c. 98, cont'd.

*Membership of Band.*

**12.** Any illegitimate child may, unless he has, with the consent of the band whereof the father or mother of such child is a member, shared in the distribution moneys of such band for a period exceeding two years, be, at any time, excluded from the membership thereof by the Superintendent General. R.S., c. 81, s. 12.

Exclusion of natural children from band.

**13.** Any Indian who has for five years continuously resided in a foreign country without the consent, in writing, of the Superintendent General or his agent, shall cease to be a member of the band of which he was formerly a member and he shall not again become a member of that band, or of any other band, unless the consent of such band, with the approval of the Superintendent General or his agent, is first obtained. R.S., c. 81, s. 13.

Loss of membership, through residence in a foreign country without leave.

**14.** Any Indian woman who marries any person other than an Indian, or a non-treaty Indian, shall cease to be an Indian in every respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and rents; but such income may be commuted to her at any time at ten years' purchase, with the approval of the Superintendent General. 1920, c. 50, s. 2.

Effect of marriage of Indian woman.

Superintendent may commute income.

Marriage of Indian woman with Indian of another band or non-treaty Indian. If she marries non-treaty Indian.

**15.** Any Indian woman who marries an Indian of any other band, or a non-treaty Indian, shall cease to be a member of the band to which she formerly belonged, and shall become a member of the band or irregular band of which her husband is a member.

2. If she marries a non-treaty Indian, while becoming a member of the irregular band of which her husband is a member, she shall be entitled to share equally with the members of the band of which she was formerly a member, in the distribution of their moneys; but such income may be commuted to her at any time at ten years' purchase, with the consent of the band. R.S., c. 81, s. 15.

As to half-breeds in Manitoba.

**16.** No half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian.

Half-breed heads of families.

2. No half-breed head of a family, except the widow of an Indian or a half-breed who has already been admitted into a treaty, shall, unless under very special circumstances, which shall be determined by the Superintendent General or his agent, be accounted an Indian or entitled to be admitted into any Indian treaty.

Withdrawal from treaty.

3. Any half-breed who has been admitted into a treaty shall, on obtaining the consent in writing of the Superintendent General, be allowed to withdraw therefrom on signifying his desire so to do in writing, signed by him in the presence of two witnesses, who shall attest his signature on oath before some person authorized by law to administer such oath.

Wife and minor children.

4. Such withdrawal shall include the wife and minor unmarried children of such half-breed. R.S., c. 81, s. 16; 1914, c. 35, ss. 3 and 4.

R.S.C. 1927, c. 98, cont'd.

Transfer of  
Indian  
from one  
band to  
another.

**17.** When, by a majority vote of a band, or the council of a band, an Indian of one band is admitted into membership in another band, and his admission thereinto is assented to by the Superintendent General, such Indian shall cease to have any interest in the lands or moneys of the band of which he was formerly a member, and shall be entitled to share in the lands and moneys of the band to which he is so admitted.

Share of  
capital.

2. The Superintendent General may cause to be deducted from the capital of the band of which such Indian was formerly a member his *per capita* share of such capital and place the same to the credit of the capital of the band into membership in which he has been admitted in the manner aforesaid. R.S., c. 81, s. 17.

**18.** The Superintendent General may, from time to time, upon the report of an officer, or other person specially appointed by him to make an inquiry, determine who is or who is not a member of any band of Indians entitled to share in the property and annuities of the band.

2. The decision of the Superintendent General in any such matter shall be final and conclusive, subject to an appeal to the Governor in Council. R.S., c. 81, s. 18.

#### Reserves.

**19.** All reserves for Indians, or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as they were held heretofore, but shall be subject to the provisions of this Part. R.S., c. 81, s. 19.

**20.** The Superintendent General may authorize surveys, plans and reports to be made of any reserve for Indians, showing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as is required; and may authorize the whole or any portion of a reserve to be subdivided into lots. R.S., c. 81, s. 20.

**21.** No Indian shall be deemed to be lawfully in possession of any land in a reserve, unless he has been or is located for the same by the band, or council of the band, with the approval of the Superintendent General; but no Indian shall be dispossessed of any land on which he has improvements, without receiving compensation for such improvements, at a valuation approved by the Superintendent General, from the Indian who obtains the land, or from the funds of the band, as is determined by the Superintendent General.

2. Prior to the location of an Indian under this section, in the province of Manitoba, Saskatchewan or Alberta, or the Territories, the Indian commissioner may issue a certificate of occupancy to any Indian belonging to a band residing upon a reserve in the aforesaid provinces or territories, of so much land, not exceeding in any case one hundred and sixty acres, as the Indian, with the approval of the commissioner, selects.

3. Such certificate may be cancelled at any time by the Indian commissioner, but shall, while it remains in force, entitle the holder thereof, as against all others, to lawful possession of the lands described therein. R.S., c. 81, s. 21.

R.S.C. 1927, c. 98, cont'd.

**22.** When the Superintendent General approves of any location as aforesaid, he shall issue, in triplicate, a ticket <sup>Location ticket in triplicate.</sup> granting a location title to such Indian, one triplicate of which he shall retain in a book to be kept for the purpose; and the other two of which he shall forward to the local agent.

Delivery of ticket to Indian.

2. The local agent shall deliver to the Indian in whose favour it is issued one of such duplicates so forwarded, and shall cause the other to be copied into a register of the band, provided for the purpose, and shall file the same. R.S., c. 81, s. 22.

Effect of such ticket limited.

**23.** The conferring of any such location title shall not have the effect of rendering the land covered thereby subject to seizure under legal process, and such title shall be transferable only to an Indian of the same band, and then only with the consent and approval of the Superintendent General, whose consent and approval shall be given only by the issue of a ticket, in the manner prescribed in the last preceding section. R.S., c. 81, s. 23.

Privileges of Indians having improved lands included in reserves in certain provinces.

**24.** Every Indian and every non-treaty Indian, in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or the Territories, who had, previously to the selection of a reserve, possession of and who has made permanent improvements on a plot of land which upon such selection becomes included in, or surrounded by, a reserve, shall have the same privileges, in respect of such plot, as an Indian enjoys who holds under a location title. R.S., c. 81, s. 24.

#### *Descent of Property.*

Indians may devise property by will.

**25.** Indians may devise or bequeath property of any kind in the same manner as other persons.

2. No will purporting to dispose of land in a reserve or any interest therein shall be of any force or effect unless or until the will has been approved by the Superintendent General, and if a will be disapproved by the Superintendent General the Indian making the will shall be deemed to have died intestate; and the Superintendent General may approve of a will generally and disallow any disposition thereby made of land in a reserve or of any interest in such land, in which case the will so approved shall have force and effect except so far as such disallowed disposition is concerned, and the Indian making the will shall be deemed to have died intestate as to the land or interest the disposition of which is so disallowed.

Land devised or bequeathed to non-resident, to be sold.

3. No one who is not entitled to reside on the reserve shall by reason of any devise or bequest or by reason of any intestacy be entitled to hold land in a reserve, but any land in a reserve devised by will or devolving on an intestacy, to some one not entitled to reside on the reserve, shall be sold by the Superintendent General to some member of the band and the proceeds thereof shall be paid to such devisee or heir. R.S., c. 81, s. 25; 1918, c. 26, s. 1.



R.S.C. 1927, c. 98, cont'd.

S.C. 1936,  
c. 20, s. 1.

1. Subsection three of section twenty-five of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:—

“(3) No one who is not entitled to reside on the reserve shall by reason of any devise or bequest or by reason of any intestacy be entitled to hold land in a reserve, but any land in a reserve devised by will or devolving on an intestacy, to some one not entitled to reside on the reserve, shall be sold by the Superintendent General to the band or to some member of the band and the proceeds thereof shall be paid to such devisee or heir.”

Land devised  
or  
bequeathed  
to non-  
resident, to  
be sold.

26. Upon the death of an Indian intestate his property of all kinds, real and personal, movable and immovable, including any recognized interest he may have in land in a reserve, shall descend as follows:

Distribution  
of estate in  
case of  
intestacy.

(a) One-third of the inheritance shall devolve upon his widow, if she is a woman of good moral character, and the remainder upon his children, if all are living, or, if any who are dead have died without issue;

One-third  
to widow.

(b) If there is no widow, or if the widow is not of good moral character, the whole inheritance shall devolve upon his children in equal shares, if all are living, or, if any who are dead have died without issue;

Otherwise  
children  
inherit the  
whole.

(c) If one or more of the children are living, and one or more are dead, having had lawful issue, the inheritance so far as the same does not descend to the widow, shall devolve upon the children who are living, and the descendants of such children as have died, so that each child who is living shall receive such share as would have descended to him if all the children of the intestate who have died leaving issue had been living, and so that the descendants of each child who is dead shall inherit in equal shares the share which their parent would have received if living;

Representa-  
tion of  
defunct  
heir.

(d) If the descendants of the intestate entitled to share in the inheritance are of unequal degrees of consanguinity to the intestate, the inheritance shall devolve so that those who are in the nearest degree of consanguinity shall take the shares which would have descended to them, had all the descendants in the same degree of consanguinity who have died leaving issue, been living, and so that the issue of the descendants who have died shall respectively take the shares which their parents, if living, would have received; but the Superintendent General may, in his discretion direct that the widow, if she is of good moral character, shall have the right, during her widowhood, to occupy any land in the reserve of the band to which the deceased belonged of which he was the recognized owner, and to have the use of any property of the deceased for which, under the provisions of this Part, he was not liable to taxation.

Inheritance  
per stirpes.  
  
Provision  
for widow.

2. The Superintendent General shall be the sole and final judge as to the moral character of the widow of any intestate Indian. R.S., c. 81, s. 26.

Superin-  
tendent  
General,  
sole judge  
of character  
of widow.

R.S.C. 1927, c. 98, cont'd.

Administra-  
tion  
of property  
of minors.

**27.** During the minority of the children of an Indian who dies intestate, the administration and charge of the property to which they are entitled as aforesaid shall devolve upon the widow, if any, of the intestate, if she is of good moral character; and, in such case, as each male child attains the age of twenty-one years, and as each female child attains that age, or with the consent of the widow, marries before that age, the share of such child shall, subject to the approval of the Superintendent General, be conveyed or delivered to him or her.

Removal of  
widow from  
administra-  
tion.

2. The Superintendent General may, at any time, remove the widow from such administration and charge and confer the same upon some other person, and, in like manner, may remove such other person and appoint another, and so, from time to time, as occasion requires.

Appoint-  
ment of  
guardians  
to minors.

3. The Superintendent General may, whenever there are minor children, appoint a fit and proper person to take charge of such children and their property, and may remove such person and appoint another, and so, from time to time, as occasion requires. R.S., c. 81, s. 27.

Administra-  
tion of  
Indian  
estates.

**28.** The Superintendent General may appoint a person or persons to administer the estate of any deceased or insane Indian, and may make such general regulations and such orders in particular cases as he deems necessary to secure the satisfactory administration of such estates. 1924, c. 47, s. 2.

**2.** Section twenty-eight of the said Act is amended by adding thereto the following subsection:—

“(2) The Superintendent General may remove an executor of an estate who neglects or refuses to carry out the terms of the will in such time as may be considered reasonable by the Superintendent and appoint some one in the place of such executor.”

Removal of  
executors.

S.C. 1932-33,  
c. 42, s. 2.

Inheritance  
of Indian  
dying  
without  
issue.

**29.** In case any Indian dies intestate without issue, leaving a widow, all his property of whatever kind shall devolve upon her, and if he leaves no widow the same shall devolve upon the nearest of kin to the deceased: Provided that any interest which he may have had in land in a reserve shall be vested in His Majesty for the benefit of the band owning such reserve if his nearest of kin is more remote than a brother or sister. 1924, c. 47, s. 3.

Property of  
a married  
Indian  
woman.

**30.** The property of a married Indian woman who dies intestate shall descend in the same manner and be distributed in the same proportions as that of a male Indian who dies intestate, her widower, if any, taking the share which the widow of such male Indian would take.

Idem.

2. The other provisions of this Part respecting the descent of property shall in like manner apply to the case of an intestate married woman, the word widower being substituted for the word widow in each case.

Idem.

3. The property of an unmarried Indian woman who dies intestate shall descend in the same manner as if she had been a male. R.S., c. 81, s. 29.

R.S.C. 1927, c. 98, cont'd.

**31.** A claimant of land in a reserve or of any interest therein as devisee or legatee or heir of a deceased Indian shall not be held to be lawfully in possession thereof or to be the recognized owner thereof until he shall have obtained a location ticket therefor from the Superintendent General. R.S., c. 81, s. 30.

In any case location ticket requisite for possession by heir.

**32.** The Superintendent General may decide all questions which arise under this Part, respecting the distribution among those entitled thereto of the property of a deceased Indian, and he shall be the sole and final judge as to who the persons so entitled are.

Superintendent general to decide disputes.

2. The Superintendent General may do whatsoever in his judgment will best give to each claimant his share according to the true intent and meaning of this Part, and to that end, if he thinks fit, may direct the sale, lease or other disposition of such property or any part thereof, and the distribution or application of the proceeds or income thereof, regard being always had in any such disposition to the restriction upon the disposition of property in a reserve. R.S., c. 81, s. 31.

His powers.

**33.** Notwithstanding anything in this Part, the courts having jurisdiction in the case of persons other than Indians, with but not without the consent of the Superintendent General, may grant probate of the wills of Indians and letters of administration of the estate and effects of intestate Indians, in which case such courts and the executors and administrators obtaining such probate, or thereby appointed, shall have the like jurisdiction and powers as in other cases, except that no disposition shall, without the consent of the Superintendent General, be made of or dealing had with regard to any right or interest in land in a reserve or any property for which, under the provisions of this Part, an Indian is not liable to taxation. R.S., c. 81, s. 32.

Probate and letters of administration.

*Trespassing on Reserves.*

**34.** No person, or Indian other than an Indian of the band, shall without the authority of the Superintendent General, reside or hunt upon, occupy or use any land or marsh, or reside upon or occupy any road, or allowance for road, running through any reserve belonging to or occupied by such band.

Only Indians of the band to reside on or use the reserve.

2. All deeds, leases, contracts, agreements or instruments of whatsoever kind made, entered into, or consented to by any Indian, purporting to permit persons or Indians other than Indians of the band to reside or hunt upon such reserve, or to occupy or use any portion thereof, shall be void. R.S., c. 81, s. 33.

Certain contracts, etc., to be void.

Removal of  
trespassers  
and their  
cattle, etc.

**35. If any Indian is illegally in possession of any land on a reserve, or if any person, or Indian other than an Indian of the band, without the license of the Superintendent General,**

(a) settles, resides or hunts upon, occupies, uses, or causes or permits any cattle or other animals owned by him, or in his charge, to trespass on any such land or marsh;

(b) fishes in any marsh, river, stream or creek on or running through a reserve; or

(c) settles, resides upon or occupies any road, or allowance for road, on such reserve;

Warrant.

the Superintendent General or such other officer or person as he thereunto deposes and authorizes, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith as the case may be,

(a) to remove from the said land, marsh or road, or allowance for road, every such person or Indian and his family, so settled, or who is residing or hunting upon, or occupying, or is illegally in possession of the same;

(b) to remove such cattle or other animals from such land or marsh;

(c) to cause such person or Indian to cease fishing in any marsh, river, stream or creek, as aforesaid; or

(d) to notify such person or Indian to cease using, as aforesaid, the said land, river, stream, creek or marsh, road or allowances for road.

Execution.

2. The person to whom such warrant is directed, shall execute the same, and, for that purpose, shall have the same powers as in the execution of criminal process.

Costs.

3. The expenses incurred in any such removal or notification, or causing to cease fishing, shall be borne, as the case may be, by the person removed or notified, or caused to cease fishing, or who owns the cattle or other animals removed, or who has them in charge, and may be recovered from him as the costs in any ordinary action or suit, or if the trespasser is an Indian, such expenses may be deducted from his share of annuity and interest money, if any such are due to him.

Removal.

4. Any such person or Indian other than an Indian of the band may be required orally or in writing by an Indian agent, a chief of the band occupying the reserve, or a constable, as the case may be,

(a) to remove with his family, if any, from the land, marsh or road, or allowance for road, upon which he is or has so settled, or is residing or hunting, or which he so occupies;

(b) to remove his cattle from such land or marsh;

4. Paragraph "b" of subsection four of section thirty-five of the said Act is repealed and the following substituted therefor:—

Removal  
of cattle.

"(b) to remove any cattle or other animals owned by him or in his charge from such land or marsh."

S.C. 1930,  
c. 25, s. 4.

R.S.C. 1927,  
c. 98, s. 35,  
cont'd.

(c) to cease fishing in any such marsh, river, stream or creek as aforesaid; or

(d) to cease using as aforesaid any such land, river, stream, creek, marsh, road or allowance for road.

R.S., c. 81, s. 34.

**36.** If any person or Indian, after he has been removed or notified as aforesaid, or after any cattle or other animals owned by him or in his charge have been removed as aforesaid,

Removal  
and punish-  
ment of  
persons  
returning  
after having  
been  
removed.

(a) returns to, settles, resides or hunts upon or occupies or uses as aforesaid any of the said land or marsh;

(b) causes or permits any cattle or other animals owned by him or in his charge to return to any of the said land or marsh;

(c) returns to any marsh, river, stream or creek on or running through a reserve, for the purpose of fishing therein; or

(d) returns to, settles or resides upon or occupies any of the said roads or allowances for roads;

the Superintendent General, or any officer or person deputed or authorized, as aforesaid, upon view, or upon proof on oath before him, to his satisfaction, that the person or Indian has,

(a) returned to, settled, resided or hunted upon or occupied or used as aforesaid any of the said lands or marshes;

(b) caused or permitted any cattle or other animals owned by him, or in his charge, to return to any of the said land or marsh;

(c) returned to any marsh, river, stream or creek on or running through a reserve for the purpose of fishing therein; or

(d) returned to, settled or resided upon or occupied any of the said roads or allowances for roads;

shall direct and send his warrant, signed and sealed, to the sheriff of the proper county or district, or to any literate person therein, commanding him forthwith to arrest such person or Indian, and bring him before any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, who may, on summary conviction, commit him to the common gaol of the said county or district, or if there is no gaol in the said county or district, or if the reserve is not situated within any county or district, then the gaol nearest to the said reserve in the province, there to remain for the time ordered in the warrant of commitment.

Warrant  
to sheriff  
to arrest  
and commit  
to gaol.

Limit of  
imprison-  
ment.

Direction  
of warrant.

2. The length of imprisonment aforesaid shall not exceed thirty days for the first offence, and thirty days additional for each subsequent offence.

3. If the said reserve is not situated within any county or district, such warrant shall be directed and sent to some literate person within such reserve. R.S., c. 81, s. 35.

R.S.C. 1927, c. 98, cont'd.

Arrest and imprisonment.

**37.** Such sheriff or other person shall accordingly arrest the said person or Indian, and deliver him to the keeper of the proper gaol, who shall receive such person or Indian, and imprison him in the said gaol for the term aforesaid. R.S., c. 81, s. 36.

Judgment to be drawn up and filed.

**38.** The Superintendent General, or such officer or person aforesaid, shall cause the judgment or order against the offender to be drawn up and filed in his office.

Final.

2. Such judgment shall not be appealed from, or removed by *certiorari* or otherwise, but shall be final. R.S., c. 81, s. 37.

*Recovery of Possession of Reserves.*

Recovery of possession of reserves withheld or adversely occupied.

**39.** If the possession of any lands reserved or claimed to be reserved for the Indians, or of any lands of which the Indians or any Indian or any band or tribe of Indians claim the possession or any right of possession, is withheld, or if any such lands are adversely occupied or claimed by any person, or if any trespass is committed thereon, the possession may be recovered for the Indians or Indian or band or tribe of Indians, or the conflicting claims may be adjudged and determined or damages may be recovered in an action at the suit of His Majesty on behalf of the Indians or Indian or of the band or tribe of Indians entitled to or claiming the possession or right of possession or entitled to or claiming the declaration, relief or damages.

Damages.

2. The Exchequer Court of Canada shall have jurisdiction to hear and determine any such action.

Exchequer Court jurisdiction. Attorney General may institute action. Existing remedies preserved.

3. Any such action may be instituted by information of the Attorney General of Canada upon the instructions of the Superintendent General of Indian Affairs.

4. Nothing in this section shall impair, abridge or in anywise affect any existing remedy or mode of procedure provided for cases, or any of them, to which this section applies. 1910, c. 28, s. 1; 1911, c. 14, s. 4.

*Sale or Barter.*

Governor in Council may make regulations as to sale or barter of produce by Indians.

**40.** The Governor in Council may make regulations for prohibiting or regulating the sale, barter, exchange or gift by any band or irregular band of Indians, or by any Indian of any band or irregular band, in the province of Manitoba, Saskatchewan or Alberta, or the Territories, of any grain

or root crops, or other produce grown upon any reserve, and may further provide that such sale, barter, exchange or gift shall be null and void, unless the same are made in accordance with such regulations. R.S., c. 81, s. 38.

**5.** Section forty of the said Act is repealed and the following substituted therefor:—

Consent of agent required for sale or barter.

**“40.** No person shall buy or otherwise acquire from any band or irregular band of Indians or from any Indian any cattle or other animals of any kind from any reserve in the Province of Manitoba, Saskatchewan or Alberta or the Territories without the written consent of the Indian agent.”

S.C. 1930,  
c. 25, s. 5.

S.C. 1932-33,  
c. 42, s. 3.

**3.** Section forty of the said Act, as enacted by section five of chapter twenty-five of the statutes of 1930, is repealed and the following is substituted therefor:—

“**40.** No person shall buy or otherwise acquire from any band or irregular band of Indians or from any Indian and no Indian shall sell or otherwise dispose of, to any one other than a member of the band, any cattle or other animals of any kind from any reserve in the Province of Manitoba, Saskatchewan or Alberta or the Territories without the written consent of the Indian Agent.”

Consent of agent required for sale or barter.

**41.** No person shall buy or otherwise acquire from any band or irregular band of Indians, or from any Indian, any grain, root crops, or other produce from upon any reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories. R.S., c. 81, s. 39.

Buying of produce prohibited.

S.C. 1930,  
c. 25, s. 6.

**6.** Section forty-one of the said Act is repealed and the following substituted therefor:—

“**41.** No person shall buy or otherwise acquire from any band or irregular band of Indians, or from any Indian, any grain, root crops, or other produce from upon any reserve in the Province of Manitoba, Saskatchewan or Alberta, or the Territories without the written consent of the Indian agent.”

Buying of produce prohibited.

S.C. 1932-33,  
c. 42, s. 4.

**4.** Section forty-one of the said Act, as enacted by section six of chapter twenty-five of the statutes of 1930, is repealed and the following is substituted therefor:—

“**41.** No person shall buy or otherwise acquire from any band or irregular band of Indians, or from any Indian,

Buying of produce prohibited.

and no Indian shall sell or otherwise dispose of to any one other than a member of the band, any grain, root crops, or other produce from upon any reserve in the Province of Manitoba, Saskatchewan or Alberta, or the Territories, without the written consent of the Indian Agent.”

**42.** If any such grain or root crops, or other produce as aforesaid, are unlawfully in the possession of any person within the intent and meaning of this Part, or of any regulations made by the Governor in Council under this Part, any person acting under the authority, either general or special, of the Superintendent General, may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same; and he shall deal therewith as the Superintendent General, or any officer or person thereunto by him authorized, directs. R.S., c. 81, s. 40.

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

S.C. 1930,  
c. 25, s. 7.

**7.** Section forty-two of the said Act is repealed and the following substituted therefor:—

“**42.** If any such cattle or other animals or such grain, root crops, or other produce, as aforesaid, are unlawfully in the possession of any person within the intent and meaning of this part, any person acting under the authority, either general or special, of the Superintendent General, may with such assistance in that behalf as he thinks necessary, seize and take possession of the same and he shall deal therewith as the Superintendent General or any officer or person thereunto by him authorized, directs.”

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

R.S.C. 1927, c. 98, cont'd.

S.C. 1940-41,  
c. 19, s. 1.

1. The *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, is amended by inserting immediately after section forty-two thereof, the following section:—

"42A. (1) The Governor in Council may make regulations to prohibit and control the buying or otherwise acquiring from any Indian, non-treaty Indian or band or irregular band of Indians any wild animal or the skin or other part of such animal. Without restricting the generality of the foregoing the regulations may prescribe:—

Regulations  
controlling  
the buying of  
wild animals  
and skins  
from  
Indians.

(a) that the Superintendent General or Agent acting on his behalf may issue permits to buy or otherwise acquire any wild animal or parts thereof as aforesaid and may fix the terms upon which such permits may be issued;

(b) that a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months or both fine and imprisonment may be imposed for any violation of such regulations.

(2) Where the Superintendent General, or Agent acting on his behalf, has reason to believe that the regulations have been contravened in respect of any wild animal or the skin or other part of such animal he may seize such animal or any part or parts thereof wherever found and bring the same before any judge, police or stipendiary magistrate, two justices of the peace or Indian Agent and on proof that such contravention has occurred such animal or part or parts shall be declared forfeited to His Majesty. Any animal or part thereof declared forfeited hereunder shall be disposed of as the Superintendent General may direct.

Seizure and  
forfeiture.

Territorial  
application.

(3) Such regulations may from time to time by order of the Superintendent General be declared to apply to any area in the Dominion of Canada and copies of every such order shall be posted in all post offices in or adjacent to the area therein specified.

Revocation.

(4) The Superintendent General may at any time without prior notice revoke any permit issued in accordance with any regulation made under the provisions of this section.

Publication  
in Canada  
Gazette.

(5) The regulations made by the Governor in Council and every order made by the Superintendent General under the provisions of this section shall be published in the *Canada Gazette*."



43. The Governor in Council may make regulations for prohibiting the cutting, carrying away or removing from any reserve or special reserve, of any hard or sugar-maple tree or sapling. R.S., c. 81, s. 41.

Governor in Council may prohibit cutting of trees on reserve.

44. No official or employee connected with the inside or outside service of the Department, and no missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians, and no school teacher on an Indian reserve, shall, without the special license in writing of the Superintendent General, trade with any Indian, or sell to him directly or indirectly, any goods or supplies, cattle or other animals.

Trading with Indians prohibited without license of Superintendent General.

2. The Superintendent General may at any time revoke the license so given by him. R.S., c. 81, s. 42.

Revocation of license.

45. No person shall barter directly or indirectly with any Indian on a reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories, or sell to any such Indian any goods or supplies, cattle or other animals without the special license in writing of the Superintendent General.

Bartering with Indians without a license prohibited.

2. The Superintendent General may, at any time, revoke the license by him given.

Revocation of license.

3. Upon prosecution of any offender against the provisions of this and the last preceding section, the evidence of the Indian to whom the sale was made, and the production to, or view by, the magistrate or Indian agent of the article or animal sold, shall be sufficient evidence on which to convict. R.S., c. 81, s. 43.

Evidence.

*Roads and Bridges.*

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

46. Indians residing upon any reserve shall be liable, if so directed by the Superintendent General, or any officer or person by him thereunto authorized, to perform labour upon the public roads laid out or used in or through, or abutting upon such reserve, which labour shall be performed under the sole control of the Superintendent General, or officer or person aforesaid, who may direct when, where and how and in what manner such labour shall be applied, and to what extent the same shall be imposed upon any Indian who is a resident upon the reserve.

Powers of Superintendent General.

2. The Superintendent General, or person or officer aforesaid shall have the like power to enforce the performance of such labour by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the province or territory in which such reserve is situate, for the non-performance of statute labour; but the labour to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same province, territory, county or other local division, under the laws requiring and regulating such labour and the performance thereof. R.S., c. 81, s. 44.

R.S.C. 1927, c. 98, cont'd.

Band to  
cause roads  
to be kept  
in order.

47. Every band of Indians shall cause the roads, bridges, ditches and fences within its reserve to be put and maintained in proper order, in accordance with the instructions received, from time to time, from the Superintendent General, or from the agent of the Superintendent General.

Work may  
be done at  
cost of band.

2. Whenever in the opinion of the Superintendent General, such roads, bridges, ditches and fences are not so put or maintained in order, he may cause the work to be performed at the cost of the band, or of the particular Indian in default, as the case may be, either out of its or his annual allowances or otherwise. R.S., c. 81, s. 45.

Roads.

5. Section forty-seven of the said Act is amended by adding thereto the following subsection:—

“(3) The Superintendent General shall have the authority to determine where roads shall be established on a reserve.”

S.C. 1932-33,  
c. 42, s. 5.

*Lands taken for Public Purposes.*

Lands  
taken for  
public  
purposes.

48. No portion of any reserve shall be taken for the purpose of any railway, road, public work, or work designed for any public utility without the consent of the Governor in Council, but any company or municipal or local authority having statutory power, either Dominion or provincial, for taking or using lands or any interest in lands without the consent of the owner may, with the consent of the Governor in Council as aforesaid, and subject to the terms and conditions imposed by such consent, exercise such statutory power with respect to any reserve or portion of a reserve.

2. In any such case compensation shall be made there-  
for to the Indians of the band, and the exercise of such  
power, and the taking of the lands or interest therein and  
the determination and payment of the compensation shall,  
unless otherwise provided by the order in council evi-  
dencing the consent of the Governor in Council, be gov-  
erned by the requirements applicable to the like proceed-  
ings by such company, municipal or local authority in  
ordinary cases. Compensation.

3. The Superintendent General shall, in any case in  
which an arbitration is had, name the arbitrator on behalf  
of the Indians, and shall act for them in any matter re-  
lating to the settlement of such compensation. Arbitra-  
tion.

4. The amount awarded in any case shall be paid to the  
Minister of Finance for the use of the band of Indians for  
whose benefit the reserve is held, and for the benefit of  
any Indian who has improvements taken or injured. R.S.,  
c. 81, s. 46; 1911, c. 14, s. 1. Payment.

R.S.C. 1927, c. 98, cont'd.

*Surrender and Forfeiture of Lands in Reserve.*

49. If, by the violation of the conditions of any trust respecting any special reserve, or by the breaking up of any society, corporation or community, or, if by the death of any person or persons without a legal succession or trusteeship, in whom the title to a special reserve is held in trust, the said title lapses or becomes void in law, the legal title shall become vested in His Majesty in trust, and the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve.

Title to vest in His Majesty, if title of reserves held in trust lapses.

2. The trustees of any special reserve may, at any time, surrender the same to His Majesty in trust, whereupon the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve.

Surrender of certain reserves to His Majesty in trust.

50. Except as in this Part otherwise provided, no reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Part; but the Superintendent General may lease, for the benefit of any Indian, upon his application for that purpose, the land to which he is entitled without such land being released or surrendered, and may, without surrender, dispose to the best advantage, in the interests of the Indians, of wild grass and dead or fallen timber.

Sale or release of reserves.

Proviso.

2. The Governor in Council may make regulations enabling the Superintendent General without surrender to issue leases for surface rights on Indian reserve, upon such terms and conditions as may be considered proper in the interest of the Indians covering such area only as may be necessary for the mining of the precious metals by any one otherwise authorized to mine such metals, said terms to include provision of compensating any occupant of land for any damage that may be caused thereon as determined by the Superintendent General. R.S., c. 81, s. 48; 1919, c. 56, s. 1.

Leases of surface rights may be granted in connection with mining for precious metals.

S.C. 1938,  
c. 31, s. 1.

1. Subsection two of section fifty of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:—

“(2) The Governor in Council may make regulations enabling the Superintendent General in respect of any Indian reserve, to issue leases upon such terms as may be considered proper in the interest of the Indians and of any other lessee or licensee of surface rights,

Leases and licences to prospect for minerals.

(a) upon surrender in accordance with this part, of any land deemed to contain salt, petroleum, natural gas, coal, gold, silver, copper, iron or other minerals and to grant in respect of such land the right to prospect for, mine, recover and take away any or all such mineral, and

(b) without surrender, to any person authorized to mine any of the minerals in this section mentioned, of surface rights over such area of any land within a reserve containing any such minerals as may be necessary for the mining thereof.”

R.S.C. 1927, c. 98, cont'd.

Release or  
surrender  
of a  
reserve,  
when valid.

Assent of  
band.

Who may  
vote.

Proof of  
assent.

Approval of  
Governor in  
Council.

Inquiry  
and report  
by  
Exchequer  
Court as to  
removal of  
Indians.

Order in  
Council.

**51.** Except as in this Part otherwise provided, no release or surrender of a reserve, or a portion of a reserve, held for the use of the Indians of any band, or of any individual Indian, shall be valid or binding, unless the release or surrender shall be assented to by a majority of the male members of the band of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose, according to the rules of the band, and held in the presence of the Superintendent General, or of any officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General.

2. No Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near, and is interested in the reserve in question.

3. The fact that such release or surrender has been assented to by the band at such council or meeting shall be certified on oath by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some of the chiefs or principal men present thereat and entitled to vote, before any person having authority to take affidavits and having jurisdiction within the place where the oath is administered.

4. When such assent has been so certified, as aforesaid, such release or surrender shall be submitted to the Governor in Council for acceptance or refusal. R.S., c. 81, s. 49; 1918, c. 26, s. 2.

**52.** In the case of an Indian reserve which adjoins or is situated wholly or partly within an incorporated town or city having a population of not less than eight thousand, and which reserve has not been released or surrendered by the Indians, the Governor in Council may, upon the recommendation of the Superintendent General, refer to the judge of the Exchequer Court of Canada for inquiry and report the question as to whether it is expedient, having regard to the interest of the public and of the Indians of the band for whose use the reserve is held, that the Indians should be removed from the reserve or any part of it.

2. The order in council made in the case shall be certified by the Clerk of the Privy Council to the Registrar of the Exchequer Court of Canada, and the judge of the court shall thereupon proceed as soon as convenient to fix a time and place, of which due notice shall be given by publication in the *Canada Gazette*, and otherwise as may be directed by the judge, for taking the evidence and hearing and investigating the matter. Notice of inquiry.

3. The judge shall have the like powers to issue subpoenas, compel the attendance and examination of witnesses, take evidence, give directions, and generally to hear and determine the matter and regulate the procedure as in proceedings upon information by the Attorney General within the ordinary jurisdiction of the court, and shall assign counsel to represent and act for the Indians who may be opposed to the proposed removal. Powers of Court. Counsel.

R.S.C. 1927, c. 98, cont'd.

4. If the judge finds that it is expedient that the band of Indians should be removed from the reserve or any part of it, he shall proceed, before making his report, to ascertain the amounts of compensation, if any, which should be paid respectively to individual Indians of the band for the special loss or damages which they will sustain in respect of the buildings or improvements to which they are entitled upon the lands of the reserve for which they are located, and the judge shall, moreover, consider and report upon any of the other facts or circumstances of the case which he may deem proper or material to be considered by the Governor in Council.

Compensation for special loss and damages to be ascertained.

5. The judge shall transmit his findings, with the evidence and a report of the proceedings, to the Governor in Council, who shall lay a full report of the proceedings, the evidence and the findings before Parliament at the then current or next ensuing session thereof, and upon such findings being approved by resolution of Parliament the Governor in Council may thereupon give effect to the said findings and cause the reserve, or any part thereof from which it is found expedient to remove the Indians, to be sold or leased by public auction after three months advertisement in the public press, upon the best terms which, in the opinion of the Governor in Council, may be obtained therefor.

Transmission of proceedings.

Sale or lease of lands.

6. The proceeds of the sale or lease, after deducting the usual percentage for management fund, shall be applied in compensating individual Indians for their buildings or improvements as found by the judge, in purchasing a new reserve for the Indians removed, in transferring the said Indians with their effects thereto, in erecting buildings upon the new reserve, and in providing the Indians with such other assistance as the Superintendent General may consider advisable; and the balance of the proceeds, if any, shall be placed to the credit of the Indians; but the Governor in Council shall not cause the Indians to be removed, or disturb their possession, until a suitable reserve has

Disposition of proceeds.

Exception.

New reserve.

been obtained and set apart for them in lieu of the reserve from which the expediency of removing the Indians is so established as aforesaid.

Expropriation of lands for new reserve.

7. For the purpose of selecting, appropriating and acquiring the lands necessary to be taken, or which it may be deemed expedient to take, for any new reserve to be acquired for the Indians as authorized by the last preceding subsection, whether they are Crown lands or not, the Superintendent General shall have all the powers conferred upon the Minister by the Expropriation Act, and such new reserve shall, for the purposes aforesaid, be deemed to be a public work within the definition of that expression in the Expropriation Act; and all the provisions of the Expropriation Act, in so far as applicable and not inconsistent with this Act, shall apply in respect of the proceedings for the selection, survey, ascertainment and acquisition of the lands required and the determination and payment of the compensation therefor.

Condition.

8. The Superintendent General shall not exercise the power of expropriation unless authorized by the Governor in Council. 1911, c. 14, s. 2.

R.S.C. 1927, c. 98, cont'd.

Act not to confirm invalid releases or surrenders.

**53.** Nothing in this Part shall confirm any release or surrender which, but for this Part, would have been invalid; and no release or surrender of any reserve, or portion of a reserve, to any person other than His Majesty, shall be valid. R.S., c. 81, s. 50.

Indian lands to be held for the same purpose as heretofore.

**54.** All Indian lands which are reserves or portions of reserves surrendered, or to be surrendered, to His Majesty, shall be deemed to be held for the same purpose as heretofore; and shall be managed, leased and sold as the Governor in Council directs, subject to the conditions of surrender and the provisions of this Part. R.S., c. 81, s. 51.

#### *Sale and Transfer of Indian Lands.*

Effect of former certificate of sale or receipt.

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

2. Such certificate or receipt shall be *prima facie* evidence of possession by such person, or the assignee, under an instrument registered as aforesaid in any such action or suit. R.S., c. 81, s. 52.

Evidence of possession.

**56.** The Superintendent General shall keep a book for registering, at the option of the persons interested, the particulars of any assignment made, as well by the original purchaser or lessee of Indian lands, or his heirs or legal representatives, as by any subsequent assignee of any such lands, or the heirs or legal representatives of such assignee. R.S., c. 81, s. 53.

Register of assignments to be kept.

**57.** Upon any such assignment being produced to the Superintendent General, and, except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the place of such execution, and the names, residences and occupations of the witnesses, or, as to lands in the province of Quebec, upon the production of any such assignment executed in notarial form, or of a notarial copy thereof, the Superintendent General shall cause the material parts of the assignment to be registered in the said book, and shall cause to be endorsed on the assignment a certificate of such registration signed by himself or by the Deputy Superintendent General, or any other officer of the Department by him authorized to sign such certificates. R.S., c. 81, s. 54.

Registration of assignments.

**58.** Every such assignment so registered shall be valid against any assignment previously executed, which is subsequently registered or is unregistered. Effect of assignment and registration.

2. No such registration shall be made until all the conditions of the sale, grant or location are complied with or dispensed with by the Superintendent General. Requirements.

3. Every assignment registered as aforesaid shall be unconditional in its terms. R.S., c. 81, s. 55. Unconditional.

**59.** If any subscribing witness to any such assignment is dead, or is absent from Canada, the Superintendent General may register such assignment upon the production of an affidavit proving the death or absence of such witness, and his handwriting, or the handwriting of the person making such assignment. R.S., c. 81, s. 56. Proof of registration.

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

**60.** No agent for the sale of Indian lands shall, within his division, directly or indirectly, except under an order of the Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency; and every such purchase or interest shall be void. R.S., c. 81, s. 57.

#### *Tax Sales.*

Conveyance of lands sold for taxes.

**61.** Whenever the proper municipal officer having, by the law of the province in which the land affected is situate, authority to make or execute deeds or conveyances of lands sold for taxes, makes or executes any deed or conveyance purporting to grant or convey Indian lands which have been sold or located, but not patented, or the interest therein of the locatee or purchaser from the Crown, and such deed or conveyance recites or purports to be based upon a sale of such lands or such interest for taxes, the Superintendent General may approve of such deed or conveyance, and act upon and treat it as a valid transfer of all the right and interest of the original locatee or purchaser from the Crown, and of every person claiming under him in or to such land to the grantee named in such deed or conveyance.

Superintendent General may approve.

Effect of such approval.

2. When the Superintendent General has signified his approval of such deed or conveyance by endorsement thereon, the grantee shall be substituted in all respects, in relation to the land so conveyed, for the original locatee or purchaser from the Crown, but no such deed or conveyance shall be deemed to confer upon the grantee any greater right or interest in the land than that possessed by the original locatee or purchaser from the Crown. R.S., c. 81, s. 58.

Issue of patent.

**62.** The Superintendent General may cause a patent to be issued to the grantee named in such deed or conveyance on the completion of the original conditions of the location or sale, unless such deed or conveyance is declared invalid by a court of competent jurisdiction in a suit or action instituted by some person interested in such land within two years after the date of the sale for taxes, and unless within such delay notice of such contestation has been given to the Superintendent General. R.S., c. 81, s. 59.

R.S.C. 1927, c. 98, cont'd.

Time for  
registra-  
tion.

**63.** Every such deed or conveyance shall be registered in the office of the Superintendent General within two years from the date of the sale for taxes; and unless the same is so registered, it shall not be deemed to have preserved its priority, as against a purchaser in good faith from the original locatee or purchaser from the Crown, in virtue of an assignment registered prior to the date of the registration of the deed or conveyance based upon a sale for taxes as aforesaid. R.S., c. 81, s. 60.

#### *Cancellation.*

**64.** If the Superintendent General is satisfied that any purchaser or lessee of any Indian lands, or any person claiming under or through him, has been guilty of any fraud or imposition, or has violated any of the conditions of the sale or lease, or if any such sale or lease has been made or issued in error or mistake, he may cancel such sale or lease and resume the land therein mentioned, or dispose of it as if no sale or lease thereof had ever been made.

In cases of  
fraud,  
mistake or  
non-  
observance  
of  
conditions.

2. In any case where the Superintendent or the Deputy Superintendent General gives or has given notice to a purchaser or lessee of Indian lands or to his assignee, agent, executor, administrator or representative, of his intention to cancel a sale or lease under the provisions of this section, and in pursuance of such notice enters or has entered in the records of the Department the formal cancellation of such sale or lease, such entry of cancellation shall be and be deemed to have been effective from the date thereof to cancel and annul the said sale or lease, and any payments made on account of such sale or lease shall be and be deemed to have been forfeited.

Cancellation  
effective  
from date  
of entry.

3. In any such case as described in the preceding subsection the notice of cancellation shall be deemed to be and to have been sufficient if signed by the Superintendent General, the Deputy Superintendent General, or by any officer of the Department by the direction and with the authority of the Superintendent General or the Deputy Superintendent General; and moreover the notice shall be deemed to be and to have been duly given and served upon or delivered to the purchaser or lessee, or to his assignee, agent, executor, administrator or representative as aforesaid if posted prepaid or franked to his last known address.

Signatures  
to notices.

4. No action, suit or other proceeding, either at law or in equity, shall lie or be instituted, prosecuted or maintained against His Majesty or against the Superintendent General, or the Attorney General, or any officer of the Government of Canada, claiming any relief or declaration against or in respect of the cancellation or forfeiture of any such sale or lease, or payments on account thereof by means of any such notice as aforesaid, unless the same was or shall have been instituted within one year from the date of the giving of the said notice.

Service.

Proceedings  
to be  
instituted  
within one  
year.

List of  
cancellations laid  
before  
Parliament.

5. Within the first fifteen days of each session of Parliament, the Superintendent General shall cause to be laid before both Houses of Parliament a list of all such sales or leases, cancelled during the twelve months next preceding that session, or since the date of the beginning of the then last session. R.S., c. 81, s. 61; 1924, c. 47, s. 4.



R.S.C. 1927, c. 98, cont'd.

*Ejectment.*

Obtain-  
ing  
possession  
after such  
cancellation,  
in case of  
resistance.

**65.** Whenever any purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale or lease thereof, as aforesaid, or whenever any person is wrongfully in possession of any Indian lands and refuses to vacate or abandon possession of the same, the Superintendent General may apply to the judge of the county court of the county or district in which the land lies, or to any judge of a superior court, or in the Northwest Territories to any stipendiary magistrate, for an order in the nature of a writ of *habere facias possessionem*, or writ of possession.

Order as to  
writ of  
possession.

2. The said judge or magistrate, upon proof to his satisfaction that the right or title of the person to hold such land has been revoked or cancelled, as aforesaid, or that such person is wrongfully in possession of Indian lands, shall grant an order requiring the purchaser, lessee or person in possession to deliver up the same to the Superintendent General, or person by him authorized to receive such possession.

Effect.

3. The order shall have the same force as a writ of *habere facias possessionem*, or writ of possession.

Execution  
of order.

4. The sheriff, or any bailiff or person to whom it has been entrusted for execution by the Superintendent General, shall execute the same in like manner as he would execute such writ in an action of ejectment or a possessory action.

Costs.

5. The costs of and incident to any proceedings under this section or any part thereof shall be paid by any party to such proceedings or by the Superintendent General, as the judge or magistrate orders. R.S., c. 81, s. 62.

*Rent.*

Enforcing  
payment of  
rent due to  
the Crown.

**66.** Whenever any rent payable to the Crown on any lease of Indian lands is in arrear, the same may be recovered

(a) by warrant of distress issued by the Superintendent General or any agent or officer appointed under this Part and authorized by the Superintendent General to act in such cases, and with like proceedings thereon as in ordinary cases of landlord and tenant directed to any person or persons by him named therein;

(b) by warrant of distress, and with like proceedings thereon as in case of a distress warrant by a justice of the peace for non-payment of a pecuniary penalty issued by him and directed as aforesaid; or

(c) by action of debt, as in ordinary cases of rent in arrear, brought therefor in the name of the Superintendent General.

2. Demand of rent shall not be necessary in any case. No demand required.  
R.S., c. 81, s. 63.

R.S.C. 1927, c. 98, cont'd.

*Powers of Superintendent General.*

67. When by law or by any deed, lease or agreement relating to Indian lands, any notice is required to be given, or any act to be done by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Superintendent General. R.S., c. 81, s. 64. To act and give notice for the Crown.

68. Whenever it is found that, by reason of false survey or error in the books or plans in the Department or in the late Indian branch of the Department of the Interior, any grant, sale or appropriation of land is deficient, or whenever any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Superintendent General may order the purchase money of so much land as is deficient with the interest thereon from the time of the application therefor to be paid to the original purchaser in land or money as the Superintendent General directs. Cases of deficiency of land.

2. If the land has passed from the original purchaser, and the claimant was ignorant of a deficiency at the time of his purchase, the Superintendent General may order payment as aforesaid of the purchase money for so much of the land as is deficient which the claimant has paid. Compensation.

3. No such claim shall be entertained unless application is made within five years from the date of the patent, and unless the deficiency is equal to one-tenth of the whole quantity described as contained in the particular lot or parcel of land granted. R.S., c. 81, s. 65. Limitation of time for claim.

69. The Superintendent General may, from time to time, by public notice, declare that, on and after a day therein named, the laws respecting game in force in the province of Manitoba, Saskatchewan or Alberta, or the Territories, or respecting such game as is specified in such notice, shall apply to Indians within the said province or Territories, as the case may be, or to Indians in such parts thereof as to him seems expedient. R.S., c. 81, s. 66. Game laws.

2. Section sixty-nine of the said Act is repealed and the following is substituted therefor:—

“69. (1) The Superintendent General, subject to the approval of the Governor in Council, may, as in this section provided, make regulations which, upon publication thereof in the *Canada Gazette*, shall apply with the same force as if the terms of such regulations had been herein enacted. Regulations.

(2) The regulations may provide for appropriate penalties, not exceeding, as to imprisonment, three months and not exceeding as to fine, one hundred dollars, for violation or non-observance of any provision of any regulation. Penalties.

(3) Without restricting the generality of the provisions of subsection one of this section, the regulations may provide, *inter alia*, for the incorporation by reference, as part of such regulations, of any specific and indicated law or regulation of and in force within any province of Canada, and in particular, and whether or not by way of the incorporation by reference of provincial laws or regulations, such regulations may provide— Laws and regulations incorporated by reference.

S.C. 1936,  
c. 20, s. 2.

R.S.C. 1927, c. 98, cont'd.

S.C. 1936,  
c. 20, s.  
2, cont'd.

Laws relating  
to game.

(a) with relation to Indians within the province of Manitoba, Saskatchewan or Alberta or within the Territories, as the case may be, or to Indians in such parts of such provinces and Territories as to him seems expedient, that laws either in the same terms as, or in like terms to, or in other terms than, those in force in such provinces and territories, respectively, with relation to game in general or to specific game, shall apply, upon publication thereof in the *Canada Gazette*, with the same force as if enacted in this Act, to such Indians as such regulations shall prescribe;

Laws for  
preventing  
plant  
diseases.

(b) for the destruction of noxious weeds and the prevention of the breeding, spreading or prevalence of any insect, pest or disease which may or might be destructive of or injurious to vegetation on Indian Reserves;

Laws  
respecting  
motor  
vehicles.

(c) governing the speed and operation of vehicles on highways within Indian Reserves."

Witnesses  
may be  
summoned  
and  
examined  
under oath.

70. The Superintendent General, his deputy, or other person specially authorized by the Governor in Council, may, by subpoena issued by him, require any person or Indian to appear before him, and to bring with him any papers or writings relating to any matter affecting Indians, and examine such person under oath in respect to any such matter.

Failure of  
witness  
to appear.

2. If any person or Indian duly summoned by subpoena as aforesaid neglects or refuses to appear at the time and place specified in the subpoena, or refuses to give evidence or to produce the papers or writings demanded of him, the Superintendent General, his deputy or such other person may, by warrant under his hand and seal, cause such person or Indian so refusing or neglecting to be taken into custody and to be imprisoned in the nearest common gaol as for contempt of court, for a period not exceeding fourteen days. R.S., c. 81, s. 67; 1918, c. 26, s. 3.

#### *Patents.*

Patents,  
how to be  
prepared,  
signed and  
registered.

71. Every patent for Indian lands shall be prepared in the Department, and shall be signed by the Superintendent General or his deputy or by some other person thereunto specially authorized by order of the Governor in Council, and, when so signed, shall be registered by an officer specially appointed for that purpose by the Registrar General, and then transmitted to the Secretary of State of Canada, by whom, or by the Under Secretary of State, the same shall be countersigned and the Great Seal thereto caused to be affixed.

2. Every such patent for land shall be signed by the Governor or by the Deputy Governor appointed under this Part for that purpose. R.S., c. 81, s. 68.

R.S.C. 1927, c. 98, cont'd.

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

**72.** On any application for a patent by the heir, assignee or devisee of the original purchaser from the Crown, the Superintendent General may receive proof, in such manner as he directs and requires, in support of any claim for a patent, when the original purchaser is dead; and upon being satisfied that the claim has been equitably and justly established, may allow the same, and cause a patent to issue accordingly.

Exception.

2. Nothing in this section shall limit the right of a person claiming a patent to land in the province of Ontario to make application at any time to the Commissioner, under the Act respecting claims to lands in Upper Canada for which no patents have been issued, being chapter eighty of the Consolidated Statutes of Upper Canada. R.S., c. 81, s. 69.

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

Cancellation of erroneous letters patent.

2. Such correct letters patent shall relate back to the date of those so cancelled, and have the same effect as if issued at the date of such cancelled letters patent. R.S., c. 81, s. 70.

Issue of correct ones in their stead.

**74.** In all cases, in which grants or letters patent have been issued for the same land, inconsistent with each other, through error, and in all cases of sales or appropriations of the same land, inconsistent with each other, the Superintendent General may, in cases of sale, cause a repayment of the purchase money, with interest.

Inconsistent patents of the same land.

2. When the land has passed from the original purchaser, or has been improved before a discovery of the error, the Superintendent General may, in substitution, assign land or grant a certificate entitling the person to purchase Indian lands of such value, and to such extent as he deems just and equitable under the circumstances; but no such claim shall be entertained unless it is preferred within five years from the discovery of the error. R.S., c. 81, s. 71.

Compensation in certain cases.

Exception.

**75.** Whenever patents for Indian lands have been issued through fraud or in error or improvidence, the Exchequer Court of Canada or a superior court in any province may, in respect of lands situate within its jurisdiction, upon information, action, bill or plaint, respecting such lands, and upon hearing the parties interested, or upon default of the said parties after such notice of proceeding as the said courts shall respectively order, decree such patents to be void; and, upon a registry of such decree in the Department, such patents shall be void to all intents.

Certain courts may void patents issued in error, etc.

Effect of registry of decree.

2. The practice in such cases shall be regulated by orders, from time to time, made by the said courts respectively. R.S., c. 81, s. 72.

Practice in such cases.

R.S.C. 1927, c. 98, cont'd.

*Timber Lands.*

**76.** The Superintendent General, or any officer or agent authorized by him to that effect, may grant licenses to cut trees on ungranted Indian lands, or on reserves at such rates and subject to such conditions, regulations and restrictions, as are, from time to time, established by the Governor

Licenses to cut trees, by whom and how to be granted.

in Council, and such conditions, regulations and restrictions shall be adapted to the locality in which such reserves or lands are situated. R.S., c. 81, s. 73.

For what time.

As to error in description, etc.

**77.** No license shall be so granted for a longer period than twelve months from the date thereof; and if, in consequence of any incorrectness of survey or other error or cause whatsoever, a license is found to comprise land included in a license of a prior date, or land not being reserve, or ungranted Indian lands, the license granted shall be void in so far as it comprises such land, and the holder or proprietor of the license so rendered void shall have no claim upon the Crown for indemnity or compensation by reason of such avoidance. R.S., c. 81, s. 74.

License must describe lands and kind of trees to be cut.

To vest property in trees cut.

**78.** Every license shall describe the lands upon which the trees may be cut, and the kind of trees which may be cut, and shall confer, for the time being, on the licensee the right to take and keep possession of the land so described, subject to such regulations as are made.

2. Every license shall vest in the holder thereof all rights of property in all trees of the kind specified, cut within the limits of the license during the term thereof, whether such trees are cut by the authority of the holder of such license or by any other person, with or without his consent.

Rights of licensee as to trespassers.

3. Every license shall entitle the holder thereof to seize, in revendication or otherwise, such trees and the logs, timber or other product thereof, if found in the possession of any unauthorized person, and also to institute any action or suit against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any.

Continuing proceedings.

4. All proceedings pending at the expiration of any license may be continued to final termination, as if the license had not expired. R.S., c. 81, s. 75.

Return to be made by licensee.

**79.** Every person who obtains a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Superintendent General, a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square or other timber, manufactured and carried away under such license, which return shall be sworn to by the holder of the license or his agent, or by his foreman.

Effect of neglect to make such return.

2. Every person who refuses or neglects to make such return, or who evades, or attempts to evade, any regulation made by the Governor in Council in that behalf, shall be held to have cut without authority, and the timber or other product made shall be dealt with accordingly. R.S., c. 81, s. 76.

R.S.C. 1927, c. 98, cont'd.

**80.** All trees cut, and the logs, timber or other product thereof, shall be liable for the payment of the dues thereon, so long as and wheresoever the same, or any part thereof, are found, whether in the original logs or manufactured into deals, boards or other stuff. Trees cut and their product liable for payment of dues.

2. All officers or agents entrusted with the collection of such dues may follow and seize and detain the same wherever they are found until the dues are paid or secured. May be seized and detained. R.S., c. 81, s. 77.

**81.** No instrument or security taken for dues, either before or after the cutting of the trees, as collateral security, or to facilitate collection, shall in any way affect the lien for such dues, but the lien shall subsist until the said dues are actually discharged. Security taken for dues not to affect lien. R.S., c. 81, s. 78.

**82.** If any timber so seized and detained for non-payment of dues remains more than twelve months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid, the Superintendent General may order a sale of the said timber to be made after sufficient notice. Sale of seized timber after certain delay.

2. The net proceeds of such sale, after deducting the amount of dues, expenses, and costs incurred, shall be handed over to the owner or claimant of such timber, upon his applying therefor and proving his right thereto. Proceeds. R.S., c. 81, s. 79.

**83.** Any officer or agent acting under the Superintendent General may seize or cause to be seized in His Majesty's name any logs, timber, wood or other products of trees, or any trees themselves, cut without authority on Indian lands or on a reserve, wherever they are found, and place the same under proper custody until a decision can be had in the matter from competent authority. Seizure of trees cut without authority. R.S., c. 81, s. 80.

**84.** When the logs, timber, wood, or other products of trees, or the trees themselves cut without authority on Indian lands or on a reserve, have been made up or intermingled with other trees, wood, timber, logs, or other products of trees into a crib, dram or raft, or in any other manner, so that it is difficult to distinguish the timber cut on Indian lands or on a reserve without license, from the other timber with which it is made up or intermingled, the whole of the timber so made up or intermingled shall be held to have been cut without authority on Indian lands or on a reserve, and shall be seized and forfeited and sold by the Superintendent General or any officer or agent acting under him, unless evidence satisfactory to him is adduced showing the probable quantity not cut on Indian lands or on a reserve. Presumption of law in case of mixture of timber cut on Indian lands or reserves, with timber cut elsewhere. R.S., c. 81, s. 81.

Seizing officer may command assistance in name of Crown.

**85.** Every officer or person seizing trees, logs, timber or other products of trees in the discharge of his duty under this Part may, in the name of the Crown, call in any assistance necessary for securing and protecting the same. R.S., c. 81, s. 82.

R.S.C. 1927, c. 98, cont'd.

Burden of proof, in certain cases, to be on claimant.

86. Whenever any trees, logs, timber or other product of trees are seized for non-payment of Crown dues, or for any other cause of forfeiture, or whenever any prosecution is brought in respect of any penalty or forfeiture under this Part, and any question arises whether said dues have been paid or whether the trees, logs, timber or other product were cut on lands other than any of the lands aforesaid, the burden of proving payment, or on what land the same were cut, as the case may be, shall lie on the owner or claimant and not on the officer who seizes the same, or the person who brings such prosecution. R.S., c. 81, s. 83.

Condemnation in default of notice of claim.

87. All trees, logs, timber or other product of trees seized under this Part shall be deemed to be condemned unless the person from whom they are seized, or the owner thereof within one month from the day of the seizure, gives notice to the seizing officer, or nearest officer or agent of the Superintendent General that he claims, or intends to claim them, and unless within one month from the day of giving such notice he initiates, in some court of competent jurisdiction, proceedings for the purpose of establishing his claim.

Sale.

2. In default of such notice and initiation of proceedings, the officer or agent seizing shall report the circumstances to the Superintendent General, who may order the sale by the said officer or agent of such trees, logs, timber or other products. R.S., c. 81, s. 84.

Proceedings for trial of validity of seizure.

88. Any judge of any superior, county or district court, or any stipendiary magistrate, police magistrate or Indian agent, may, in a summary way, under the provisions of the Criminal Code relating to summary convictions, try and determine such seizures; and may, pending the trial, order the delivery of the trees, or the logs, timber or other product to the alleged owner, on receiving security by bond, with two good and sufficient sureties, first approved by the said agent, to pay double the value of such trees, logs, timber or other product, in case of their condemnation.

Delivery on security given.

Bond to be given.

2. Such bond shall be taken in the name of the Superintendent General, for His Majesty, and shall be delivered up to and kept by the Superintendent General.

3. If such seized trees, logs, timber or other product are condemned, the value thereof shall be paid forthwith to the Superintendent General or agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered. R.S., c. 81, s. 85.

Value of condemned trees to be paid to the Superintendent General.

89. Every one who avails himself of any false statement or false oath to evade the payment of dues under this Part, shall forfeit the timber in respect of which the dues are attempted to be evaded. R.S., c. 81, s. 86.

Forfeiture of timber for attempt to evade payment.

*Management of Indian Moneys.*

**90.** All moneys or securities of any kind applicable to the support or benefit of Indians, or any band of Indians, and all moneys accrued or hereafter to accrue from the sale of any Indian lands or the proceeds of any timber on any Indian lands or a reserve shall, subject to the provisions of this Part, be applicable to the same purposes, and be dealt with in the same manner as they might have been applied to or dealt with but for the passing of this Part.

Indian moneys to be dealt with as heretofore.

2. No contract or agreement binding or purporting to bind, or in any way dealing with the moneys or securities referred to in this section, or with any moneys appropriated by Parliament for the benefit of Indians, made either by the chiefs or councillors of any band of Indians or by the members of the said band, other than and except as authorized by and for the purposes of this part shall be valid or of any force or effect unless and until it has been approved in writing by the Superintendent General. R.S., c. 81, s. 87; 1910, c. 28, s. 2.

Contracts affecting Indian moneys and securities to be approved by Superintendent General.

**91.** The Governor in Council may reduce the purchase money due or to become due on sales of Indian lands, or reduce or remit the interest on such purchase money, or reduce the rent at which Indian lands have been leased, when he considers the same excessive.

Reduction of purchase money due on sales of Indian lands.

2. A return setting forth all the reductions and remissions made under this section during the fiscal year shall be submitted to both Houses of Parliament within twenty days after the expiration of such year, if Parliament is then sitting, and if Parliament is not then sitting, within twenty days after the opening of the next ensuing session of Parliament. R.S., c. 81, s. 88.

Returns of reductions to Parliament.

**92.** With the exception of such sum not exceeding fifty per centum of the proceeds of any land, timber or other property, as is agreed at the time of the surrender to be paid to the members of the band interested therein, the Governor in Council may, subject to the provisions of this

Investment and management of Indian funds may be

regulated by Governor in Council.

Part, direct how and in what manner, and by whom, the moneys arising from the disposal of Indian lands, or of property held or to be held in trust for Indians, or timber on Indian lands or reserves, or from any other source for the benefit of Indians, shall be invested from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given.

In what particulars.

2. The Governor in Council may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Part, and may authorize and direct the expenditure of such moneys for surveys, for compensation to Indians for improvements or any interest they had in lands taken from them, for the construction or repair of roads, bridges, ditches and watercourses on such reserves or lands, for the construction and repair of school buildings and charitable institutions, and by way of contribution to schools attended by such Indians: Provided that where the capital standing to the credit of a band does not exceed the sum of two thousand dollars the Governor in Council may direct and authorize the expenditure of such capital for any purpose which may be deemed to be for the general welfare of the band. R.S., c. 81, s. 89; 1919, c. 56, s. 2; 1927, c. 32, s. 1

If capital does not exceed \$2,000.



R.S.C. 1927, c. 98, cont'd.

Power of  
Governor in  
Council over  
expenditure  
of capital.

**93.** The Governor in Council may, with the consent of a band, authorize and direct the expenditure of any capital moneys standing at the credit of such band, in the purchase of land as a reserve for the band or as an addition to its reserve, or in the purchase of cattle, implements or machinery for the band, or in the construction of permanent improvements upon the reserve of the band, or such works thereon or in connection therewith as, in his opinion, will be of permanent value to the band, or will, when completed, properly represent capital or in the making of loans to members of the band to promote progress, no such loan, however, to exceed in amount one-half of the appraised value of the interest of the borrower in the lands held by him.

S.C. 1936,  
c. 20, s. 3.

Power of  
Governor in  
Council over  
expenditure  
of capital.

**3.** Subsection one of section ninety-three of the said Act is repealed and the following substituted therefor:—

“(1) The Governor in Council may, with the consent of a band, authorize and direct the expenditure of any capital moneys standing at the credit of such band, in the purchase of land as a reserve for the band or as an addition to its reserve, or the possessory rights of a member of the band in respect of any particular parcel of land on the reserve, or in the purchase of cattle, implements or machinery for the band, or in the construction of permanent improvements upon the reserve of the band, or such works thereon or in connection therewith as, in his opinion, will be of permanent value to the band, or will, when completed, properly represent capital, or in the making of loans to members of the band to promote progress, no such loan, however, to exceed in amount one-half of the appraised value of the interest of the borrower in the lands held by him.”

R.S.C. 1927,  
c. 98, s.  
93,  
cont'd.

Direction of  
expenditure  
of capital  
of band,  
without  
consent.

**2.** In the event of a band refusing to consent to the expenditure of such capital moneys as the Superintendent General may consider advisable for any of the purposes mentioned in subsection one of this section, and it appearing to the Superintendent General that such refusal is detrimental to the progress or welfare of the band, the Governor in Council may, without the consent of the band, authorize and direct the expenditure of such capital for such of the said purposes as may be considered reasonable and proper.

R.S.C. 1927, c. 98, cont'd.

3. Whenever any land in a reserve whether held in common or by an individual Indian is uncultivated and the band or individual is unable or neglects to cultivate the same, the Superintendent General, notwithstanding anything in this Act to the contrary, may, without a surrender, grant a lease of such lands for agricultural or grazing purposes for the benefit of the band or individual, or may employ such persons as may be considered necessary to improve or cultivate such lands during the pleasure of the Superintendent General, and may authorize and direct the expenditure of so much of the capital funds of the band as may be considered necessary for the improvements of such land, or for the purchase of such stock, machinery, material or labour as may be considered necessary for the cultivation or grazing of the same, and in such case all the proceeds derived from such lands, except a reasonable rent to be paid for any individual holding, shall be placed to the credit of the band.

Lease of lands in a reserve if band or individual neglects cultivation.

4. In the event of improvements being made on the lands of an individual the Superintendent General may deduct the value of such improvements from the rental payable for such lands. 1918, c. 26, s. 4; 1924, c. 47, s. 5.

Improvements.

94. The proceeds arising from the sale or lease of any Indian lands, or from the timber, hay, stone, minerals or other valuables thereon, or on a reserve, shall be paid to the Minister of Finance to the credit of the Indian fund. R.S., c. 81, s. 91.

Proceeds of sales to be paid to Minister of Finance.

8. The said Act is amended by inserting therein the following section:—

Farms on Indian Reserves for instruction and supply of seeds.

"94A. The Superintendent General may operate farms on Indian Reserves, employing such persons as may be considered necessary, for the purpose of instructing the Indians in farming and for the supply of pure seed for Indian farmers and may from time to time apply any profits arising therefrom in the extension of such operations or in making loans to Indians to enable them to engage in farming or other operations or apply such proceeds in any other way for their progress and development."

S.C. 1930,  
c. 25, s. 8.

2. The said Act is further amended by inserting immediately after section ninety four A the following:—

Advances for assistance to Indians.

"94B. (1) For the purpose of granting loans to Indian Bands, group or groups of Indians, or individual Indians and for the expenditure of moneys for co-operative projects on their behalf, the Minister of Finance may, from time to time, authorize the advance to the Superintendent General of Indian Affairs out of the Consolidated Revenue Fund of Canada of such sums of money as the said Superintendent General may require to enable him to make loans to Indian Bands, group or groups of Indians or individual Indians,

S.C. 1938,  
c. 31, s. 2.

R.S.C. 1927, c. 98, cont'd.

S.C. 1935,  
c. 31, s. 2,  
cont'd.

for the purchase of farm implements, machinery, live stock, fishing and other equipment, seed grain and materials to be used in native handicrafts and to expend and loan money for the carrying out of co-operative projects on behalf of the Indians. All expenditures made under such advances shall be made under regulations established from time to time by the Governor in Council and shall be accounted for in the like manner as other public moneys. Any moneys received by the Superintendent General of Indian Affairs from the Indian Bands, group or groups of Indians, individual Indians or co-operative projects, for aid furnished under the provisions of this section shall be remitted by him to the Minister of Finance in repayment of such advances. The amount of outstanding advances to the said Superintendent General including all amounts owing by the Indian Bands, group or groups of Indians, individual Indians or outstanding on co-operative projects shall at no time exceed the sum of three hundred and fifty thousand dollars.

Annual report  
on loans.

(2) The Superintendent General shall annually prepare a report with regard to loans made under the provisions of subsection one of this section, during the preceding calendar year, and such report shall be laid before parliament within fifteen days or, if parliament is not then sitting, within fifteen days after the beginning of the next session."

**95. The Superintendent General may**

Powers of  
Superin-  
tendent  
General.

- (a) stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the Superintendent General, guilty of deserting his family, or of conduct justifying his wife or family in separating from him, or who is separated from his family by imprisonment, and apply the same towards the support of the wife or family of such Indian;
- (b) stop the payment of the annuity and interest money of any Indian parent of an illegitimate child, and apply the same to the support of such child;
- (c) stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any woman who deserts her husband or family and lives immorally with another man, and apply the same to the support of the family so deserted;
- (d) whenever sick or disabled, or aged or destitute Indians are not provided for by the band of which they are members, furnish sufficient aid from the funds of the band for the relief of such sick, disabled, aged or destitute Indians;

R.S.C. 1927, c. 98, cont'd.

Sanitary regulations.

(e) make such regulations as he deems necessary for the prevention or mitigation of disease the frequent and effectual cleansing of streets, yards and premises; the removal of nuisances and unsanitary conditions; the cleansing, purifying, ventilating and disinfecting of premises by the owners and occupiers or other persons having the care or ordering thereof; the supplying of such medical aid, medicine and other articles and accommodation as the Superintendent General may deem necessary for preventing or mitigating an outbreak of any communicable disease; entering and inspecting any premises used for human habitation in any locality in which conditions exist which in the opinion of the Superintendent General are unsanitary, or such as to render the inhabitants specially liable to disease, and for directing the alteration or destruction of any such building which is, in the opinion of the Superintendent General, unfit for human habitation; preventing the overcrowding of premises used for human habitation by limiting the number of dwellers in such premises; preventing and regulating the departure of persons from, and the access of persons to, infected localities; preventing persons or conveyances from passing from one locality to another; detaining persons or conveyances who or which have been exposed to infection for inspection or disinfection until the danger of infection is past; the removal or keeping under surveillance of persons living in infected localities; and any other matter which, in the opinion of the Superintendent General, the general health of the Indians of any locality may require;

Taxation of dogs, and protection of sheep.

(f) make by-laws for the taxation, control and destruction of dogs and for the protection of sheep, and such by-laws may be applied to such reserves or parts thereof from time to time as the Superintendent General may direct;

Operation of pool rooms, etc.

(g) make regulations governing the operation of pool rooms, dance halls and other places of amusement on Indian Reserves.

In conflict of authority, rule to prevail.

2. In the event of any conflict between any regulation made by the Superintendent General and any rule or regulation made by any band, the regulations made by the Superintendent General shall prevail.

3. In any regulations or by-laws made under the provisions of this section, the Superintendent General may provide for the imposition of a fine not exceeding thirty dollars or imprisonment not exceeding thirty days, for the violation of any of the provisions thereof. R.S., c. 81, s. 92; 1914, c. 35, s. 6; 1918, c. 26, s. 5; 1927, c. 32, s. 2. Penalties.

S.C. 1927, c. 98, cont'd.

*Election of Chiefs.*

**96.** Whenever the Governor in Council deems it advisable for the good government of a band, to introduce the elective system of chiefs and councillors or headmen, he may provide that the chief and councillors or headmen of any band shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall in such case be elected for a term of three years.

Governor in Council may provide for election of chiefs.

2. The councillors or headmen may be in the proportion of two for every two hundred Indians.

Councillors or headmen.

3. No band shall have more than one chief and fifteen councillors or headmen.

Numbers.

4. Any band composed of at least thirty members may have a chief. R.S., c. 81, s. 93.

Band of 30.

**4.** Section ninety-six of the said Act is amended by adding thereto the following subsection:—

“(5) In any case of an equality of votes at any such election the agent or person presiding thereat shall have the casting vote.”

In case of an equality of votes.

**97.** Life chiefs and councillors or headmen now living may continue to hold rank until death or resignation, or until their removal by the Governor in Council for dishonesty, intemperance, immorality or incompetency.

As to present life chiefs.

2. In the event of the Governor in Council providing that the chief and councillors or headmen of a band shall be elected, the life chiefs and councillors or headmen shall not exercise powers as such unless elected under the provision aforesaid. R.S., c. 81, s. 94.

Election required for exercise of powers.

**98.** An election may be set aside by the Governor in Council, on a report of the Superintendent General, if it is proved by two witnesses before the Indian agent for the locality, or such other person as is deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election.

Reason for which an election may be set aside.

2. Every Indian who is proved guilty of such fraud or irregularity, or connivance thereat, may be declared ineligible for re-election for a period not exceeding six years, if the Governor in Council, on the report of the Superintendent General, so directs. R.S., c. 81, s. 95.

Punishment of fraud at election.

**99.** Any elected or life chief and any councillor or headman, or any chief or councillor or headman chosen according to the custom of any band, may, on the ground of dishonesty, intemperance, immorality or incompetency, be deposed by the Governor in Council and declared ineligible to hold the office of chief or councillor or headman for a period not exceeding three years. R.S., c. 81, s. 96.

Grounds on which chief, etc., may be deposed.

S.C. 1936,  
c. 20,  
s. 4.

S.C. 1927, c. 98, cont'd.

5. The said Act is amended by inserting the following section immediately after section ninety-nine thereof:—

S.C. 1936,  
c. 20, s. 5.

"99A. (1) At meetings of the council the agent for the reserve, or his deputy appointed for the purpose with the consent of the Superintendent General, shall

*Duties of  
the agent  
at meetings  
of the council.*

- (a) preside, and record the proceedings;
  - (b) control and regulate all matters of procedure and form, and adjourn the meeting to a time named or *sine die*;
  - (c) report and certify all by-laws and other acts and proceedings of the council to the Superintendent General;
  - (d) address the council and explain and advise the members thereof upon their powers and duties.
- (2) No such agent or deputy shall vote on any question to be decided by the council." *Not to vote.*

*Regulations to be made by Chiefs.*

*Chiefs to  
make  
regulations  
as to  
schools.*

100. The chief or chiefs of any band in council may, subject to confirmation by the Governor in Council, make rules and regulations as to the religious denomination to which the teacher of the school established on the reserve shall belong.

*Denomina-  
tions.*

2. If the majority of the band belongs to any one religious denomination, the teacher of the school established on the reserve shall belong to the same denomination.

*Minority.*

3. The Protestant or Catholic minority of any band may, with the approval of and under regulations made by the Governor in Council, have a separate school established on the reserve. R.S., c. 81, s. 97.

R.S.C. 1927, c. 98, cont'd.

- Other cases.** **101.** The chief or chiefs of any band in council may likewise and subject to such confirmation, make rules and regulations as to
- Health.** (a) the care of the public health;
  - Order.** (b) the observance of order and decorum at assemblies of the Indians in general council, or on other occasions;
  - Disorderly conduct.** (c) the prevention of disorderly conduct and nuisances;
  - Trespass.** (d) the prevention of trespass by cattle, and the protection of sheep, horses, mules and cattle;
  - Roads, etc.** (e) the construction and maintenance of watercourses, roads, bridges, ditches and fences;
  - School houses.** (f) the construction and repair of school houses, council houses and other Indian public buildings, and the attendance at school of children between the ages of six and fifteen years;
  - Pounds.** (g) the establishment of pounds and the appointment of pound-keepers;
  - Locating of band.** (h) the locating of the band in their reserves, and the establishment of a register of such locations;
  - Weeds.** (i) the repression of noxious weeds.

S.C. 1930,  
c. 25, s. 9.

**9.** Subsection one of section one hundred and one of the said Act is amended by adding thereto the following paragraph:—

“(j) Controlling or prohibiting participation in, or attendance at, public games, sports, races, athletic contests or other such amusements on the Sabbath.” Amusements on the Sabbath.

S.C. 1932-33,  
c. 42, s. 6.

**Regulations.** **6.** Section one hundred and one of the said Act is amended by adding thereto the following paragraph:—  
“(k) Regulating the operations of hawkers, peddlers or others coming on the reserve to sell, or take orders for, wares or merchandise.”

R.S.C. 1927,  
c. 98, s. 101  
cont'd.

**Governor in Council may provide for punishment for violation.** **2.** The Governor in Council may by the rules and regulations aforesaid provide for the imposition of punishment by fine, penalty or imprisonment, or both for violation of any of such rules or regulations.

**Limit of penalty.** **3.** The fine or penalty shall in no case exceed thirty dollars, and the imprisonment shall in no case exceed thirty days.

**Criminal Code to apply.** **4.** The proceedings for the imposition of such punishment shall be taken under the provisions of the Criminal Code relating to summary convictions. R.S., c. 81, s. 98; 1927, c. 32, s. 3.

R.S.C. 1927, c. 98, cont'd.

*Taxation.*

**102.** No Indian or non-treaty Indian shall be liable to be taxed for any real or personal property, unless he holds, in his individual right, real estate under a lease or in fee simple, or personal property outside of the reserve or special reserve, in which case he shall be liable to be taxed for such real or personal property at the same rate as other persons in the locality in which it is situate. R.S., c. 81, s. 99.

Liability of  
Indians to  
taxation.

**103.** No taxes shall be levied on the real property of any Indian, acquired under the enfranchisement clauses of this Part, until the same has been declared liable to taxation by proclamation of the Governor in Council, published in the *Canada Gazette*. R.S., c. 81, s. 100.

As to taxes  
on property  
of an  
enfran-  
chised  
Indian.

**104.** All land vested in the Crown or in any person in trust or for the use of any Indian or non-treaty Indian or any band or irregular band of Indians or non-treaty Indians shall be exempt from taxation, except those lands which, having been surrendered by the bands owning them, though unpatented, have been located by or sold or agreed to be sold to any person; and, except as against the Crown and any Indian located on the land, the same shall be liable to taxation in like manner as other lands in the same locality.

Exemption  
from  
taxation.

2. Nothing herein contained shall interfere with the right of the Superintendent General to cancel the original sale or location of any land, or shall render such land liable to taxation until it is again sold or located. R.S., c. 81, s. 101.

Exception.

*Legal Rights of Indians.*

**105.** No person shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgment or otherwise, upon real or personal property of any Indian or non-treaty Indian, except on real or personal property subject to taxation under the last three preceding sections: Provided that any person selling any article to an Indian or non-treaty Indian may take security on such article for any part of the price thereof which is unpaid. R.S., c. 81, s. 102.

No lien or  
charge to be  
taken on  
property of  
Indians.

Proviso.

**10.** Section one hundred and five of the said Act is repealed and the following section substituted therefor:—

**“105.** No one other than an Indian or non-treaty Indian shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgment or otherwise, upon real or personal property of any Indian or non-treaty Indian, except on real or personal property subject to taxation under the last three preceding sections: Provided that any person selling any article to an Indian or non-treaty Indian may take security on such article for any part of the price thereof which is unpaid.”

Lien or  
charge on  
property  
of Indians.

S.C. 1930,  
c. 25, s. 10.



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

2. In any suit or action between Indians, or in any case of assault in which the offender is an Indian, no appeal shall lie from any judgment, order or conviction by any police magistrate, stipendiary magistrate, or two justices of the peace or an Indian agent, when the sum adjudged or the penalty imposed does not exceed ten dollars. R.S., c. 81, s. 103. No appeal.

Things pawned by Indians for intoxicants not to be retained.

**107.** No pawn taken from any Indian or non-treaty Indian for any intoxicant shall be retained by the person to whom such pawn is delivered; but the thing so pawned may be sued for and shall be recoverable, with costs of suit, in any court of competent jurisdiction by the Indian or non-treaty Indian who pawned the same. R.S., c. 81, s. 104.

Presents, annuities, money and property exempt from seizure.

**108.** No presents given to Indians or non-treaty Indians, and no annuities or interest on funds, and no moneys appropriated by Parliament, held for any band of Indians, and no property purchased or acquired with or by means of any such annuities or income or moneys, and whether in the possession of any band of such Indians or of any Indian of any band or irregular band or not, shall be liable to be taken, seized, distrained, attached or in any way made the subject of judicial process for any debt, matter or cause whatsoever.

Traffic in presents and property restricted.

2. No such presents or property shall, in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or in the Territories be sold, bartered, exchanged, or given by any band or irregular band of Indians, or any Indian of any such band to any person or Indian other than an Indian of such band.

Animals, farming implements, etc., deemed presents.

3. Animals given to Indians under treaty stipulations, and the progeny thereof, and farming implements, tools and any other articles given to Indians under treaty stipulations shall be held to be presents within the meaning of this section.

Sale, etc., null and void.

4. Every such sale, barter, exchange or gift shall be null and void unless such sale, barter, exchange or gift is made with the written assent of the Superintendent General or his agent.

Selling, etc., live stock.

5. No Indian or non-treaty Indian in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or in the Territories, shall without the written consent of the Indian Agent sell, barter, exchange or give to any person or Indian other than an Indian of such band, or kill or destroy any animal or the progeny thereof given to him or to the band under treaty stipulations, or loaned or conditionally given to him or to the band by the Government.

Penalty.

6. Any Indian who violates any of the provisions of the last preceding subsection shall be liable on summary conviction to a penalty, not exceeding twenty-five dollars with costs of prosecution or to imprisonment not exceeding two months, or to both fine and imprisonment. R.S., c. 81, s. 105; 1910, c. 28, s. 3; 1914, c. 35, s. 7.

R.S.C. 1927, c. 98, cont'd.

**109.** If any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians, are or is unlawfully in the possession of any person, within the true intent and meaning of the last preceding section, any person acting under the authority of the Superintendent General may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same, and shall deal therewith as the Superintendent General directs.

Presents, unlawfully in possession of any person, may be seized.

2. No title to any Indian grave-house, carved grave-pole, totem-pole, carved house-post or large rock embellished with paintings or carvings on an Indian reserve, shall be acquired by any means whatsoever by any person without the written consent of the Superintendent General, and no Indian grave-house, carved grave-pole, totem-pole, carved house-post or large rock embellished with paintings or carvings, on an Indian reserve shall be removed, taken away, mutilated, disfigured, defaced or destroyed without such written consent.

Acquisition of totem poles, etc., forbidden.

3. Any person violating any of the provisions of subsection two hereof shall be liable on summary conviction to a penalty not exceeding two hundred dollars, with costs of prosecution, and in default of payment to imprisonment for a term not exceeding three months, and any article removed or taken away contrary to the provisions of the said subsection may be seized on the instructions of the Superintendent General and dealt with as he may direct. R.S., c. 81, s. 106; 1927, c. 32, s. 4.

Penalty.

**110.** Upon the application of an Indian of any band, or upon the application of a band on a vote of a majority of the male members of such band of the full age of twenty-one years at a meeting or council thereof summoned for that purpose, according to the rules of the band and held in the presence of the Superintendent General or of an officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General, a Board may be appointed by the Superintendent General to consist of two officers of the Department and a member of the band to which the Indian or Indians under investigation belongs, to make enquiry and report as to the fitness of any Indian or Indians to be enfranchised.

Enquiry as to fitness of Indian for enfranchisement.

2. The Indian member of the Board shall be nominated by the council of the band, within thirty days after the date of notice having been given to the council, and in default of such nomination, the appointment shall be made by the Superintendent General.

Indian member of Board.

3. In the course of such enquiry it shall be the duty of the Board to take into consideration and report upon the attitude of any such Indian towards his enfranchisement, which attitude shall be a factor in determining the question of fitness.

Attitude of Indian towards his enfranchisement.

What report shall contain.

4. Such report shall contain a description of the land occupied by each Indian, the amount thereof and the improvements thereon, the names, ages and sex of every Indian whose interests it is anticipated will be affected, and such other information as the Superintendent General may direct such Board to obtain.

R.S.C. 1927, c. 98, cont'd.

Governor in Council may enfranchise Indians, on approval of report of Superintendent.

5. On the report of the Superintendent General that any Indian, male or female, over the age of twenty-one years is fit for enfranchisement, the Governor in Council may by order direct that such Indian shall be and become enfranchised at the expiration of two years from the date of such order or earlier if requested by such Indian, and from the date of such enfranchisement the provisions of this and of any other Act or law making any distinction between the legal rights, privileges, disabilities and liabilities of Indians and those of His Majesty's other subjects, shall cease to apply to such Indian or to his or her minor unmarried children, or, in the case of a married male Indian, to the wife of such Indian, and every such Indian and child and wife shall thereafter have, possess and enjoy all the legal powers, rights and privileges of His Majesty's other subjects, and shall no longer be deemed to be Indians within the meaning of any laws relating to Indians.

Effect of enfranchisement.

Procedure where wife living apart.

6. Where a wife is living apart from her husband, the enfranchisement of the husband shall not carry with it the enfranchisement of his wife except on her own written request to be so enfranchised.

Right of Indian to choose name, and to be known by same.

7. An Indian over the age of twenty-one years shall have the right to choose the christian name and surname by which he or she wishes to be enfranchised and thereafter known, and from the date of the order of enfranchisement such Indian shall thereafter be known by such names, and if no such choice is made such Indian shall be enfranchised by and bear the name or names by which he or she has been theretofore commonly known.

Letters patent for his land to be issued to Indian upon enfranchisement.

8. Upon the issue of an order of enfranchisement the Superintendent General shall, if any Indian enfranchised holds any land on a reserve, cause letters patent to be issued to such Indian for such land; and such Indian shall pay to the funds of the band such amount per acre for the land he holds as the Superintendent General considers to be the value of the common interest of the band in such land, and such payment shall be a charge against the share of such Indian in the funds of the band.

Receives his share of funds.

9. The Superintendent General shall also pay to each Indian upon enfranchisement his or her share of the funds to the credit of the band, including such amount as the Superintendent General determines to be his or her share of the value of the common interest of the band in the lands of the reserve or reserves, or share of the principal of the annuities of the band capitalized at five per centum, out of such moneys as are provided by Parliament for the purpose or which may be otherwise available for such purpose.

10. The land and money of any minor, unmarried children may be held for the benefit of such minor or may be granted or paid in whole or in part to the father, or, if the father is dead, to the mother, or in either case to such person as the Superintendent General may select for such purpose for the maintenance of such minor, and the land and money of the wife shall be granted and paid to the husband, unless in any case the Superintendent General shall direct that the whole or any part thereof be granted or paid to the wife herself, in which case the same shall be granted or paid to the wife.

Land and money of children and wife.

R.S.C. 1927, c. 98, cont'd.

11. If such Indian holds no land in a reserve he or she shall be paid from the funds of the band such amount as the Superintendent General determines to be his or her share of the value of the common interest of the band in the lands of the reserve or reserves, and shall also be paid his or her share of the funds or annuities of the band capitalized as aforesaid.

Payments from funds of band, if no land.

12. Every Indian who is not a member of the band and every non-treaty Indian who, with the acquiescence of the band and approval of the Superintendent General, has been permitted to reside on the reserve or to obtain a holding or location thereon, may be enfranchised and given letters patent for such land as a member of the band, provided that such Indian or non-treaty Indian shall pay to the credit of the band the value of the common interest of the band in the land for which he receives a patent.

Indians not members of band and non-treaty Indians, enfranchised, and granted letters patent.

13. On the issue of the letters patent to any enfranchised Indian for any land he may be entitled to, or the payment from the capital funds or annuities of the band, as above provided, such Indian and his or her minor unmarried children and, in the case of a male married Indian, the wife of such Indian shall cease to have any further claims whatsoever against any common property or funds of the band. 1920, c. 50, s. 3; 1922, c. 26, s. 1; 1924, c. 47, s. 6.

Claims on funds of band cease on issue of letters patent.

7. Section one hundred and ten of the said Act is amended by adding thereto the following subsection:—

S.C. 1932-33, c. 42, s. 7.

Board of enquiry as to fitness for enfranchisement.

“(14) In respect of an Indian or Indians of any band who has not or have not made application for enfranchisement under this section or under section one hundred and fourteen of this Act, the Superintendent General may appoint a Board to consist of any judge of any superior court or any judge of any circuit, district or county court, an officer of the Department and a member of the band to be selected by the band to which the Indian or Indians under investigation belongs or belong, or, failing the selection of such member for a period of thirty days after the date of notice having been given to the Council, the member shall be appointed by the Superintendent General, to make enquiry and report as to the fitness of any Indian or Indians to be enfranchised, and such report shall have the same force and effect and shall be dealt with in the same manner as if the same had been made upon the application of an Indian or Indians under this section: Provided that no enfranchisement of any Indian or Indians shall be made under this subsection in violation of the terms of any treaty, agreement or undertaking that may have been entered into or made between or by the Crown and the Indians of the band in question.”

R.S.C. 1927, c. 98, cont'd.

**111.** When a majority of the members of a band is enfranchised, the common land or other public property of the band shall be equitably allotted to members of the band, and thereafter the residue, if any, of such land or public property may be sold by the Superintendent General and the proceeds of such sale placed to the credit of the funds of the band to be divided as provided in the last preceding section, but the Governor in Council may reserve and set apart from the funds of the band such sum as the Superintendent General may consider necessary for the perpetual care and protection of any Indian cemetery or burial plot belonging to such Indians, and any other common property which in the opinion of the Superintendent General should be preserved as such.

Care of Indian cemeteries, and common property which should be preserved.

Sales at public auction.

2. No part of such land or other property shall be sold to any person other than a member of the band except by public auction after three months' advertisement in the public press. 1920, c. 50, s. 3.

Regulations to enforce these provisions.

**112.** The Governor in Council may make regulations for the carrying out of the provisions of the two sections immediately preceding this section, and subject to the provisions of this Act for determining how the land, capital moneys and other property of a band, or any part thereof, shall be divided, granted and paid, upon the enfranchisement of any Indian or Indians belonging to such band or having any interest in any of the property of such band, and decide any questions arising under the said sections, and the decision of the Governor in Council thereon shall be final and conclusive. 1920, c. 50, s. 3.

Final decision of Governor in Council.

Report to Parliament.

**113.** The Superintendent General shall, within fifteen days after the opening of each session of Parliament, submit to both Houses of Parliament a list of the Indians enfranchised under this Act during the previous fiscal year, and the amount of land and money granted and paid to each Indian so enfranchised. 1920, c. 50, s. 3.

Enfranchisement of Indians.

**114.** If an Indian who holds no land in a reserve, does not reside on a reserve and does not follow the Indian mode of life, makes application to be enfranchised, and satisfies the Superintendent General that he is self-supporting and fit to be enfranchised, and surrenders all claims whatsoever to any interest in the lands of the band to which he belongs, and accepts his share of the funds at the credit of the band including the principal of the annuities of the band, to which share he would have been entitled had he been enfranchised under the foregoing sections of the Act, in full of all claims to the property of the band, or in case the band to which he belongs has no funds or principal of annuities, surrenders all claims whatsoever to any property of the band, the Governor in Council may order that such Indian be enfranchised and paid his said share if any, and from the date of such order such Indian, together with his wife and unmarried minor children, shall be held to be enfranchised.

Disposal of common lands or public property.

R.S.C. 1927, /c. 98, cont'd.

2. Any unmarried Indian woman of the age of twenty-<sup>Indian</sup> one years, and any Indian widow and her minor unmarried <sup>women</sup> children, may be enfranchised in the like manner in every respect as a male Indian and his said children.

3. This section shall apply to the Indians in any part of <sup>Application</sup> Canada. 1918, c. 26, s. 6.

*Offences and Penalties.*

115. Every person, or Indian other than an Indian of <sup>Residing,</sup> the band, who, without the authority of the Superintendent General, resides or hunts upon, occupies or uses any <sup>etc., upon</sup> land or marsh, or who resides upon or occupies any road, <sup>any reserve</sup> or allowance for road, running through any reserve belonging to or occupied by such band shall be liable, upon summary conviction, to imprisonment for a term not exceeding one month or to a penalty not exceeding ten dollars and <sup>without</sup> not less than five dollars, with costs of prosecution, half <sup>authority.</sup> of which penalty shall belong to the informer. R.S., c. 81, s. 124. <sup>Penalty.</sup>

8. Section one hundred and fifteen of the said Act is repealed and the following is substituted therefor:—

S.C. 1932-33,  
c. 42, s. 8.

<sup>Residing or</sup>  
<sup>hunting upon</sup>  
<sup>any reserve</sup>  
<sup>without</sup>  
<sup>authority.</sup>

“115. Every person, or Indian other than an Indian of the band, who, without the authority of the Superintendent General, resides or hunts upon, occupies or uses any land or marsh, or who resides upon or occupies any road, or allowance for road, running through any reserve belonging to or occupied by such band, or who is found on

the reserve and is unable to prove that he is there for some legitimate purpose, shall be liable, upon summary conviction, to imprisonment for a term not exceeding one month <sup>Penalty.</sup> or to a penalty not exceeding ten dollars and not less than five dollars, with costs of prosecution, half of which penalty shall belong to the informer.”

116. Any person or Indian who, being lawfully re- <sup>Refusing</sup> quired by an Indian agent, a chief of the band occupying <sup>to remove</sup> a reserve, or a constable, <sup>from</sup>

- (a) to remove with his family, if any, from the land, <sup>reserve on</sup> marsh, road, or allowance for road upon which he is <sup>demand</sup> or has settled or is residing or hunting, or which he <sup>of chief.</sup> occupies;
- (b) to remove his cattle from such land or marsh;

11. Paragraph (b) of section one hundred and sixteen of the said Act is repealed and the following substituted therefor:—

S.C. 1930,  
c. 25, s. 11.

“(b) to remove any cattle or other animals owned by <sup>Removal</sup> him or in his charge from such land or marsh.” <sup>of animals.</sup>

R.S.C. 1927, c. 98, cont'd.

R.S.C. 1927,  
c. 98,  
cont'd.

- (c) to cease fishing in any marsh, river, stream or creek on or running through a reserve; or
- (d) to cease using, occupying, settling or residing upon any land, river, stream, creek, marsh, road or allowance for a road in a reserve;

fails to comply with such requirement, shall, upon summary conviction, be liable to a penalty of not less than five dollars and not more than ten dollars for every day during which such failure continues, and, in default of payment, to be imprisoned for a term not exceeding three months, R.S., c. 81, s. 125. Penalty.

**117.** Every Indian, not being an Indian of the band, who, in the case where shooting privileges over a reserve or part of a reserve, or fishing privileges in any marsh, pond, river, stream or creek upon or running through a reserve, have with the consent of the Indians of the band, been leased or granted to any person, and, in such case, every person not, under such lease or grant, entitled so to do, who hunts, shoots, kills or destroys any game animals or birds, or who fishes for takes, catches or kills any fish to which such exclusive privilege extends, upon the reserve or part of a reserve, or in any marsh, pond, river, stream or creek covered by such lease or grant, shall, in addition to any other penalty or liability thereby incurred, be liable, on summary conviction, for every such offence to a penalty not exceeding ten dollars and not less than five dollars, and, in default of payment, to imprisonment for any term not exceeding one month. R.S., c. 81, s. 126. Shooting or fishing on reserved territory.

Penalty.

Trespassing on reserves and cutting or removing.

**118.** Every person, or Indian, other than an Indian of the band to which the reserve belongs, who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away or removes from any of the lands, roads or allowances for roads in a reserve, any of the trees, saplings, shrubs, underwood, timber, cordwood or part of a tree, or hay, or removes any of the stone, soil, minerals, metals or other valuables from the said lands, roads or allowances for roads, shall, on summary conviction thereof before any stipendiary magistrate, police magistrate or any two justices of the peace or an Indian agent, incur in each case the costs of prosecution and

Trees.

(a) for every tree he cuts, carries away or removes, a penalty of twenty dollars;

Timber.

(b) for cutting, carrying away or removing any of the saplings, shrubs, underwood, timber, cordwood or part of a tree or hay, if under the value of one dollar, a penalty of four dollars; and, if over the value of one dollar, a penalty of twenty dollars;

Stone, soil, minerals.

(c) for removing any of the stone, soil, minerals, metals, or other valuables aforesaid, a penalty of twenty dollars.

R.S.C. 1927, c. 98, cont'd.

Punish-  
ment in  
case of  
default of  
payment.

2. In default of immediate payment of the said penalties and costs, such magistrate, justices of the peace, or Indian agent may issue a warrant directed to any person or persons by him or them named therein, to levy the amount of the said penalties and costs by distress and sale of the goods and chattels of the person or Indian liable to pay the same, or may, without proceeding by distress and sale, upon non-payment of such penalties and costs, order the person or Indian liable therefor to be imprisoned in the common gaol of the county or district in which the said reserve or any part thereof lies for a term not exceeding thirty days, if the penalty does not exceed twenty dollars, or for a term not exceeding three months, if the penalty exceeds twenty dollars.

Issue of  
warrant,  
etc.

3. The Superintendent General, or such other officer or person as he shall authorize in that behalf may issue the warrant on any such conviction; or may, without proceeding by distress and sale, make such order upon such conviction as such magistrate, justices of the peace or Indian agent could make; and similar proceedings may be had upon the warrant so issued as if it had been issued by the magistrate, justices of the peace or Indian agent before whom the person was convicted.

4. If upon the return of any warrant for distress and sale, the amount thereof has not been made, or if any part of it remains unpaid, such magistrate, or justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as aforesaid, may commit the person in default to the common gaol, as aforesaid, for a term not exceeding thirty days, if the sum claimed upon the said warrant does not exceed twenty dollars, or for a term not exceeding three months if the sum exceeds twenty dollars.

5. All such penalties shall be paid to the Minister of Finance, and shall be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council directs. R.S., c. 81, s. 127.

119. Every Indian of the band who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose,

(a) cuts, carries away or removes from land in a reserve held by another Indian under a location title or by an Indian otherwise recognized by the Department as the occupant thereof any of the trees, cordwood, or part of a tree, saplings, shrubs, underwood, timber or hay thereon, or removes from such land any of the stone, soil, minerals, metals or other valuables;

(b) cuts, carries away or removes from any portion of the reserve of his band, for sale and not for the immediate use of himself and his family any trees, timber, cordwood or part of a tree, saplings, shrubs, underwood or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables therefrom, for sale, as aforesaid; or

(c) unless with the consent of the band and the approval of the Superintendent General, cuts or uses any pine or large timber for any purpose other than for building on his own location or farm;

Committal  
in default  
of distress.

Application  
of penalties.

Indians  
without a  
license,  
tres-  
passing on  
reserves.



R.S.C. 1927, c. 98, cont'd.

shall incur the penalties providing in the last preceding section in respect to Indians of other bands and other persons.

2. The same proceedings may be had for the recovery thereof as are provided for in the said section. R.S., c. 81, s. 128. Proceedings  
for  
recovery.

Buying from Indians contrary to regulations of Governor in Council.

Penalty.

**120.** Every person who buys or otherwise acquires from any Indian or band or irregular band of Indians in the province of Manitoba, Saskatchewan or Alberta, or the Territories, any grain, root crops or other produce contrary to regulations made by the Governor in Council in that behalf, shall, on summary conviction before a stipendiary magistrate, police magistrate or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. R.S., c. 81, s. 129.

S.C. 1930,  
c. 25, s. 12.

**12.** Section one hundred and twenty of the said Act is repealed and the following substituted therefor:—

**"120.** Every person who buys or otherwise acquires from any Indian or band or irregular band of Indians in the province of Manitoba, Saskatchewan, or Alberta, or the Territories any cattle or other animals or any grain, root crops or other produce or sells to any such Indian any goods or supplies, cattle or other animals contrary to the provisions of this Act, shall, on summary conviction, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both."  
Buying from  
Indians  
contrary to  
this Act.  
Penalty.

S.C. 1932-33,  
c. 42, s. 9.

**9.** Section one hundred and twenty of the said Act, as enacted by section twelve of chapter twenty-five of the statutes of 1930, is repealed and the following is substituted therefor:—

**"120.** Every person who buys or otherwise acquires from any Indian or band or irregular band of Indians in the Province of Manitoba, Saskatchewan, or Alberta, or the Territories, or sells to any such Indian, any cattle or other animals or any grain, root crops or other produce, and every Indian who sells any cattle or other animals or any grain, root crops or other produce, contrary to the provisions of this Act, shall on summary conviction be liable to a penalty not exceeding fifty dollars or to imprisonment for a term not exceeding thirty days, or to both."  
Buying or  
selling  
contrary  
to the Act.

Cutting and removing trees from reserve contrary to regulations of Governor in Council.

Penalty.

**121.** Every person who cuts, carries away or removes from any reserve or special reserve, any hard or sugar-maple tree or sapling, or buys or otherwise acquires from any Indian or non-treaty Indian, or other person, any hard or sugar-maple tree or sapling so cut, carried away or removed from any reserve or special reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories, contrary to regulations made in that behalf by the Governor in Council, shall, on summary conviction before a stipendiary magistrate, police magistrate, or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both. R.S., c. 81, s. 130.

R.S.C. 1927, c. 98, cont'd.

Trading  
without  
license.

**122. Every person being**

- (a) an official or employee connected with the Department;
- (b) a missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians; or
- (c) a school teacher on an Indian reserve; and
- (d) in the province of Manitoba, Saskatchewan or Alberta, or the Territories;

Penalty.

who, on a reserve, without the special license in writing of the Superintendent General, trades with any Indian or directly or indirectly sells to him any goods or supplies, cattle or other animals, shall be liable to a fine equal in amount to double the sum received for the goods, supplies, cattle or other animals sold, and, in addition, to the costs of prosecution before a police magistrate, a stipendiary magistrate, a justice of the peace or the Indian agent for the locality where the offence occurs. R.S., c. 81, s. 131.

Cutting  
trees or  
assisting  
in cutting  
trees on  
Indian  
lands.

**123. If any person without authority, cuts or employs, or induces any other person to cut, or assists in cutting any trees of any kind on Indian lands or on any reserve, or removes or carries away, or employs, or induces or assists any other person to remove or carry away any trees of any kind so cut from any Indian lands or reserve, he shall not acquire any right to the trees so cut, or any claim to any remuneration for cutting or preparing the same for market, or conveying the same to or towards market.**

Confers no  
property or  
right to  
remuneration.

2. When the trees or logs or timber or any products thereof have been removed, so that the same cannot, in the opinion of the Superintendent General, conveniently be seized, he shall, in addition to the loss of his labour and disbursements, incur a penalty of three dollars for each tree, rafting stuff excepted, which he is proved to have cut or caused to be cut or carried away.

If trees  
cannot be  
seized.

Penalty.

3. Such penalty shall be recoverable with costs at the suit and in the name of the Superintendent General or resident agent in any court having jurisdiction in civil matters to the amount of the penalty.

Recovery of  
penalty.

4. In all such cases, it shall be incumbent on the person charged to prove his authority to cut.

Proof of  
authority.

5. The averment of the person seizing or prosecuting that he is duly employed under the authority of this Part shall be sufficient proof thereof, unless the defendant proves the contrary. R.S., c. 81, s. 132.

What shall  
be sufficient  
evidence.

R.S.C. 1927, c. 98, cont'd.

**124.** Every person or Indian other than an Indian of the band who, without the written consent of the Superintendent General or his agent, the burden of proof concerning which shall be on the accused, buys or otherwise acquires any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians or any part thereof, is guilty of an offence, and liable on summary conviction, to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months. R.S., c. 81, s. 133.

Buying or  
acquiring  
presents  
given to  
Indians.

Penalty.

**125.** Every agent for the sale of Indian lands who, within his division, directly or indirectly, except under an order of the Governor in Council, purchases any land which he is appointed to sell, or becomes proprietor of or interested in any such land, during the time of his agency shall forfeit his office and incur a penalty of four hundred dollars for every such offence, recoverable in an action of debt by any person who sues for the same. R.S., c. 81, s. 134.

Land sale  
agent  
purchasing  
Indian  
land.

Penalty.

**126.** Every one who by himself, his clerk, servant or agent, and every one who in the employment or on the premises of another directly or indirectly on any pretence or by any device,

Every  
person.

(a) sells, barter, supplies or gives to any Indian or non-treaty Indian, or to any person, male or female, who is reputed to belong to a particular band, or who follows the Indian mode of life, or any child of such person any intoxicant, or causes or procures the same to be done or attempts the same or connives thereat;

Selling  
intoxicants  
to Indians.

Opening and  
keeping a  
tavern on a  
reserve.

(b) opens or keeps or causes to be opened or kept on any reserve or special reserve a tavern, house or building in which any intoxicant is sold, supplied or given;

Having  
intoxicants  
in his  
possession  
in house  
of Indian.

(c) is found in possession of any intoxicant in the house, tent, wigwam, or place of abode of any Indian or non-treaty Indian or of any person on any reserve or special reserve, or on any other part of any reserve or special reserve; or

S.C. 1936,  
c. 20, s. 6.

**6.** Paragraph (c) of subsection one of section one hundred and twenty-six of the said Act is repealed and the following substituted therefor:—

“(c) is found in possession of any intoxicant in the house, room, tent, wigwam, or place of abode of any Indian or non-treaty Indian whether on or off a reserve, or of any person on any reserve or special reserve, or on any other part of any reserve or special reserve; or”

Having  
intoxicants  
in his  
possession.

R.S.C. 1927, c. 98, cont'd.

Selling  
intoxicants  
on reserve.

(d) sells, barters, supplies or gives to any person on any reserve or special reserve any intoxicant;

Penalty.

shall, on summary conviction before any judge, police magistrate, stipendiary magistrate, or two justices of the peace or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding three hundred dollars and not less than fifty dollars with costs of prosecution, or to both penalty and imprisonment in the discretion of the convicting judge, magistrate, justices of the peace or Indian agent.

Application  
of penalty.

2. A moiety of every such penalty shall belong to the informer or prosecutor, and the other moiety thereof to His Majesty to form part of the fund for the benefit of that body of Indians or non-treaty Indians with respect to one or more members of which the offence was committed. R.S., c. 81, s. 135.

R.S.C. 1927,  
c. 98, cont'd.

**13.** Subsection two of section one hundred and twenty-six of the said Act is repealed and the following substituted therefor:—

“(2) A moiety of every such penalty shall belong to the informer or prosecutor.”

Application  
of penalty.

S.C. 1930,  
c. 25, s. 13.

**7.** Subsection two of section one hundred and twenty-six of the said Act is repealed.

Selling  
intoxicants.

S.C. 1936,  
c. 20, s. 7.

Commander  
of vessel  
whereon  
intoxicants  
are sold  
guilty of  
offence.

**127.** The commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicant has been sold, bartered, exchanged, supplied or given to any Indian or non-treaty Indian, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, be liable to a penalty not exceeding three hundred dollars and not less than fifty dollars for each such offence, with costs of prosecution, and in default of immediate payment of such penalty and costs, any person so convicted shall be committed to any common gaol, house of correction, lock-up or other place of confinement by the judge, magistrate or two justices of the peace, or Indian agent, before whom the conviction has taken place, for a term not exceeding six months and not less than one month, with or without hard labour, or until such penalty and costs are paid.

Penalty.

Application  
of penalties.

2. The penalty shall be applied as provided in the last preceding section. R.S., c. 81, s. 136.

**8.** Subsection two of section one hundred and twenty-seven of the said Act is repealed.

Commander  
of vessel  
where  
intoxicants  
are sold.

S.C. 1936,  
c. 20, s. 8.

R.S.C. 1927, c. 98, cont'd.

**128.** Every Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or who sells, exchanges with, barter, supplies or gives to any other Indian or non-treaty Indian, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding one hundred dollars and not less than twenty-five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. R.S., c. 81, s. 137.

Indians having intoxicants and selling the same to Indians.  
Penalty.

**129.** No penalty shall be incurred when the intoxicant is made use of in case of sickness under the sanction of a medical man or under the directions of a minister of religion.

Exception in case of illness.

2. The burden of proof that the intoxicant has been made use of shall be on the accused. R.S., c. 81, s. 138.

Proof.

**130.** Any constable or peace officer may arrest without warrant any person or Indian found gambling, or drunk, or with intoxicants in his possession, on any part of a reserve, and may detain him until he can be brought before a justice of the peace, and such person or Indian shall be liable upon summary conviction to imprisonment for a term not exceeding three months or to a penalty not exceeding fifty dollars and not less than ten dollars, with costs of prosecution, half of which pecuniary penalty shall belong to the informer.

Arrest without warrant of any person or Indian with intoxicants.  
Penalty.

**9.** Subsection one of section one hundred and thirty of the said Act is amended by striking out the words "half of which pecuniary penalty shall belong to the informer."

Intoxicants.

2. Any person or Indian who has been gambling or has been drunk on an Indian reserve, or has had liquor in his possession on an Indian reserve, shall be liable on summary conviction to imprisonment for any term not exceeding three months, or to a penalty not exceeding fifty dollars and not less than ten dollars, with costs of prosecution, half of which pecuniary penalty shall belong to the informer. R.S., c. 81, s. 139; 1920, c. 50, s. 4.

Gambling, drinking or possession of liquor on Indian reserve.  
Penalty.

**10.** Subsection two of section one hundred and thirty of the said Act is amended by striking out the words "half of which pecuniary penalty shall belong to the informer."

Gambling, drinking, etc.

S.C. 1936,  
c. 20, s. 9.

R.S.C. 1927,  
c. 98, s. 130(2),  
cont'd.

S.C. 1936,  
c. 20, s. 10.

R.S.C. 1927, c. 98, cont'd.

	<p><b>131.</b> The keg, barrel, case, box, package or receptacle from which any intoxicant has been sold, exchanged, bartered, supplied or given, as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified; and any intoxicant imported, manufactured or brought into and upon any reserve or special reserve, or into the house, tent, wigwam or place of abode, or on the person of any Indian or non-treaty Indian, or suspected to be upon any reserve or special reserve, may be searched for under a search warrant in that behalf granted by any judge, police magistrate, stipendiary magistrate or justice of the peace, and, if found, seized by any Indian superintendent, agent or bailiff, or other officer connected with the Department, or by any constable, wheresoever found on such land or in such place or on the person of such Indian or non-treaty Indian.</p>	<p>Kegs, etc., in which intoxicants are carried to be forfeited.</p>
Search.		
Seizure.		
Destruction of kegs, etc.	<p>2. On complaint before any judge, police magistrate, stipendiary magistrate, justice of the peace or Indian agent, he may, on evidence that this Act has been violated in respect of any such intoxicant or of any such keg, barrel, case, box, package, receptacle or vessel, or contents thereof, declare the same forfeited, and cause the same to be forthwith destroyed.</p>	
Indian or person found in possession to be punished.	<p>3. Such judge, magistrate, justice of the peace or Indian agent may condemn the Indian or person in whose possession the same is found to pay a penalty not exceeding one hundred dollars and not less than fifty dollars, and the costs of prosecution; and, in default of immediate payment, the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement, with or without hard labour, for any term not exceeding six months, and not less than two months, unless such penalty and costs are sooner paid.</p>	
Penalty.		
Application of penalty.	<p>4. A moiety of such penalty shall belong to the prosecutor, and the other moiety to His Majesty for the purpose hereinbefore mentioned. R.S., c. 81, s. 140.</p>	

**11.** Subsection four of section one hundred and thirty-one of the said Act is repealed.

Kegs for intoxicants, etc.

S.C. 1936,  
c. 20, s. 11.

Vessels used in carrying intoxicants for Indians, to be forfeited and sold.	<p><b>132.</b> If it is proved before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, that any vessel, boat, canoe or conveyance of any description, upon the sea or sea-coast, or upon any river, lake or stream, is employed in carrying any intoxicant, to be supplied to Indians or non-treaty Indians, such vessel, boat, canoe or conveyance so employed may be seized and declared forfeited, as in the last preceding section mentioned, and sold, and the proceeds thereof paid to His Majesty for the purpose hereinbefore mentioned. R.S., c. 81, s. 141.</p>
Proceeds.	

R.S.C. 1927, c. 98, cont'd.

S.C. 1930,  
c. 25, s. 14.

**14.** Section one hundred and thirty-two of the said Act is repealed and the following substituted therefor:—

**“132.** If it is proved before any judge, police magistrate, stipendiary magistrate or two justices of the peace or Indian agent that any vehicle, motor car, automobile, vessel, boat, canoe or conveyance of any description is employed in carrying any intoxicant to be supplied to Indians or non-treaty Indians, such vehicle, motor car, automobile, vessel, boat, canoe or conveyance so employed may be seized and declared forfeited, as in the last preceding section mentioned and sold, and the proceeds thereof paid to His Majesty for the purpose hereinbefore mentioned.”

Vehicles, vessels, etc., used in carrying intoxicants for Indians, to be forfeited and sold.

Articles exchanged for intoxicants to be forfeited and sold.

**133.** Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which, in violation of this Act, the consideration, either wholly or in part, is an intoxicant, shall be forfeited to His Majesty and may be seized, as is hereinbefore provided in respect to any receptacle of any intoxicant, and may be sold, and the proceeds thereof paid to His Majesty, for the purpose hereinbefore mentioned. R.S., c. 81, s. 142.

**134.** Every person who introduces any intoxicant at any council or meeting of Indians held for the purpose of discussing or assenting to a release or surrender of a reserve or portion thereof or for the purpose of assenting to the issuing of a license, and every agent or officer employed by the Superintendent General, or by the Governor in Council, who introduces, allows or countenances by his presence the use of such intoxicant among such Indians during the week before or at or the week after such council or meeting, shall incur a penalty of two hundred dollars recoverable by action in any court of competent jurisdiction.

Introducing intoxicants at Indian council or meeting.

Penalty.

2. A moiety of such penalty shall belong to the former. R.S., c. 81, s. 143.

Application of penalty.

S.C. 1936,  
c. 20, s. 12.

**12.** Subsection two of section one hundred and thirty-four of the said Act is repealed.

Intoxicants at council or meeting.

**135.** Every Indian who is found in a state of intoxication shall be liable on summary conviction thereof to imprisonment for any term not exceeding one month, or to a penalty not exceeding thirty dollars and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. R.S., c. 81, s. 144.

Indian intoxicated.

Penalty.

**136.** Any constable or other peace officer may, without warrant, arrest any Indian or non-treaty Indian found in a state of intoxication, and convey him to any common gaol, house of correction, lock-up, or other place of confinement, there to be kept until he is sober; and such Indian or non-treaty Indian shall, when sober, be brought for trial before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent. R.S., c. 81, s. 145.

Arrest without warrant of intoxicated Indian.

R.S.C. 1927, c. 98, cont'd.

**137.** If any Indian or non-treaty Indian who has been so convicted, refuses, upon examination, to state or give information of the person from whom, the place where, and the time when, he procured such intoxicant, and if from any other Indian or non-treaty Indian, then, if within his knowledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days, or to an additional penalty not exceeding fifteen dollars and not less than three dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent.

Refusal to state where intoxicant was procured.

Penalty.

2. In any prosecution under this Act the certificate of analysis of a provincial or dominion analyst shall be accepted as *prima facie* evidence of the fact stated therein as to the alcoholic or narcotic content of the sample analyzed. R.S., c. 81, s. 146; 1927, c. 32, s. 5.

Certificate of analyst to be accepted as *prima facie* evidence.

**15.** Subsection two of section one hundred and thirty-seven of the said Act is repealed and the following substituted therefor:—

S.C. 1930, c. 25, s. 15.

Certificate of analyst to be accepted as *prima facie* evidence.

“(2) In any prosecution under this Act, a certificate of analysis signed or purporting to be signed by a provincial or dominion analyst, shall be accepted as *prima facie* evidence of the facts stated therein, as to the analysis or the alcoholic or narcotic content of the sample or preparation therein referred to as having been analysed, and of the authority of the person signing such certificate without any proof of appointment or signature.”

Agent giving false information as to lands.

**138.** Every agent who knowingly and falsely informs, or causes to be informed, any person applying to him to purchase any land within his division and agency, that the same has already been purchased, or who refuses to permit the person so applying to purchase the same according to existing regulations, shall be liable therefor to the person so applying, in the sum of five dollars for each acre of land which the person so applying offered to purchase, recoverable by action of debt in any court of competent jurisdiction. R.S., c. 81, s. 147.

Penalty.

Sale, etc., of ammunition when prohibited.

**139.** Every person who, after public notice by the Superintendent General prohibiting the sale, gift, or other disposal to Indians in any part of the province of Manitoba, Saskatchewan or Alberta, or the Territories, of any fixed ammunition or ball cartridge, without the permission in writing of the Superintendent General, sells or gives, or in any other manner conveys to any Indian, in the portion of the said provinces or Territories to which such notice applies, any fixed ammunition or ball cartridge, shall, on summary conviction before any stipendiary or police magistrate or by any two justices of the peace, or by an Indian agent, be liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months, or to both penalty and imprisonment, within the limits aforesaid, at the discretion of the court before which the conviction is had. R.S., c. 81, s. 148.

Penalty.



R.S.C. 1927, c. 98, cont'd.

Celebrating festivities, dances or ceremonies at which presents are made, or bodies mutilated.

**140.** Every Indian or other person who engages in, or assists in celebrating or encourages either directly or indirectly another to celebrate any Indian festival, dance or other ceremony of which the giving away or paying or giving back of money, goods or articles of any sort forms a part, or is a feature, whether such gift of money, goods or articles takes place before, at, or after the celebration of the same, or who engages or assists in any celebration or dance of which the wounding or mutilation of the dead or living body of any human being or animal forms a part or is a feature, is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding six months and not less than two months.

Penalty.

Exception.

2. Nothing in this section shall be construed to prevent the holding of any agricultural show or exhibition or the giving of prizes for exhibits thereat.

Restriction. Indian dances, etc.

3. Any Indian in the province of Manitoba, Saskatchewan, Alberta, or British Columbia, or in the Territories who participates in any Indian dance outside the bounds of his own reserve, or who participates in any show, exhibition, performance, stampede or pageant in aboriginal costume without the consent of the Superintendent General or his

authorized agent, and any person who induces or employs any Indian to take part in such dance, show, exhibition, performance, stampede or pageant, or induces any Indian to leave his reserve or employs any Indian for such a purpose, whether the dance, show, exhibition, stampede or pageant has taken place or not, shall on summary conviction be liable to a penalty not exceeding twenty-five dollars, or to imprisonment for one month, or to both penalty and imprisonment. R.S., c. 81, s. 149; 1914, c. 35, s. 8; 1918, c. 26, s. 7.

Penalty.

S.C. 1932-33, c. 42, s. 10.

**10.** Subsection three of section one hundred and forty of the said Act is amended by striking out the words "in aboriginal costume" in the fifth line thereof.

Restriction on Indian dances, etc.

S.C. 1930, c. 25, s. 16.

Indian wasting his time in a poolroom.

**16.** The said Act is amended by inserting therein section 140A as follows:—

"**140A.** Where it is made to appear in open court that any Indian, summoned before such court, by inordinate frequenting of a poolroom either on or off an Indian reserve, misspends or wastes his time or means to the detriment of himself, his family or household, of which he is a member, the police magistrate, stipendiary magistrate, Indian agent, or two justices of the peace holding such court, shall, by writing under his or their hand or hands forbid the owner or person in charge of a poolroom which such Indian is in the habit of frequenting to allow such Indian to enter such poolroom for the space of one year from the date of such notice.

Allowing certain Indians to enter a poolroom.

Any owner or person in charge of a poolroom who allows an Indian to enter a poolroom in violation of such notice, and any Indian who enters a poolroom where his admission has been so forbidden, shall be liable on summary conviction to a penalty not exceeding twenty-five dollars and costs or to imprisonment for a term not exceeding thirty days."

141. Every person who, without the consent of the Superintendent General expressed in writing, receives, obtains, solicits or requests from any Indian any payment or contribution or promise of any payment or contribution for the purpose of raising a fund or providing money for the prosecution of any claim which the tribe or band of Indians to which such Indian belongs, or of which he is a member, has or is represented to have for the recovery of any claim or money for the benefit of the said tribe or band, shall be guilty of an offence and liable upon summary conviction for each such offence to a penalty not exceeding two hundred dollars and not less than fifty dollars or to imprisonment for any term not exceeding two months. 1927, c. 32, s. 6.

Receiving money for the prosecution of a claim.

142. Every fine, penalty or forfeiture under this Act, except so much thereof as is payable to an informer or person suing therefor, shall belong to His Majesty for the benefit of the band of Indians with respect to which or to one or more members of which the offence was committed, or to which the offender, if an Indian, belongs: Provided that the Governor in Council may from time to time direct that the same be paid to any provincial, municipal or local authority which wholly or in part bears the expense of administering the law under which such fine, penalty or forfeiture is imposed, or that the same be applied in any other manner deemed best adapted to attain the objects of such law or to secure its due administration, and may in case of doubt decide what band is entitled to the benefit of any such fine, penalty or forfeiture. R.S., c. 81, s. 150.

Application of penalties.

Governor in Council may apply the same otherwise.

*Evidence and Procedure.*

143. Upon any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever or by whomsoever committed, any court, judge, police or stipendiary magistrate, recorder, coroner, justice of the peace or Indian agent, may receive the evidence of any Indian or non-treaty Indian, who is destitute of the knowledge of God or of any fixed and clear belief in religion, or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian or non-treaty Indian, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth, and nothing but the truth, or in such form as is approved by such court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent, as most binding on the conscience of such Indian or non-treaty Indian. R.S., c. 81, s. 151.

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

Substance of evidence of Indian to be reduced to writing and signed.

144. In the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian or non-treaty Indian, as aforesaid, shall be reduced to writing and signed by the Indian, by mark if necessary, giving the same, and verified by the signature or mark of the person acting as interpreter, if any, and by the signature of the judge, magistrate, recorder, coroner, justice of the peace, Indian agent or person before whom such evidence or information is given. R.S., c. 81, s. 152.

R.S.C. 1927, c. 98, cont'd.

Indian to be cautioned to tell the truth.

145. The court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent shall, before taking any such evidence, information or examination, caution every such Indian or non-treaty Indian, as aforesaid, that he will be liable to incur punishment if he does not tell the truth, the whole truth and nothing but the truth.

Effect of solemn affirmation of Indian.

2. Every solemn affirmation or declaration, in whatsoever form made or taken, by any Indian or non-treaty Indian, as aforesaid, shall be of the same force and effect as if such Indian or non-treaty Indian had taken an oath in the usual form. R.S., c. 81, ss. 153 and 154.

Written declaration, etc., of Indian may be used in evidence.

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

Certified copies of records, official papers, etc. to be evidence.

2. Copies of any records, documents, books or papers belonging to or deposited in the Department, attested under the signature of the Superintendent General or of the Deputy of the Superintendent General, shall be evidence in all cases in which the original records, documents, books or papers would be evidence. R.S., c. 81, s. 155.

147. In any order, writ, warrant, summons and proceeding whatsoever made, issued or taken by the Superintendent General, or any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, it shall not be necessary to insert or express the name of the person or Indian summoned, arrested, distrained upon, imprisoned or otherwise proceeded against therein, except when the name of such person or Indian is truly given to or known by the Superintendent General, or such officer or person, or such stipendiary magistrate, police magistrate, justice of the peace or Indian agent.

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

2. If the name is not truly given to or known by him, he may name or describe the person or Indian by any part of the name of such person or Indian given to or known by him.

What description shall suffice.

3. If no part of the name is given to or known by him, he may describe the person or Indian proceeded against in any manner by which he may be identified.

Where name unknown.

4. All such proceedings containing or purporting to give the name or description of any such person or Indian, as aforesaid, shall *prima facie* be sufficient. R.S., c. 81, s. 156.

*Prima facie* sufficient.

148. All sheriffs, gaolers or peace officers, to whom any such process is directed by the Superintendent General, or by any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, and all other persons to whom such process is directed with their consent, shall obey the same; and all other officers shall, upon reasonable requisition so to do, assist in the execution thereof. R.S., c. 81, s. 157.

Execution of order of Superintendent General by sheriffs, gaolers, etc.

R.S.C. 1927, c. 98, cont'd.

**149.** In all cases of encroachment upon, or of violation of trust respecting any special reserve, proceedings may be taken in the name of His Majesty, in any superior court, notwithstanding the legal title is not vested in His Majesty. R.S., c. 81, s. 158.

His Majesty's name to be used in certain cases.

**150.** Any judge of a court, judge of sessions of the peace, recorder, police magistrate or stipendiary magistrate shall have full power to do alone whatever is authorized by this Part to be done by a justice of the peace or by two justices of the peace. R.S., c. 81, s. 159.

Who may act as justice or two justices of the peace.

**151.** Any recorder, police magistrate or stipendiary magistrate, appointed for or having jurisdiction to act in any city or town shall, with respect to offences and matters under this Part, have and exercise jurisdiction over the whole county or union of counties or judicial district in which the city or town for which he has been appointed or in which he has jurisdiction is situate. R.S., c. 81, s. 160.

Jurisdiction in city or town to give jurisdiction in surrounding county or district.

Indian agent *ex officio* justice of the peace.

**152.** Every Indian agent shall for all the purposes of this Act or of any other Act respecting Indians, and with respect to

(a) any offence against the provisions of this Act or any other Act respecting Indians;

(b) any offence against the provisions of the Criminal Code respecting the inciting of Indians to commit riotous acts; or

(c) any offence by any Indian or non-treaty Indian against any of the provisions of those parts of the Criminal Code relating to vagrancy and offences against morality;

Jurisdiction. be *ex officio* a justice of the peace and have the power and authority of two justices of the peace, anywhere within the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined by the Governor in Council, whether the Indian or non-treaty Indian charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or dealt with, is or is not within his ordinary jurisdiction, charge or supervision as an Indian agent. R.S., c. 81, s. 161.

Special jurisdiction.

**153.** In the provinces of Manitoba, British Columbia, Saskatchewan and Alberta, and in the Territories, every Indian agent shall, for all such purposes and with respect to any such offence, be *ex officio* a justice of the peace and have the power and authority of two justices of the peace, whether or not the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined as aforesaid, extend to the place where he may have occasion to act as such justice or to exercise such power or authority, and whether the Indians charged with or in any way concerned in or affected by the offence, matter or thing, to be tried, investigated or otherwise dealt with, are or are not within his ordinary jurisdiction, charge or supervision as Indian agent. R.S., c. 81, s. 162.

Indian imprisoned not to receive annuity while imprisoned.

**154.** If any Indian is convicted of any crime punishable by imprisonment in a penitentiary or other place of confinement, the costs incurred in procuring such conviction, and in carrying out the various sentences recorded, may be defrayed by the Superintendent General, and paid out of any annuity or interest coming to such Indian, or to the band, as the case may be. R.S., c. 81, s. 163.

R.S.C. 1927, c. 98, cont'd.

*General.*

Indians not  
capable of  
acquiring  
homestead.

**155.** No Indian or non-treaty Indian resident in the province of Manitoba, Saskatchewan or Alberta, or the Territories, shall be held capable of having acquired or of acquiring a homestead or pre-emption right under any Act respecting Dominion lands, to a quarter-section, or any parcel of land in any surveyed or unsurveyed lands in the said provinces or territories, or the right to share in the distribution of any lands allotted to half-breeds: Pro-Provido.

- vided that
- (a) he shall not be disturbed in the occupation of any plot on which he had permanent improvements prior to his becoming a party to any treaty with the Crown; Occupation not to be disturbed.
- (b) nothing in this section shall prevent the Superintendent General, if found desirable, from compensating any Indian for his improvements on such a plot of land, without obtaining a formal surrender thereof from the band; May be compensated for improvements. and
- (c) nothing in this section shall apply to any person who withdrew from any Indian treaty prior to the first day of October, in the year one thousand eight hundred and seventy-four. Section not to apply to certain Indians. R.S., c. 81, s. 164.

**156.** Where shooting privileges over a reserve or part of a reserve, or fishing privileges thereon have, with the consent of the Indians of the band, been leased or granted to any person, it shall not be lawful for any person, not under such lease or grant entitled so to do, or for any Indian other than an Indian of the band, to hunt, shoot, kill or destroy any game animals or birds, or to fish for, take, catch or kill any fish to which such exclusive privilege extends, upon the reserve or part of a reserve. Shooting and fishing privileges. R.S., c. 81, s. 165.

**157.** At the election of a chief or chiefs, or at the granting of any ordinary consent required of a band under this Part, those entitled to vote at the council or meeting thereof shall be the male members of the band, of the full age of twenty-one years; and the vote of a majority of such members, at a council or meeting of the band summoned according to its rules, and held in the presence of the Superintendent General, or of an agent acting under his instructions, shall be sufficient to determine such election or grant such consent. How and by whom chiefs are to be elected. R.S., c. 81, s. 166.

**158.** If any band has a council of chiefs or councillors, any ordinary consent required of the band may be granted by a vote of a majority of such chiefs or councillors, at a council summoned according to its rules, and held in the presence of the Superintendent General or his agent. How consent may be granted, if band has council. R.S., c. 81, s. 167.

R.S.C. 1927, c. 98, cont'd.

No  
intoxicants  
to be  
introduced  
at any  
Indian  
council  
meeting.

**159.** No one shall introduce any intoxicant at any council or meeting of Indians held for the purpose of discussing or of assenting to a release or surrender of a reserve or portion thereof, or for the purpose of assenting to the issuing of a timber or other license. R.S., c. 81, s. 168.

Before  
whom  
affidavits  
are to be  
made under  
this Act.

**160.** All affidavits required under this Act or intended to be used in reference to any claim, business or transaction in connection with Indian affairs, may be taken before the judge or clerk of any county or circuit court, or any justice of the peace, or any commissioner for taking affidavits in any court, or the Superintendent General, or the Deputy of the Superintendent General, or any inspector of Indian agencies, or any Indian agent, or any surveyor duly licensed and sworn, appointed by the Superintendent General to inquire into, or to take evidence, or report in any matter submitted to or pending before the Superintendent General, or if made out of Canada, before the mayor or chief magistrate of, or the British consul in, any city, town or municipality, or before any notary public. R.S., c. 81, s. 169.

Publication  
of  
regulations  
and laying  
before  
Parlia-  
ment.

**161.** All regulations made by the Governor in Council under this Part shall be published in the *Canada Gazette*, and shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof. R.S., c. 81, s. 170.

Payment  
of Indian  
annuities.

**162.** The annuities payable to Indians in pursuance of the conditions of any treaty expressed to have been entered into on behalf of His Majesty or His predecessors, and for the payment of which the Government of Canada is responsible, shall be a charge upon the Consolidated Revenue Fund of Canada, and be payable out of any unappropriated moneys forming part thereof. 1911, c. 14, s. 3.

## PART II.

### INDIAN ADVANCEMENT.

#### *Interpretation.*

Definitions.  
"Electors."

**163.** In this Part, unless the context otherwise requires  
(a) "electors" means the male Indians of the full age of twenty-one years resident on any reserve to which this Part applies;

"Reserve"  
and  
"band."

(b) "reserve" includes two or more reserves, and "band" includes two or more bands united for the purposes of this Part by the Order in Council applying it. R.S., c. 81, s. 172.

#### *Application of this Part.*

**164.** This Part may be made applicable, as hereinafter <sup>Application</sup> provided, to any band of Indians in any of the provinces, <sup>of Part.</sup> or in the Territories, except in so far as it is herein otherwise provided. R.S., c. 81, s. 173.

**165.** Whenever any band of Indians is declared by the <sup>When this</sup> Governor in Council to be considered fit to have this Part <sup>Part shall</sup> applied to it, this Part shall so apply from the time <sup>apply.</sup> appointed in such Order in Council. R.S., c. 81, s. 174.

R.S.C. 1927, c. 98, cont'd.

*Application of Part I.*

**166.** The provisions of Part I of this Act shall continue to apply to every band to which this Part is, from time to time, declared to apply, in so far only as they are not inconsistent with this Part. Application of Part I.

2. If it thereafter appears to the Governor in Council that this Part cannot be worked satisfactorily by any band to which it has been declared to apply, the Governor in Council may by Order in Council, declare that after a day named in the Order in Council, this Part shall no longer apply to such band, and such band shall thereafter be subject only to Part I, except that by-laws, rules and regulations theretofore made under this Part, and not *ultra vires* of the chiefs in council under Part I, shall continue in force until they are repealed by the Governor in Council. R.S., c. 81, s. 175. As to by-laws.

*Division of Reserves.*

**167.** Every reserve to which this Part is to apply may, by the Order in Council applying it, be divided into sections, the number of which shall not exceed six, and each section shall have therein, as nearly as is found convenient, an equal number of male Indians of the full age of twenty-one years, or, should the majority of the Indians of the reserve so desire, the whole reserve may form one section, the wishes of the Indians in respect thereto being first ascertained in the manner prescribed in Part I in like matters, and certified to the Superintendent General by the Indian agent. Division of reserves into sections.

S.C. 1934,  
c. 29, s. 2.

R.S., 1927,  
c. 98.

2. Subsection one of section one hundred and sixty-seven of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, is repealed, and the following is substituted therefor:—

Division of  
reserves  
into sections.

**“167.** (1) Every reserve to which this Part is applicable, may, by Order in Council, be divided into sections, the number of which shall not exceed six, and each section shall have therein, as nearly as is found convenient, an equal number of male Indians of the full age of twenty-one years, or, should the majority of the Indians of the reserve so desire, the Governor in Council may provide that the whole reserve may form one section, the wishes of the Indians in respect thereto being first ascertained in the manner prescribed in Part I in like matters, and certified to the Superintendent General by the Indian agent. The power to divide any such reserve into sections, or to provide that the whole reserve may form one section may, subject to the provisions of this section, be exercised at any time and from time to time, as the Governor in Council may see fit.”

R.S.C. 1927,  
c. 98, s. 167(2),  
cont'd.

2. The sections shall be distinguished by numbers from one upwards, and the reserve shall be designated in the Order in Council as *The Indian Reserve*, inserting such name as is thought proper, and the sections shall be designated by the numbers assigned to them respectively. R.S., c. 81, s. 176. Designation of each.

R.S.C. 1927, c. 98, cont'd.

*Nominations for Election of Councillors.*

- Meeting for election of councillors.** **168.** A meeting of the electors for the purpose of nominating candidates for election as councillors shall be held between the hours of ten o'clock in the forenoon and twelve o'clock at noon, at a place to be appointed by the Indian agent, on a day being one week previous to the day on which the election of councillors is to be held on any reserve as hereinafter provided.
- Notice of meeting.** 2. Due notice of such meeting shall be given in the manner customary in the band for calling meetings for public purposes. R.S., c. 81, s. 177.
- Chairman to preside.** **169.** The Indian agent, or in his absence such person as is appointed by the Superintendent General, or failing such appointment, a chairman to be chosen by the meeting, shall preside over such meeting and shall take and keep the minutes thereof. R.S., c. 81, s. 178.
- Candidates and their nomination.** **170.** Only Indians nominated at such meeting shall be recognized as, or permitted to become candidates for election as aforesaid; and each nomination to be valid must be made on the motion of an elector of the section of the reserve for the representation whereof the nominee is proposed as a candidate, and the motion must be seconded by another elector of that section. R.S., c. 81, s. 179.
- Time of nomination.** **171.** The nominations of the candidates shall, so far as practicable, be made consecutively and previously to any speeches being made by the movers and seconders or by any other persons, but nominations may be made up to the hour of twelve o'clock noon. R.S., c. 81, s. 180.
- Proceedings after nomination.** **172.** If only one candidate for any councillorship is proposed, the Indian agent or chairman shall, at twelve o'clock noon, declare such candidate duly elected; and if two or more candidates are proposed for any councillorship, an election shall be held under the provisions of this Part. R.S., c. 81, s. 181.

*Elections.*

- First election of members of the council.** **173.** On a day and at a place, and between the hours prescribed in the Order in Council, the electors shall meet for the purpose of electing the members of the council of the reserve. R.S., c. 81, s. 182.
- Who shall be deemed elected.** **174.** One or more members to represent each section of the reserve, as provided in such Order in Council, shall be elected by the electors resident in each section, and the Indian or Indians, as the case may be, having the votes of the greatest number of electors for each section, shall be the councillor or councillors, as the case may be therefor, provided he or they are respectively possessed of, and living in, a house in the reserve. R.S., c. 81, s. 183.



S.C. 1936,  
c. 20, s. 13.

**13.** Section one hundred and seventy-four of the said Act is repealed and the following substituted therefor:—

Who shall  
be deemed  
elected.

**174.** One or more members to represent each section of the reserve, as provided in such Order in Council, shall be elected by the electors resident in each section, and the Indian or Indians, as the case may be, having the votes of the greatest number of electors for each section, shall be the councillor or councillors, as the case may be, therefor, provided he or they are respectively possessed of a house on, and living on, the reserve."

**175.** The agent for the reserve shall preside at the election, or in his absence some person appointed by him as his deputy, with the consent of the Superintendent General, or some person appointed by the Superintendent General may preside at the said election, and shall take and record the votes of the electors, and may, subject to appeal to the Superintendent General by or on behalf of any Indian or Indians who deems himself or themselves aggrieved by the action of such agent or deputy, or of such agent or person appointed as aforesaid, admit or reject the claim of any Indian to be an elector, and may determine who are the councillors for the several sections, and shall report the same to the Superintendent General.

Who shall  
preside at  
the election  
and his  
powers.

2. In any case of an equality of votes at any such election the agent or person residing thereat shall have the casting vote. R.S., c. 81, s. 184.

Chairman  
to have  
casting  
vote.

#### *Meetings of Council.*

**176.** On a day and at a place, and between the hours prescribed by the Superintendent General, if the day fixed for the same is within eight days from the date at which the councillors were elected, the said councillors shall meet and elect one of their number to act as chief councillor, and the councillor so elected shall be the chief councillor. R.S., c. 81, s. 185.

First  
meeting  
of  
councillors.

**177.** The council shall meet for the despatch of business, at such place on the reserve and at such times as the agent for the reserve appoints, but which shall not exceed twelve times or be less than four times in the year for which it is elected, and due notice of the time and place of each meeting shall be given to each councillor by the agent. R.S., c. 81, s. 86.

Meetings of  
the council.

**178.** At such meeting of the council the agent for the reserve, or his deputy appointed for the purpose with the consent of the Superintendent General, shall

Agent at  
such  
meeting,  
his duties.

- (a) preside, and record the proceedings;
- (b) control and regulate all matters of procedure and form and adjourn the meeting to a time named or *sine die*;
- (c) report and certify all by-laws and other acts and proceedings of the council to the Superintendent General;
- (d) address the council and explain and advise the members thereof upon their powers and duties.

2. No such agent or deputy shall vote on any question to be decided by the council. R.S., c. 81, s. 187.

Not to vote.

R.S.C. 1927, c. 98, cont'd.

Faith and  
credence  
given to  
his  
certificate.

**179.** Full faith and credence shall be given in all courts and places whatsoever to any certificate given by such agent or deputy under the provisions of paragraph (c) of the last preceding section. R.S., c. 81, s. 188.

Votes.

**180.** Each councillor present shall have a vote on every question to be decided by the council, and such question shall be decided by the majority of votes, the chief councillor voting as a councillor and having also a casting vote, in case the votes would otherwise be equal.

Quorum.

2. Four councillors shall be a quorum for the despatch of any business. R.S., c. 81, s. 189.

*Term of Office, Vacancies, Etc.*

Term of  
office.

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

2. If there is a failure to elect on the day appointed for the election, the Superintendent General shall appoint another day on which it shall be held. R.S., c. 81, s. 190.

Vacancies;  
how filled.

**182.** In the event of a vacancy in the council, by the death or inability to act of any councillor, more than three months before the time for the next election, an election to fill such vacancy shall be held by the agent or his deputy, after such notice to the electors concerned as the Superintendent General directs, at which only the electors of the section represented by the councillor to be replaced shall vote, and to such election the provisions respecting other elections shall apply, so far as they are applicable.

In office of  
chief  
councillor.

2. If the councillor to be replaced is the chief councillor, then an election of a chief councillor shall be held in the manner already provided, but the day fixed for such election shall be at least one week after the date when the new councillor is elected. R.S., c. 81, s. 191.

Remaining  
councillors  
to constitute  
council.

**183.** During the time of any vacancy in the council the remaining councillors shall constitute the council, and they may, in the event of a vacancy in the office, appoint a chief from among themselves for the time being. R.S., c. 81, s. 192.

Disqualifica-  
tions in  
certain  
cases.

**184.** Every member of a council elected under the provisions of this Part, who is proved to be a habitual drunkard or to be living in immorality, or to have accepted a bribe, or to have been guilty of dishonesty or of 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 hereinbefore provided. R.S., c. 81, s. 193.

*Powers of Council.*

**185.** The council may, by by-law, rule or regulation, approved and confirmed by the Superintendent General, provide that the religious denomination to which the teacher or teachers of the school or schools established on the reserve shall belong, shall be that of the majority of the Indians resident on the reserve; but the Protestant or Roman Catholic minority on the reserve may also have a separate school or schools, with the approval of and under regulations made by the Governor in Council.

Council may make by-laws as to religious denomination of school teacher.

2. The council may also make by-laws, rules and regulations, approved and confirmed by the Superintendent General, regulating all or any of the following subjects and purposes, that is to say:—

Also by-laws as to.

- (a) The care of the public health; Health.
- (b) The observance of order and decorum at elections of councillors, meetings of the council, and assemblies of Indians on other occasions, or generally, on the reserve, by the appointment of constables and erection of lock-up houses, or by the adoption of other legitimate means; Order.
- (c) The prevention of disorderly conduct and nuisances; Disorderly conduct.
- (d) The subdivision of the land in the reserve, and the distribution of the same amongst the members of the band; also, the setting apart, for common use, of woodland and land for other purposes; Subdivision of reserve.
- (e) The protection of and the prevention of trespass by cattle, sheep, horses, mules and other domesticated animals; and the establishment of pounds, the appointment of poundkeepers and the regulation of their duties, fees and charges; Trespass.
- (f) The construction and repairs of school houses, council houses and other buildings for the use of the Indians on the reserve, and the attendance at school of children between the ages of six and fifteen years; School houses, etc.
- (g) The construction, maintenance and improvement of roads and bridges, and the contributions, in money or labour, and other duties of residents on the reserve, in respect thereof; the size and kind of sleighs to be used on the roads in the winter season, and the manner in which the horse or horses or other beasts of burden shall be harnessed to such sleighs; and the appointment of roadmasters and fence-viewers, and their powers and duties; Roads, etc.
- (h) The construction, maintenance and improvement of water, sewerage and lighting works and systems; Public works.
- (i) The construction and maintenance of watercourses, ditches and fences, and the obligations of vicinage, the destruction and repression of noxious weeds and the preservation of the wood on the various holdings, or elsewhere, in the reserve; Water-courses, etc.
- (j) The removal and punishment of persons trespassing upon the reserve, or frequenting it for improper purposes; Removal of trespassers.

**17.** Subsection two of section one hundred and eighty-five of the said Act is amended by adding thereto after paragraph (j) thereof the following paragraph:—

“(jj) Controlling or prohibiting participation in, or attendance at, public games, sports, races, athletic contests or other such amusements on the Sabbath.”

S.C. 1930,  
c. 25, s. 17.

Control of public games on the Sabbath.

R.S.C. 1927, c. 98, cont'd.

- Revenue. (k) The raising of money for any or all of the purposes for which the council may make by-laws as aforesaid, by assessment and taxation of the lands of Indians enfranchised, or in possession of lands by location ticket in the reserve: Provided that the valuation for assessment shall be made yearly, in such manner and at such times as are appointed by the by-law in that behalf, and be subject to revision and correction by the agent for the reserve, and shall come into force only after it has been submitted to him and corrected, if and as he thinks justice requires, and approved by him, and that the tax shall be imposed for the year in which the by-law is made, and shall not exceed one-half of one per centum on the assessed value of the land on which it is to be paid; and provided also that any Indian deeming himself aggrieved by the decision of the agent, made as hereinbefore provided, may appeal to the Superintendent General, whose decision in the matter shall be final;
- Assessments.
- Rates.
- Payment of Indian's share on his default.
- Appeal.
- Appropriation of certain funds. (l) The appropriation and payment to the local agent, as treasurer, by the Superintendent General, of so much of the moneys of the band as are required for defraying expenses necessary for carrying out the by-laws made by the council, including those incurred for assistance absolutely necessary for enabling the council or the agent to perform the duties assigned to them;
- Penalties and enforcement thereof. (m) The imposition of punishment by penalty or by imprisonment, or by both, for any violation of or disobedience to any law, rule or regulation made under this Part, committed by any Indian of the reserve; but such penalty shall, in no case, except for non-payment of taxes, exceed thirty dollars, and the imprisonment shall not exceed thirty days.

R.S.C. 1927,  
c. 98, cont'd.

11. Subsection two of section one hundred and eighty-five of the said Act is amended by adding thereto the following paragraph:—

S.C. 1932-33,  
c. 42, s. 11.

“(n) Regulating the operations of hawkers, peddlers or others coming on the Reserve to sell, or take orders for, wares or merchandise.”

Taxes, how recovered.

3. If any tax authorized by any by-law, or any part thereof, is not paid at the time prescribed by the by-law, the amount unpaid, with the addition of one-half of one per centum thereof, may be paid by the Superintendent General to the treasurer out of the share in any money of the band of the Indian in default; and, if such share is insufficient to pay the tax, or any portion thereof so remaining unpaid, the defaulter shall be deemed to have violated the by-law imposing the tax, and shall incur a penalty therefor equal to the amount of the tax or the balance thereof remaining unpaid, as the case may be.

R.S.C. 1927,  
c. 98, s. 185,  
cont'd.

R.S.C. 1927, c. 98, cont'd.

4. The proceedings for the imposition of any punishment authorized by this section, or the by-laws, rules or regulations approved and confirmed thereunder, may be taken before one justice of the peace, under the provisions of the Criminal Code relating to summary convictions; and the amount of any such penalty shall be paid over to the treasurer of the band to which the Indian incurring it belongs for the use of such band. Provisions for the imposition of punishment.

5. The by-laws, rules and regulations by this section authorized to be made shall, when approved and confirmed by the Superintendent General, have the force of law within and with respect to the reserve, and the Indians residing thereon. R.S., c. 81, s. 194; 1920, c. 50, s. 5; 1927, c. 32, s. 7. Approval.

*Evidence.*

186. A copy of any by-law, rule or regulation under this Part, approved by the Superintendent General, and purporting to be certified by the agent for the band to which it relates to be a true copy thereof, shall be evidence of such by-law, rule or regulation, and of such approval, without proof of the signature of such agent; and no such by-law, rule or regulation shall be invalidated by any defect of form, if it is substantially consistent with the intent and meaning of this Part. R.S., c. 81, s. 195. Proof of by-laws, etc.

PART III.

SOLDIER SETTLEMENT.

187. The Soldier Settlement Act, excepting sections three, four, eight, nine, ten, eleven, fourteen, twenty-nine, subsection two of fifty-one, and sixty-one thereof, and excepting the whole of Part III thereof, with such amendments as may from time to time be made to said Act shall, with respect to any "settler" as defined by said Act who is an "Indian" as defined by this Act, be administered by the Superintendent General. Application of Soldier Settlement Act.

2. For the purpose of such administration, the Deputy Superintendent General of Indian Affairs shall have the same powers as the Soldier Settlement Board has under the Soldier Settlement Act, the words "Deputy Superintendent General of Indian Affairs" being, for such purpose, read in the said Act as substituted for the words "The Soldier Settlement Board" and for the words "The Board".

3. Said Act, with such exceptions as aforesaid, shall for such purpose, be read as one with this Part of this Act. 1919, c. 56, s. 3.

R.S.C. 1927, c. 98, cont'd.

Title for  
common  
lands of  
band may be  
granted on  
land  
acquired for  
Indian  
settler.  
Lands may  
be security  
for advances  
as under  
Soldier  
Settlement  
Act.

Only  
individual  
Indian  
interest is  
acquired.

Soldier  
Settlement  
Board to  
assist  
Deputy  
Supt.  
General.

Power of  
Governor in  
Council to  
settle doubts  
and define  
powers.

**188.** The Deputy Superintendent General may acquire for a settler who is an Indian, land as well without as within an Indian reserve, and shall have authority to set apart for such settler a portion of the common lands of the band without the consent of the council of the band.

2. In the event of land being so acquired or set apart on an Indian reserve, the Deputy Superintendent General shall have power to take the said land as security for any advances made to such settler, and the provisions of the Soldier Settlement Act, shall, as far as applicable, apply to such transactions.

3. It shall, however, be only the individual Indian interest in such lands that is being acquired or given as security, and the interest of the band in such lands shall not be in any way affected by such transactions. 1922, c. 26, s. 2.

**189.** The Soldier Settlement Board and its officers and employees shall, upon request of the Deputy Superintendent General, aid and assist him, to the extent requested, in the execution of the purposes of this Act, and the said Board may sell, convey and transfer to the said Deputy, for the execution of any such purposes, at such prices as may be agreed, any property held for disposition by such Board. 1919, c. 56, s. 3.

**190.** In the event of any doubt or difficulty arising with respect to the administration by the Superintendent General of the provisions of the Soldier Settlement Act, or as to the powers of the Deputy Superintendent General as by this Act authorized or granted, the Governor in Council may, by order, resolve such doubt or difficulty and may define powers and procedure.

2. Such order shall not extend the powers which are by the Soldier Settlement Act, provided. 1919, c. 56, s. 3.

N.B.: R.S.C. 1927, c. 98 is affected by the following provisions of S.C. 1951, c. 29, proclaimed on 4 September 1951:

#### REPEAL.

S.C. 1951,  
c. 29, s.  
123.

Repeal

**123.** (1) Section one of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:

Short title.

"1. This Act may be cited as the *Indian (Soldier Settlement) Act*."

(2) Sections two to one hundred and eighty-six of the **Repeal.**  
**said Act are repealed.**

(3) Where in sections one hundred and eighty-seven to **References.**  
one hundred and ninety of the said Act

(a) reference is made to the *Indian Act*, it shall be deemed to be a reference to this Act, and

(b) reference is made to the Superintendent General or Deputy Superintendent General of Indian Affairs, it shall be deemed to be a reference to the Minister.

S.C. 1966,  
c. 25,  
Sch. B.

Indian Act  
1951, c. 29

Paragraph (b) of subsection (3) of section 123 is amended by substituting the Minister of Indian Affairs and Northern Development for the Minister therein mentioned.

#### PRIOR GRANTS.

S.C. 1951,  
c. 29,  
s. 124.

**124.** Where, prior to the coming into force of this Act, **Prior grants deemed authorized.**  
(a) a reserve or portion of a reserve was released or surrendered to the Crown pursuant to Part I of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, or pursuant to the provisions of the statutes relating to the release or surrender of reserves in force at the time of the release or surrender,  
(b) Letters Patent under the Great Seal of Canada were issued purporting to grant a reserve or portion of a reserve so released or surrendered, or any interest therein, to any person, and  
(c) the Letters Patent have not been declared void or inoperative by any Court of competent jurisdiction, the Letters Patent shall, for all purposes, be deemed to have been issued at the date thereof under the direction of the Governor in Council.

#### COMING INTO FORCE.

**125.** This Act shall come into force on a day to be **Coming into force.**  
fixed by proclamation of the Governor in Council.

15 GEORGE VI.

CHAP. 29.

An Act respecting Indians.

[Assented to 20th June, 1951.]

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

SHORT TITLE.

1. This Act may be cited as *The Indian Act*. Short title.

INTERPRETATION.

2. (1) In this Act, Definitions.
- (a) "band" means a body of Indians "band."
- (i) for whose use and benefit in common, lands, the legal title to which is vested in His Majesty, have been set apart before or after the coming into force of this Act,
- (ii) for whose use and benefit in common, moneys are held by His Majesty, or
- (iii) declared by the Governor in Council to be a band for the purposes of this Act;
- (b) "child" includes a legally adopted Indian child: "child."
- (c) "council of the band" means "Council of the band."
- (i) in the case of a band to which section seventy-three applies, the council established pursuant to that section,
- (ii) in the case of a band to which section seventy-three does not apply, the council chosen according to the custom of the band, or, where there is no council, the chief of the band chosen according to the custom of the band;
- (d) "Department" means the Department of Citizenship and Immigration; "Department."
- (e) "elector" means a person who "elector."
- (i) is registered on a Band List,
- (ii) is of the full age of twenty-one years, and
- (iii) is not disqualified from voting at band elections;
- (f) "estate" includes real and personal property and any interest in land; "estate."
- (g) "Indian" means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian; "Indian."
- (h) "Indian moneys" means all moneys collected, received or held by His Majesty for the use and benefit of Indians or bands; "Indian moneys."
- (i) "intoxicant" includes alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption that are intoxicating; "intoxicant."



S.C. 1951, c. 29, cont'd.

- "member of a band." (j) "member of a band" means a person whose name appears on a Band List or who is entitled to have his name appear on a Band List;
- "mentally incompetent Indian." (k) "mentally incompetent Indian" means an Indian who, pursuant to the laws of the province in which he resides, has been found to be mentally defective or incompetent for the purposes of any laws of that province providing for the administration of estates of mentally defective or incompetent persons;
- "Minister." (l) "Minister" means the Minister of Citizenship and Immigration;
- "registered." (m) "registered" means registered as an Indian in the Indian Register;
- "Registrar." (n) "Registrar" means the officer of the Department who is in charge of the Indian Register;
- "reserve." (o) "reserve" means a tract of land, the legal title to which is vested in His Majesty, that has been set apart by His Majesty for the use and benefit of a band;
- "superintendent." (p) "superintendent" includes a commissioner, regional supervisor, Indian superintendent, assistant Indian superintendent and any other person declared by the Minister to be a superintendent for the purposes of this Act, and with reference to a band or a reserve, means the superintendent for that band or reserve;
- "surrendered lands." (q) "surrendered lands" means a reserve or part of a reserve or any interest therein, the legal title to which remains vested in His Majesty, that has been released or surrendered by the band for whose use and benefit it was set apart.
- "band." (2) The expression "band" with reference to a reserve or surrendered lands means the band for whose use and benefit the reserve or the surrendered lands were set apart.
- Exercise of powers conferred on band or council. (3) Unless the context otherwise requires or this Act otherwise provides
- (a) a power conferred upon a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the electors of the band, and
- (b) a power conferred upon the council of a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the councillors of the band present at a meeting of the council duly convened.

#### ADMINISTRATION.

3. (1) This Act shall be administered by the Minister of Citizenship and Immigration, who shall be the superintendent general of Indian affairs. Minister to administer Act.
- (2) The Minister may authorize the Deputy Minister of Citizenship and Immigration or the chief officer in charge of the branch of the Department relating to Indian affairs to perform and exercise any of the duties, powers and functions that may be or are required to be performed or exercised by the Minister under this Act or any other Act of the Parliament of Canada relating to Indian affairs. Authority of Deputy Minister and chief officer.

S.C. 1951, c. 29, cont'd.

#### APPLICATION OF ACT.

4. (1) This Act does not apply to the race of aborigines commonly referred to as Eskimos. Eskimos.
- (2) The Governor in Council may by proclamation declare that this Act or any portion thereof, except sections thirty-seven to forty-one, shall not apply to
- (a) any Indians or any group or band of Indians, or
  - (b) any reserve or any surrendered lands or any part thereof,
- and may by proclamation revoke any such declaration. G. in C. may declare Act inapplicable.

#### DEFINITION AND REGISTRATION OF INDIANS.

5. An Indian Register shall be maintained in the Department, which shall consist of Band Lists and General Lists and in which shall be recorded the name of every person who is entitled to be registered as an Indian. Indian Register.
6. The name of every person who is a member of a band and is entitled to be registered shall be entered in the Band List for that band, and the name of every person who is not a member of a band and is entitled to be registered shall be entered in a General List. Band Lists and General Lists.

7. (1) The Registrar may at any time add to or delete from a Band List or a General List the name of any person who, in accordance with the provisions of this Act, is entitled or not entitled, as the case may be, to have his name included in that List. Deletions and additions
- (2) The Indian Register shall indicate the date on which each name was added thereto or deleted therefrom. Date of change.

Existing lists to constitute Register.

8. Upon the coming into force of this Act, the band lists then in existence in the Department shall constitute the Indian Register, and the applicable lists shall be posted in a conspicuous place in the superintendent's office that serves the band or persons to whom the list relates and in all other places where band notices are ordinarily displayed.

Deletions and additions may be protested.

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

- (a) in the case of a Band List, the council of the band, any ten electors of the band, or any three electors if there are less than ten electors in the band,
  - (b) in the case of a posted portion of a General List, any adult person whose name appears on that posted portion, and
  - (c) the person whose name was included in or omitted from the list referred to in section eight, or whose name was added to or deleted from a Band List or a General List,
- may, by notice in writing to the Registrar, containing a brief statement of the grounds therefor, protest the inclusion, omission, addition, or deletion, as the case may be, of the name of that person.

S.C. 1951, c. 29, cont'd.

Registrar to  
cause in-  
vestigation.

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

Reference  
to Judge.

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

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

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

may, by notice in writing, request the Registrar to refer the decision to a judge for review, and thereupon the Registrar shall refer the decision, together with all material considered by the Registrar in making his decision, to the judge of the county or district court of the county or district in which the band is situated or in which the person in respect of whom the protest was made resides, or such other county or district as the Minister may designate, or in the Province of Quebec, to the judge of the Superior Court for the district in which the band is situated or in which the person in respect of whom the protest was made resides, or such other district as the Minister may designate.

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

Inquiry and  
decision.

R.S., c. 99.

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

Wife and  
minor  
children.

**11.** Subject to section twelve, a person is entitled to be registered if that person

Persons  
entitled to  
be registered.

(a) on the twenty-sixth day of May, eighteen hundred and seventy-four, was, for the purposes of *An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands*, chapter forty-two of the statutes of 1868, as amended by section six of chapter six of the statutes of 1869, and section eight of chapter twenty-one of the statutes of 1874, considered to be entitled to hold, use or enjoy the lands and other immovable property belonging to or appropriated to the use of the various tribes, bands or bodies of Indians in Canada,

S.C. 1951, c. 29, cont'd.

- (b) is a member of a band
  - (i) for whose use and benefit, in common, lands have been set apart or since the twenty-sixth day of May, eighteen hundred and seventy-four have been agreed by treaty to be set apart, or
  - (ii) that has been declared by the Governor in Council to be a band for the purposes of this Act,
- (c) is a male person who is a direct descendant in the male line of a male person described in paragraph (a) or (b),
- (d) is the legitimate child of
  - (i) a male person described in paragraph (a) or (b), or
  - (ii) a person described in paragraph (c),
- (e) is the illegitimate child of a female person described in paragraph (a), (b) or (d), unless the Registrar is satisfied that the father of the child was not an Indian and the Registrar has declared that the child is not entitled to be registered, or
- (f) is the wife or widow of a person who is entitled to be registered by virtue of paragraph (a), (b), (c), (d) or (e).

Persons not entitled to be registered.

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

- (a) a person who
  - (i) has received or has been allotted half-breed lands or money scrip,
  - (ii) is a descendant of a person described in subparagraph (i),
  - (iii) is enfranchised, or
  - (iv) is a person born of a marriage entered into after the coming into force of this Act and has attained the age of twenty-one years, whose mother and whose father's mother are not persons described in paragraph (a), (b), (d), or entitled to be registered by virtue of paragraph (e) of section eleven, unless, being a woman, that person is the wife or widow of a person described in section eleven, and
- (b) a woman who is married to a person who is not an Indian.

Certificate.

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

Admission to band of persons on General List.

**13.** (1) Subject to the approval of the Minister, a person whose name appears on a General List may be admitted into membership of a band with the consent of the band or the council of the band.

Transfer of band membership.

(2) Subject to the approval of the Minister, a member of a band may be admitted into membership of another band with the consent of the latter band or the council of that band.

Woman marrying outside band ceases to be member.

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

Payments to persons ceasing to be members.

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

- (a) one *per capita* share of the capital and revenue moneys held by His Majesty on behalf of the band, and
- (b) an amount equal to the amount that in the opinion of the Minister he would have received during the next succeeding twenty years under any treaty then in existence between the band and His Majesty if he had continued to be a member of the band.

Payments not to be made in certain cases.

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

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

- (b) if he is not entitled to be a member of a band by reason of the application of paragraph (e) of section eleven or subparagraph (iv) of paragraph (a) of section twelve.

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

- (a) pay the moneys to the parent, guardian or other person having the custody of that person, or
- (b) cause payment of the moneys to be withheld until that person reaches the age of twenty-one.

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

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

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

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

S.C. 1951, c. 29, cont'd.

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

- (a) constitute new bands and establish Band Lists with respect thereto from existing Band Lists or General Lists, or both, and Minister may constitute new bands.
- (b) amalgamate bands that, by a vote of a majority of their electors, request to be amalgamated.

Division of reserves and funds.

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

RESERVES.

Reserves to be held for use and benefit of Indians.

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

Use of reserves for schools, etc

(2) The Governor in Council may authorize the use of lands in a reserve for the purpose of Indian schools, the administration of Indian affairs, Indian health projects or for any other purpose for the general welfare of the band, and may take any lands in a reserve required for such purposes, but where an individual Indian, immediately prior to such taking, was entitled to the possession of such lands, compensation for such use shall be paid to the Indian, in such amount as may be agreed between the Indian and the Minister, or, failing agreement, as may be determined in such manner as the Minister may direct.

Minister may authorize surveys and subdivisions.

**19.** The Minister may

- (a) authorize surveys of reserves and the preparation of plans and reports with respect thereto,
- (b) divide the whole or any portion of a reserve into lots or other subdivisions, and
- (c) determine the location and direct the construction of roads in a reserve.

POSSESSION OF LANDS IN RESERVES.

Possession of lands in a reserve.

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

Certificate of Possession.

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

Location tickets issued under previous legislation.

(3) For the purposes of this Act, any person who, at the commencement of this Act, holds a valid and subsisting location ticket issued under *The Indian Act, 1880*, or any statute relating to the same subject matter, shall be deemed to be lawfully in possession of the land to which the location ticket relates and to hold a Certificate of Possession with respect thereto.

S.C. 1951, c. 29, cont'd.

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

Temporary possession.

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

Certificate of Occupation.

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

Extension of Certificate of Occupation, and approval of allotment.

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

(b) refuse approval of the allotment by the council of the band and declare the land in respect of which the Certificate of Occupation was issued to be available for re-allotment by the council of the band.

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

Register.

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

Improvements on lands subsequently included in a reserve.

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

Compensation for improvements.

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

Transfer of possession.

S.C. 1951, c. 29, cont'd.

- Transfer where Indian ceases to reside on reserve.** **25.** (1) An Indian who ceases to be entitled to reside on a reserve may, within six months or such further period as the Minister may direct, transfer to the band or another member of the band the right to possession of any lands in the reserve of which he was lawfully in possession.
- Right of possession not transferred reverts to band.** (2) Where an Indian does not dispose of his right of possession in accordance with subsection one, the right to possession of the land reverts to the band, subject to the payment to the Indian who was lawfully in possession of the land, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.
- Correction of Certificates** **26.** Whenever a Certificate of Possession or Occupation was, in the opinion of the Minister, issued to or in the name of the wrong person, through mistake, or contains any clerical error or misnomer, or wrong description of any material fact therein, the Minister may cancel the Certificate and issue a corrected Certificate in lieu thereof.
- Cancellation of Certificates.** **27.** The Minister may, with the consent of the holder thereof, cancel any Certificate of Possession or Occupation, and may cancel any Certificate of Possession or Occupation that in his opinion was issued through fraud or in error.
- Grants, etc. of reserve lands void.** **28.** (1) Subject to subsection two, a deed, lease, contract, instrument, document or agreement of any kind whether written or oral, by which a band or a member of a band purports to permit a person other than a member of that band to occupy or use a reserve or to reside or otherwise exercise any rights on a reserve is void.
- Minister may issue permits.** (2) The Minister may by permit in writing authorize any person for a period not exceeding one year to occupy or use a reserve or to reside or otherwise exercise rights on a reserve.
- Reserve lands exempt from seizure.** **29.** Reserve lands are not subject to seizure under legal process.

#### TRESPASS ON RESERVES.

- Penalty for trespass.** **30.** A person who trespasses on a reserve is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding one month or to both fine and imprisonment.
- Information by Attorney General.** **31.** (1) Without prejudice to section thirty, where an Indian or a band alleges that persons other than Indians are or have been
- (a) unlawfully in occupation or possession of,
  - (b) claiming adversely the right to occupation or possession of, or
  - (c) trespassing upon
- a reserve or part of a reserve, the Attorney General of Canada may exhibit an Information in the Exchequer Court of Canada claiming, on behalf of the Indian or the band, the relief or remedy sought.



S.C. 1951, c. 29, cont'd.

(2) An Information exhibited under subsection one shall, for all purposes of the *Exchequer Court Act*, be deemed to be an action or suit by the Crown within the meaning of paragraph (d) of section thirty of that Act.

Information deemed action or suit by Crown. R.S., c. 34.

(3) Nothing in this section shall be construed to impair, abridge or otherwise affect any right or remedy that, but for this section, would be available to His Majesty or to an Indian or a band.

Existing remedies preserved.

#### SALE OR BARTER OF PRODUCE.

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

Sale or barter of produce prohibited unless superintendent approves

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

Exemption.

**33.** Every person who enters into a transaction that is void under subsection one of section thirty-two is guilty of an offence.

Offence.

#### ROADS AND BRIDGES.

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

Band to maintain roads, bridges, etc.

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

Minister may maintain roads, bridges, etc.

LANDS TAKEN FOR PUBLIC PURPOSES.

Local authorities may take lands with consent of G. in C.

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

Procedure

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

Grant in lieu of compulsory taking.

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

Payment

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

SPECIAL RESERVES.

Act applies to reserves not vested in the Crown.

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

SURRENDERS.

No sale etc. until surrender

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

Band may surrender.

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

(2) A surrender may be absolute or qualified, conditional or unconditional.

Absolute or qualified.

S.C. 1951, c. 29, cont'd.

**39. (1) A surrender is void unless**

How  
surrender  
made.

- (a) it is made to His Majesty,
- (b) it is assented to by a majority of the electors of the band at
  - (i) a general meeting of the band called by the council of the band, or
  - (ii) a special meeting of the band called by the Minister for the purpose of considering a proposed surrender, and
- (c) it is accepted by the Governor in Council.

(2) Where a majority of the electors of a band did not vote at a meeting called pursuant to subsection one of this section or pursuant to section fifty-one of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, the Minister may, if the proposed surrender was assented to by a majority of the electors who did vote, call another meeting by giving thirty days' notice thereof.

Minister may  
call meeting  
of band.

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

Assent of  
band.

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

Secret ballot.

(5) Every meeting under this section shall be held in the presence of the superintendent or some other officer of the Department designated by the Minister.

Officials  
required.

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

Certification  
of surrender.

**41.** A surrender shall be deemed to confer all rights that are necessary to enable His Majesty to carry out the terms of the surrender.

Effect of  
surrender.

DESCENT OF PROPERTY.

Powers of  
Minister  
with respect  
to property of  
deceased  
Indians.

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

S.C. 1951, c. 29, cont'd.

Particular powers.

**43.** Without restricting the generality of section forty-two, the Minister may

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

Courts may exercise jurisdiction with consent of Minister.

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

Minister may refer a matter to the court.

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

Orders relating to lands.

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

#### WILLS.

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

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

(3) No will executed by an Indian shall be of any legal force or effect as a disposition of property until the Minister has approved the will or a court has granted probate thereof pursuant to this Act. Probate.

S.C. 1951, c. 29, cont'd.

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

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

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

#### APPEALS.

**47.** (1) A decision of the Minister made in the exercise of the jurisdiction or authority conferred upon him by section forty-two, forty-three or forty-six may, within two months from the date thereof, be appealed by any person affected thereby to the Exchequer Court of Canada, if the amount in controversy in the appeal exceeds five hundred dollars or if the Minister consents to an appeal. Appeal to Exchequer Court.

Rules. (2) The judges of the Exchequer Court may make rules respecting the practice and procedure governing appeals under this section.

#### DISTRIBUTION OF PROPERTY ON INTESTACY.

Widow's share where net value less than \$2,000. **48.** (1) Where the net value of the estate of an intestate does not, in the opinion of the Minister, exceed in value two thousand dollars, the estate shall go to the widow,

Widow's share where estate \$2,000 or more. (2) Where the net value of the estate of an intestate, in the opinion of the Minister, is two thousand dollars or more, two thousand dollars shall go to the widow, and the remainder shall go as follows, namely,

- (a) if the intestate left no issue, the remainder shall go to the widow,
  - (b) if the intestate left one child, one-half of the remainder shall go to the widow,
  - (c) if the intestate left more than one child, one-third of the remainder shall go to the widow;
- and where a child has died leaving issue and such issue is alive at the date of the intestate's death, the widow shall take the same share of the estate as if the child had been living at that date.

S.C. 1951, c. 29, cont'd.

- Where children not provided for. (3) Notwithstanding subsections one and two,  
 (a) where in any particular case the Minister is satisfied that any children of the deceased will not be adequately provided for, he may direct that all or any part of the estate that would otherwise go to the widow shall go to the children, and
- Right to occupy lands. (b) the Minister may direct that the widow shall have the right, during her widowhood, to occupy any lands on a reserve that were occupied by her deceased husband at the time of his death.
- Distribution to issue. (4) Where an intestate dies leaving issue his estate shall be distributed, subject to the rights of the widow, if any, *per stirpes* among such issue.
- Distribution to father and mother. (5) Where an intestate dies leaving no widow or issue his estate shall go to his father and mother in equal shares if both are living, but if either of them is dead the estate shall go to the survivor.
- Distribution to brothers, sisters and issue of brothers and sisters. (6) Where an intestate dies leaving no widow or issue or father or mother his estate shall go to his brothers and sisters in equal shares, and if any brother or sister is dead the children of the deceased brother or sister shall take the share their parent would have taken if living, but where the only persons entitled are children of deceased brothers and sisters, they shall take *per capita*.
- (7) Where an intestate dies leaving no widow, issue, father, mother, brother or sister, and no children of any deceased brother or sister, his estate shall go to his next-of-kin.
- (8) Where the estate goes to the next-of-kin it shall be distributed equally among the next-of-kin of equal degree of consanguinity to the intestate and those who legally represent them, but in no case shall representation be admitted after brothers' and sisters' children, and any interest in land in a reserve shall vest in His Majesty for the benefit of the band if the nearest of kin of the intestate is more remote than a brother or sister.
- (9) For the purposes of this section, degrees of kindred shall be computed by counting upward from the intestate to the nearest common ancestor and then downward to the relative, and the kindred of the half-blood shall inherit equally with those of the whole-blood in the same degree.
- (10) Descendants and relatives of the intestate begotten before his death but born thereafter shall inherit as if they had been born in the lifetime of the intestate and had survived him.
- (11) All such estate as is not disposed of by will shall be distributed as if the testator had died intestate and had left no other estate.
- (12) No widow is entitled to dower in the land of her deceased husband dying intestate, and no husband is entitled to an estate by curtesy in the land of his deceased wife so dying, and there is no community of real or personal property situated on a reserve.
- (13) Illegitimate children and their issue shall inherit from the mother as if the children were legitimate, and shall inherit as if the children were legitimate, through the mother, if dead, any real or personal property that she would have taken, if living, by gift, devise or descent from any other person.

Next-of-kin.

Distribution amongst next-of-kin.

Degrees of kindred

Descendants and relatives born after intestate's death.

Estate not disposed of by will.

No dower or estate by curtesy.

Illegitimate children.

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

Intestate being an illegitimate child.

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

"widow" includes "widower."

(16) In this section "child" includes a legally adopted child.

"child."

Devisee of lands not entitled to possession until possession approved.

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

Where devisee not entitled to reside on reserve.

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

Sale by superintendent.

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

Unsold lands revert to band.

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

Purchaser not entitled to possession until possession approved.

(4) The purchaser of a right to possession or occupation of land under subsection two shall be deemed not to be in lawful possession or occupation of the land until the possession is approved by the Minister.

S.C. 1951, c. 29, cont'd.

#### MENTALLY INCOMPETENT INDIANS.

Powers of  
Minister  
generally.

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

Particular  
powers.

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

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

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

(i) paying his debts or engagements,

(ii) discharging encumbrances on his property,

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

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

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

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

#### GUARDIANSHIP.

**52.** The Minister may administer or provide for the administration of any property to which infant children of Indians are entitled, and may appoint guardians for such purpose. Administration of property of infant children.

#### MANAGEMENT OF RESERVES AND SURRENDERED LANDS.

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

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

(3) No person who is appointed to manage, sell, lease or otherwise dispose of surrendered lands or who is an officer or servant of His Majesty employed in the Department may, except with the approval of the Governor in Council, acquire directly or indirectly any interest in surrendered lands. Departmental employees not to acquire surrendered lands.



S.C. 1951, c. 29, cont'd.

**54.** Where surrendered lands have been agreed to be sold or otherwise disposed of and Letters Patent relating thereto have not issued, or where surrendered lands have been leased, the purchaser, lessee or other person having an interest in the surrendered lands may, with the approval of the Minister, assign his interest in the surrendered lands or a part thereof to any other person. Assignments.

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

(2) A conditional assignment shall not be registered. Conditional  
assignment.

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

Effect of  
registration.

(4) An assignment registered under this section is valid against an unregistered assignment or an assignment subsequently registered.

Certificate  
of registration  
rendered.

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

Regulations.

**57.** The Governor in Council may make regulations

- (a) authorizing the Minister to grant licences to cut timber on surrendered lands, or, with the consent of the council of the band, on reserve lands,
- (b) imposing terms, conditions and restrictions with respect to the exercise of rights conferred by licences granted under paragraph (a),
- (c) providing for the disposition of surrendered mines and minerals underlying lands in a reserve,
- (d) prescribing the penalty not exceeding one hundred dollars or imprisonment for a term of three months or both fine and imprisonment that may be imposed on summary conviction for violation of any regulation made under this section, and
- (e) providing for the seizure and forfeiture of any timber or minerals taken in violation of any regulation made under this section.

Uncultivated  
or unused  
lands.

**58.** (1) Where land in a reserve is uncultivated or unused or remains uncultivated or unused for a period of two years, the Minister may, with the consent of the council of the band,

- (a) improve or cultivate such land and employ persons therefor, authorize and direct the expenditure of so much of the capital funds of the band as he considers necessary for such improvement or cultivation including the purchase of such stock, machinery or material or for the employment of such labour as the Minister considers necessary,
- (b) where the land is in the lawful possession of any individual, grant a lease of such land for agricultural or grazing purposes or for any purpose that is for the benefit of the person in possession, and
- (c) where the land is not in the lawful possession of any individual, grant for the benefit of the band a lease of such land for agricultural or grazing purposes.

S.C. 1951, c. 29, cont'd.

Distribution  
of proceeds.

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

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

Lease at  
request of  
occupant.

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

Disposition  
of grass,  
timber, non-  
metallic  
substances,  
etc.

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

and the proceeds of such transactions shall be credited to band funds or shall be divided between the band and the individual Indians in lawful possession of the lands in such shares as the Minister may determine.

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

Adjustment  
of contracts.

- (a) reduce or adjust the amount payable to His Majesty in respect of a sale, lease or other disposition of surrendered lands or a lease or other disposition of lands in a reserve or the rate of interest payable thereon, and  
(b) reduce or adjust the amount payable to the band by an Indian in respect of a loan made to the Indian from band funds.

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

G. in C. may  
grant to band  
control over  
lands.

(2) The Governor in Council may at any time withdraw from a band a right conferred upon the band under subsection one.

Withdrawal.

S.C. 1951, c. 29, cont'd.

## MANAGEMENT OF INDIAN MONEYS.

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

Indian moneys to be held for use and benefit.

Interest. (2) Interest upon Indian moneys held in the Consolidated Revenue Fund shall be allowed at a rate to be fixed from time to time by the Governor in Council.

Capital and revenue. **62.** All Indian moneys derived from the sale of surrendered lands or the sale of capital assets of a band shall be deemed to be capital moneys of the band and all Indian moneys other than capital moneys shall be deemed to be revenue moneys of the band.

Payments to Indians. 1931, c. 27. **63.** Notwithstanding *The Consolidated Revenue and Audit Act, 1931*, where moneys to which an Indian is entitled are paid to a superintendent under any lease or agreement made under this Act, the superintendent may pay the moneys to the Indian.

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

- (a) to distribute *per capita* to the members of the band an amount not exceeding fifty per cent of the capital moneys of the band derived from the sale of surrendered lands,
- (b) to construct and maintain roads, bridges, ditches and water courses on the reserves or on surrendered lands,
- (c) to construct and maintain outer boundary fences on reserves,
- (d) to purchase land for use by the band as a reserve or as an addition to a reserve,
- (e) to purchase for the band the interest of a member of the band in lands on a reserve,
- (f) to purchase livestock and farm implements, farm equipment, or machinery for the band,
- (g) to construct and maintain on or in connection with a reserve such permanent improvements or works as in the opinion of the Minister will be of permanent value to the band or will constitute a capital investment,
- (h) to make to members of the band, for the purpose of promoting the welfare of the band, loans not exceeding one-half of the total value of
  - (i) the chattels owned by the borrower, and
  - (ii) the land with respect to which he holds or is eligible to receive a Certificate of Possession, and may charge interest and take security therefor.
- (i) to meet expenses necessarily incidental to the management of lands on a reserve, surrendered lands and any band property, and
- (j) for any other purpose that in the opinion of the Minister is for the benefit of the band.

S.C. 1951, c. 29, cont'd.

**65. The Minister may pay from capital moneys**

Expenditure  
of capital.

- (a) compensation to an Indian in an amount that is determined in accordance with this Act to be payable to him in respect of land compulsorily taken from him for band purposes, and
- (b) expenses incurred to prevent or suppress grass or forest fires or to protect the property of Indians in cases of emergency.

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

Expenditure  
of revenue  
moneys with  
consent of  
band

(2) The Minister may make expenditures out of the revenue moneys of the band to assist sick, disabled, aged or destitute Indians of the band and to provide for the burial of deceased indigent members of the band.

Minister may  
direct  
expenditure.

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

Expenditure  
of revenue  
moneys with  
authority of  
G. in C.

- (a) for the destruction of noxious weeds and the prevention of the spreading or prevalence of insects, pests or diseases that may destroy or injure vegetation on Indian reserves,
- (b) to prevent, mitigate and control the spread of diseases on reserves, whether or not the diseases are infectious or communicable,
- (c) to provide for the inspection of premises on reserves and the destruction, alteration or renovation thereof,
- (d) to prevent overcrowding of premises on reserves used as dwellings,
- (e) to provide for sanitary conditions in private premises on reserves as well as in public places on reserves, and
- (f) for the construction and maintenance of boundary fences.

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

Maintenance  
of  
dependents.

- (a) has deserted his wife or family without sufficient cause,
- (b) has conducted himself in such a manner as to justify the refusal of his wife or family to live with him, or
- (c) has been separated by imprisonment from his wife and family,

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

Maintenance  
of  
illegitimat.  
child

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

Illegitimate  
children.

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

S.C. 1951, c. 29, cont'd.

**Management of revenue moneys by band.** **68.** (1) The Governor in Council may by order permit a band to control, manage and expend in whole or in part its revenue moneys and may amend or revoke any such order.

**Regulations.** (2) The Governor in Council may make regulations to give effect to subsection one and may declare therein the extent to which this Act and *The Consolidated Revenue and Audit Act, 1931*, shall not apply to a band to which an order made under subsection one applies.

1931, c. 27

LOANS TO INDIANS.

**Loans to Indians** **69.** (1) The Minister of Finance may from time to time advance to the Minister out of the Consolidated Revenue Fund such sums of money as the Minister may require to enable him

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

PART I.

S.C. 1952-53,  
c. 41, s. 1.

**1.** Paragraph (a) of subsection (1) of section 69 of *The Indian Act*, chapter 29 of the statutes of 1951, is repealed and the following substituted therefor:

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

**Loans to Indians.**

(b) to expend or to lend money for the carrying out of co-operative projects on behalf of Indians.

S.C. 1951,  
c. 29, s. 69,  
cont'd.

**Regulations** (2) The Governor in Council may make regulations to give effect to subsection one.

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

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

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

S.C. 1951, c. 29, cont'd.

(6) The Minister shall within fifteen days after the termination of each fiscal year or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session thereof, lay before Parliament a report setting out the total number and amount of loans made under subsection one during that year.

Report to  
Parliament.

#### FARMS.

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

Minister  
may operate  
farms.

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

Application  
of profits.

#### TREATY MONEY.

**71.** Moneys that are payable to Indians or to Indian bands under a treaty between His Majesty and the band and for the payment of which the Government of Canada is responsible, may be paid out of the Consolidated Revenue Fund.

Treaty  
money  
payable  
out of  
C.R.F.

#### REGULATIONS.

**72.** (1) The Governor in Council may make regulations

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

Regulations.

S.C. 1951, c. 29, cont'd.

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

**Orders and regulations.** (3) The Governor in Council may make orders and regulations to carry out the purposes and provisions of this Act.

#### ELECTIONS OF CHIEFS AND BAND COUNCILS.

**G. in C. may declare chiefs and councillors to be elected.** **73.** (1) Whenever he deems it advisable for the good government of a band, the Governor in Council may declare by order that after a day to be named therein the council of the band, consisting of a chief and councillors, shall be selected by elections to be held in accordance with this Act.

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

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

- (a) that the chief of a band shall be elected by
  - (i) a majority of the votes of the electors of the band, or
  - (ii) a majority of the votes of the elected councillors of the band from among themselves, but the chief so elected shall remain a councillor,
- (b) that the councillors of a band shall be elected by
  - (i) a majority of the votes of the electors of the band, or
  - (ii) a majority of the votes of the electors of the band in the electoral section in which the candidate resides and that he proposes to represent on the council of the band,

(c) that a reserve shall for voting purposes be divided into not more than six electoral sections containing as nearly as may be an equal number of Indians eligible to vote, and

(d) for the manner in which electoral sections established under paragraph (c) shall be distinguished or identified.

(4) Where the Minister is satisfied that a majority of the electors of a band do not desire to have the reserve divided into electoral sections and reports to the Governor in Council accordingly, the Governor in Council may order that the reserve shall for voting purposes consist of one electoral section.

Single  
electoral  
section.

S.C. 1951, c. 29, cont'd.

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

(2) No person may be a candidate for election as chief or councillor unless his nomination is moved and seconded by persons who are themselves eligible to be nominated. Nomination.

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

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

(2) The regulations made under paragraph (c) of subsection one shall make provision for secrecy of voting. Secrecy of voting.

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

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

**77.** (1) Subject to this section, chiefs and councillors shall hold office for two years. Tenure of office.

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

- (a) the person who holds that office
  - (i) is convicted of an indictable offence,
  - (ii) dies or resigns his office, or
  - (iii) is or becomes ineligible to hold office by virtue of this Act, or
- (b) the Minister declares that in his opinion the person who holds that office
  - (i) is unfit to continue in office by reason of his having been convicted of an offence,
  - (ii) has been absent from meetings of the council for three consecutive meetings without being authorized to do so, or
  - (iii) was guilty, in connection with an election, of corrupt practice, accepting a bribe, dishonesty or malfeasance.

Disqualification.

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

Special election

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



S.C. 1951, c. 29, cont'd.

Governor  
in Council  
may set  
aside  
election.

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

- (a) there was corrupt practice in connection with the election,
- (b) there was a violation of this Act that might have affected the result of the election, or
- (c) a person nominated to be a candidate in the election was ineligible to be a candidate.

Regulations  
respecting  
band and  
council  
meetings.

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

- (a) presiding officers at such meetings,
- (b) notice of such meetings,
- (c) the duties of any representative of the Minister at such meetings, and
- (d) the number of persons required at the meeting to constitute a quorum.

#### POWERS OF THE COUNCIL.

By-laws.

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

- (a) to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases,
- (b) the regulation of traffic,
- (c) the observance of law and order,
- (d) the prevention of disorderly conduct and nuisances,
- (e) the protection against and prevention of trespass by cattle and other domestic animals, the establishment of pounds, the appointment of pound-keepers, the regulation of their duties and the provision for fees and charges for their services,
- (f) the construction and maintenance of water courses, roads, bridges, ditches, fences and other local works,
- (g) the dividing the reserve or a portion thereof into zones and the prohibition of the construction or maintenance of any class of buildings or the carrying on of any class of business, trade or calling in any such zone,
- (h) the regulation of the construction, repair and use of buildings, whether owned by the band or by individual members of the band,
- (i) the survey and allotment of reserve lands among the members of the band and the establishment of a register of Certificates of Possession and Certificates of Occupation relating to allotments and the setting apart of reserve lands for common use, if authority therefor has been granted under section sixty,
- (j) the destruction and control of noxious weeds,
- (k) the regulation of beekeeping and poultry raising,
- (l) the construction and regulation of the use of public wells, cisterns, reservoirs and other water supplies,
- (m) the control and prohibition of public games, sports, races, athletic contests and other amusements,
- (n) the regulation of the conduct and activities of hawkers, peddlers or others who enter the reserve to buy, sell or otherwise deal in wares or merchandise,

S.C. 1951, c. 29, cont'd.

- (o) the preservation, protection and management of fur-bearing animals, fish and other game on the reserve.
- (p) the removal and punishment of persons trespassing upon the reserve or frequenting the reserve for prescribed purposes,
- (q) with respect to any matter arising out of or ancillary to the exercise of powers under this section, and
- (r) the imposition on summary conviction of a fine not exceeding one hundred dollars or imprisonment for a term not exceeding thirty days or both fine and imprisonment for violation of a by-law made under this section.

**S1.** (1) A copy of every by-law made under the authority of section eighty shall be forwarded by mail by the chief or a member of the council of the band to the Minister within four days after it is made.

Copies of by-laws to be sent to Minister.

Effective date of by-law.

(2) A by-law made under section eighty shall come into force forty days after a copy thereof is forwarded to the Minister pursuant to subsection one, unless it is disallowed by the Minister within that period, but the Minister may declare the by-law to be in force at any time before the expiration of that period.

Money by-laws

**S2.** (1) Without prejudice to the powers conferred by section eighty, where the Governor in Council declares that a band has reached an advanced stage of development, the council of the band may, subject to the approval of the Minister, make by-laws for any or all of the following purposes, namely,

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

Restriction on expenditures.

(2) No expenditures shall be made out of moneys raised pursuant to paragraph (a) of subsection one except under the authority of a by-law of the council of the band.

S.C. 1951, c. 29, cont'd.

Recovery  
of taxes.

**S3.** Where a tax that is imposed upon an Indian by or under the authority of a by-law made under section eighty-two is not paid in accordance with the by-law, the Minister may pay the amount owing together with an amount equal to one-half of one per cent thereof out of moneys payable out of the funds of the band to the Indian.

G. in C. may  
revoke  
authority to  
make money  
by-laws.

**S4.** The Governor in Council may revoke a declaration made under section eighty-two whereupon that section shall no longer apply to the band to which it formerly applied, but any by-law made under the authority of that section and in force at the time the declaration is revoked shall be deemed to continue in force until it is revoked by the Governor in Council.

**S5.** A copy of a by-law made by the council of a band under this Act, if it is certified to be a true copy by the superintendent, is *prima facie* evidence that the by-law was duly made by the council and approved by the Minister, without proof of the signature or official character of the superintendent, and no such by-law is invalid by reason of any defect in form.

Evidence.

#### TAXATION.

**S6.** (1) Notwithstanding any other Act of the Parliament of Canada or any Act of the legislature of a province, but subject to subsection two of this section and to section eighty-two, the following property is exempt from taxation, namely,

Property  
exempt  
from  
taxation.

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

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

and no Indian or band is subject to taxation in respect of the ownership, occupation, possession or use of any property mentioned in paragraph (a) or (b) or is otherwise subject to taxation in respect of any such property; and no succession duty, inheritance tax or estate duty is payable on the death of any Indian in respect of any such property or the succession thereto if the property passes to an Indian, nor shall any such property be taken into account in determining the duty payable under *The Dominion Succession Duty Act* on or in respect of other property passing to an Indian.

1940-41, c. 14.

(2) Subsection one does not apply to or in respect of the personal property of an Indian who has executed a waiver under the provisions of paragraph (f) of subsection two of section fourteen of *The Dominion Elections Act, 1938*.

Tax  
exemption  
not applicable.

1938, c. 46.

S.C. 1951, c. 29, cont'd.

#### LEGAL RIGHTS.

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

General provincial laws applicable to Indians.

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

Property on reserve not subject to alienation.

Conditional sales.

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

Property deemed situated on reserve.

**89.** (1) For the purposes of sections eighty-six and eighty-eight, personal property that was

(a) purchased by His Majesty with Indian moneys or moneys appropriated by Parliament for the use and benefit of Indians or bands, or

(b) given to Indians or to a band under a treaty or agreement between a band and His Majesty, shall be deemed always to be situated on a reserve.

Restriction on transfer.

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

Destruction of property.

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

#### TRADING WITH INDIANS.

Certain property on a reserve may not be acquired.

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

(a) an Indian grave house,

(b) a carved grave pole,

(c) a totem pole,

(d) a carved house post, or

(e) a rock embellished with paintings or carvings.

Articles manufactured for sale. Removal, destruction, etc.

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

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

Penalty.

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

S.C. 1951, c. 29, cont'd.

Departmental employees, etc., prohibited from trading without a licence.

**91.** (1) No person who is  
 (a) an officer or employee in the Department,  
 (b) a missionary engaged in mission work among Indians,  
 or

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

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

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

(4) Without prejudice to subsection three, an officer or employee in the Department who contravenes subsection one may be dismissed from office. Dismissal.

PENALTIES.

**92.** A person who, without the written permission of the Minister or his duly authorized representative, Removal of material from reserve.

- (a) removes from a reserve
  - (i) minerals, stone, sand, gravel, clay or soil, or
  - (ii) trees, saplings, shrubs, underbrush, timber, cordwood or hay, or

(b) has in his possession anything removed from a reserve contrary to this section, is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. Offence and penalty.

**93.** A person who directly or indirectly by himself or by any other person on his behalf knowingly Sale of intoxicants

- (a) sells, barter, supplies or gives an intoxicant to
  - (i) any person on a reserve, or
  - (ii) an Indian outside a reserve,
- (b) opens or keeps or causes to be opened or kept on a reserve a dwelling house, building, tent, or place in which intoxicants are sold, supplied or given to any person, or

(c) makes or manufactures intoxicants on a reserve, is guilty of an offence and is liable on summary conviction to a fine of not less than fifty dollars and not more than three hundred dollars or to imprisonment for a term of not less than one month and not more than six months, with or without hard labour, or to both fine and imprisonment.

S.C. 1951, c. 29, cont'd.

- 94.** An Indian who  
 (a) has intoxicants in his possession,  
 (b) is intoxicated, or  
 (c) makes or manufactures intoxicants  
 off a reserve, is guilty of an offence and is liable on summary conviction to a fine of not less than ten dollars and not more than fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.
- 95.** (1) No offence is committed against subparagraph (ii) of paragraph (a) of section ninety-three or paragraph (a) of section ninety-four if intoxicants are sold to an Indian for consumption in a public place in accordance with a law of the province where the sale takes place authorizing the sale of intoxicants to a person for consumption in a public place.
- (2) This section shall not come into force in any province until a proclamation bringing it into force in the province is issued by the Governor in Council at the request of the Lieutenant-Governor in Council of the province.
- 96.** A person who is found  
 (a) with intoxicants in his possession, or  
 (b) intoxicated  
 on a reserve, is guilty of an offence and is liable on summary conviction to a fine of not less than ten dollars and not more than fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.
- 97.** The provisions of this Act relating to intoxicants do not apply where the intoxicant is used or is intended to be used in cases of sickness or accident.
- 98.** In any prosecution under this Act the burden of proof that an intoxicant was used or was intended to be used in a case of sickness or accident is upon the accused.
- 99.** In every prosecution under this Act a certificate of analysis furnished by an analyst employed by the Government of Canada or by a province shall be accepted as *prima facie* evidence of the facts stated therein and of the authority of the person giving or issuing the certificate, without proof of the signature of the person appearing to have signed the certificate or his official character, and without further proof thereof.
- 100.** Every person who is guilty of an offence against any provision of this Act or any regulation made by the Governor in Council or the Minister for which a penalty is not provided elsewhere in this Act or the regulations, is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

Possession of  
intoxicants  
off a reserve.

Exception re  
sale of intoxi-  
cants.

Coming into  
force.

Possession of  
intoxicants  
on a reserve.

Exception  
where  
intoxicant  
used for  
sickness.

Onus o.  
proof.

Certificate  
of analysis  
is evidence.

Penalty  
where no  
other  
provided.

S.C. 1951, c. 29, cont'd.

**101.** (1) Whenever a peace officer or a superintendent or a person authorized by the Minister believes on reasonable grounds that an offence against section thirty-three, eighty-nine, ninety-three, ninety-four or ninety-six has been committed, he may seize all goods and chattels by means of or in relation to which he reasonably believes the offence was committed. Seizure of goods.

S.C. 1953,  
c. 41, s. 2.

**2.** Subsection (1) of section 101 of the said Act is repealed and the following substituted therefor:

"**101.** (1) Whenever a peace officer or a superintendent or a person authorized by the Minister believes on reasonable grounds that an offence against section thirty-three, eighty-nine, ninety-two, ninety-three, ninety-four or ninety-six has been committed, he may seize all goods and chattels by means of or in relation to which he reasonably believes the offence was committed, and he may enter, open and search any place or thing in or upon which he reasonably believes any such goods or chattels may be found." Seizure of goods.

S.C. 1951,  
c. 29, s. 101,  
cont'd.

(2) All goods and chattels seized pursuant to subsection one may be detained for a period of three months following the day of seizure unless during that period proceedings under this Act in respect of such offence are undertaken, in which case the goods and chattels may be further detained until such proceedings are finally concluded. Detention.

(3) Where a person is convicted of an offence against the sections mentioned in subsection one, the convicting court or judge may order that the goods and chattels by means of or in relation to which the offence was committed, in addition to any penalty imposed, are forfeited to His Majesty. Forfeiture

**102.** Every fine, penalty or forfeiture imposed under this Act belongs to His Majesty for the benefit of the band with respect to which or to one or more members of which the offence was committed or to which the offender, if an Indian, belongs, but the Governor in Council may from time to time direct that the fine, penalty or forfeiture shall be paid to a provincial, municipal or local authority that bears in whole or in part the expense of administering the law under which the fine, penalty or forfeiture is imposed, or that the fine, penalty or forfeiture shall be applied in the manner that he considers will best promote the purposes of the law under which the fine, penalty or forfeiture is imposed, or the administration of that law. Disposition of fines.

**103.** In any order, writ, warrant, summons or proceeding issued under this Act it shall be sufficient if the name of the person or Indian referred to therein is the name given to, or the name by which the person or Indian is known by, the person who issues the order, writ, warrant, summons or proceedings, and if no part of the name of the person is given to or known by the person issuing the order, writ, warrant, summons or proceedings, it is sufficient if the person or Indian is described in any manner by which he may be identified. Description of Indians in writs, etc.

S.C. 1951, c. 29, cont'd.

**104.** A police magistrate or a stipendiary magistrate shall have and may exercise, with respect to matters arising under this Act, jurisdiction over the whole county, union of counties or judicial district in which the city, town or other

Jurisdiction  
of  
magistrates.

place for which he is appointed or in which he has jurisdiction under provincial laws is situated.

Appointment  
of justices.

**105.** The Governor in Council may appoint persons to be, for the purposes of this Act, justices of the peace and those persons shall have and may exercise the powers and authority of two justices of the peace with regard to

(a) offences under this Act,

R.S., c. 36.

(b) offences under the *Criminal Code* with respect to inciting Indians on reserves to commit riotous acts, and robbing of Indian graves, and

(c) any offence against the provisions of the *Criminal Code* relating to cruelty to animals, common assault, breaking and entering and vagrancy, where the offence is committed by an Indian or relates to the person or property of an Indian.

Indian agent  
*ex officio*  
a J.P.

**106.** Where, immediately prior to the coming into force of this Act, an Indian agent was *ex officio* a justice of the peace under the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, he shall be deemed, for the purposes of this Act, to have been appointed under section one hundred and five, and he may exercise the powers and authority conferred by that section until his appointment is revoked by the Minister.

Commis-  
sioners for  
taking oaths

**107.** For the purposes of this Act or any matter relating to Indian affairs

(a) persons appointed by the Minister for the purpose,

(b) superintendents, and

(c) the Minister, Deputy Minister and the chief officer in charge of the branch of the Department relating to Indian affairs

are *ex officio* commissioners for the taking of oaths.



S.C. 1951, c. 29, cont'd.

### ENFRANCHISEMENT

Enfranchise-  
ment of  
Indian and  
wife and  
minor  
children.

**108.** (1) On the report of the Minister that an Indian has applied for enfranchisement and that in his opinion the Indian

(a) is of the full age of twenty-one years,

(b) is capable of assuming the duties and responsibilities of citizenship, and

(c) when enfranchised, will be capable of supporting himself and his dependants,  
the Governor in Council may by order declare that the Indian and his wife and minor unmarried children are enfranchised.

(2) On the report of the Minister that an Indian woman married a person who is not an Indian, the Governor in Council may by order declare that the woman is enfranchised as of the date of her marriage.

(3) Where, in the opinion of the Minister, the wife of an Indian is living apart from her husband, the names of his wife and his minor children who are living with the wife shall not be included in an order under subsection one that enfranchises the Indian unless the wife has applied for enfranchisement, but where the Governor in Council is satisfied that such wife is no longer living apart from her husband, the Governor in Council may by order declare that the wife and the minor children are enfranchised.

(4) A person is not enfranchised unless his name appears in an order of enfranchisement made by the Governor in Council.

**109.** A person with respect to whom an order for enfranchisement is made under section one hundred and eight shall, from the date thereof, be deemed not to be an Indian within the meaning of this Act or any other statute or law.

**110.** (1) Upon the issue of an order of enfranchisement, any interest in land and improvements on an Indian reserve of which the enfranchised Indian was in lawful possession or over which he exercised rights of ownership, at the time of his enfranchisement, may be disposed of by him by gift or private sale to the band or another member of the band, but if not so disposed of within thirty days after the date of the order of enfranchisement such land and improvements shall be offered for sale by tender by the superintendent and sold to the highest bidder and the proceeds of such sale paid to him; and if no bid is received and the property remains unsold after six months from the date of such offering, the land, together with improvements, shall revert to the band free from any interest of the enfranchised person therein, subject to the payment, at the discretion of the Minister, to the enfranchised Indian, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.

(2) When an order of enfranchisement issues or has issued, the Governor in Council may, with the consent of the council of the band, by order declare that any lands within a reserve of which the enfranchised Indian had formerly been in lawful possession shall cease to be Indian reserve lands.

S.C. 1951, c. 29, cont'd.

(3) When an order has been made under subsection two, the enfranchised Indian is entitled to occupy such lands for a period of ten years from the date of his enfranchisement, and the enfranchised Indian shall pay to the funds of the band, or there shall, out of any money payable to the enfranchised Indian under this Act, be transferred to the funds of the band, such amount per acre for the lands as the Minister considers to be the value of the common interest of the band in the lands.

(4) At the end of the ten-year period referred to in subsection three the Minister shall cause a grant of the lands to be made to the enfranchised Indian or to his legal representatives.

Enfranchisement of band.

**111.** (1) Where the Minister reports that a band has applied for enfranchisement, and has submitted a plan for the disposal or division of the funds of the band and the lands in the reserve, and in his opinion the band is capable of managing its own affairs as a municipality or part of a municipality, the Governor in Council may by order approve the plan, declare that all the members of the band are enfranchised, either as of the date of the order or such later date as may be fixed in the order, and may make regulations for carrying the plan and the provisions of this section into effect.

Majority vote required.

(2) An order for enfranchisement may not be made under subsection one unless more than fifty per cent of the electors of the band signify, at a meeting of the band called for the purpose, their willingness to become enfranchised under this section, and their approval of the plan.

Agreements with provinces or municipalities.

(3) The Governor in Council may, for the purpose of giving effect to this section, authorize the Minister to enter into an agreement with a province or a municipality, or both, upon such terms as may be agreed upon by the Minister and the province or municipality, or both.

Financial assistance.

(4) Without restricting the generality of subsection three, an agreement made thereunder may provide for financial assistance to be given to the province or the municipality or both to assist in the support of indigent, infirm or aged persons to whom the agreement applies, and such financial assistance, or any part thereof, shall, if the Minister so directs, be paid out of moneys of the band, and any such financial assistance not paid out of moneys of the band shall be paid out of moneys appropriated by Parliament.

Committee of inquiry.

**112.** (1) The Minister may appoint a committee to inquire into and report upon the desirability of enfranchising within the meaning of this Act an Indian or a band, whether or not the Indian or the band has applied for enfranchisement.

Composition.

(2) A committee appointed under subsection one shall consist of

- (a) a judge or retired judge of a superior, surrogate, district or county court,
- (b) an officer of the Department, and
- (c) a member of the band to be appointed by the council of the band, but if no appointment is made by the council of the band within thirty days after a request therefor is sent by the Minister to the band, a member of the band appointed by the Minister.

S.C. 1951, c. 29, cont'd.

- (3) Where the committee or a majority thereof reports Report of committee
- (a) in the case of an Indian, that in its opinion the Indian is qualified under paragraphs (a), (b) and (c) of subsection one of section one hundred and eight to be enfranchised,
- (b) in the case of a band, that in the opinion of the committee the band is capable of managing its own affairs as a municipality or part of a municipality, and the committee has submitted a plan for the disposal or division of the funds of the band and the lands in the reserve, and
- (c) that it is desirable that the Indian or the band, as the case may be, should be enfranchised,
- the report, if approved by the Minister, shall be deemed to be an application for enfranchisement by the Indian or by the band and shall be dealt with as such in accordance with this Act, except that, in the case of a band, the provisions of subsection two of section one hundred and eleven, are not applicable.
- (4) An Indian or the members of a band shall not be enfranchised under this section contrary to the terms of any treaty, agreement or undertaking between a band and His Majesty that is applicable. Treaty to be observed.

#### SCHOOLS.

- 113.** The Governor in Council may authorize the Minister, in accordance with this Act, Schools.
- (a) to establish, operate and maintain schools for Indian children,
- (b) to enter into agreements on behalf of His Majesty for the education in accordance with this Act of Indian children, with
- (i) the government of a province,
  - (ii) the council of the Northwest Territories,
  - (iii) the council of the Yukon Territory,
  - (iv) a public or separate school board, and
  - (v) a religious or charitable organization.
- 114.** The Minister may
- (a) provide for and make regulations with respect to standards for buildings, equipment, teaching, education, inspection and discipline in connection with schools, Regulations.
- (b) provide for the transportation of children to and from school,
- (c) enter into agreements with religious organizations for the support and maintenance of children who are being educated in schools operated by those organizations, and
- (d) apply the whole or any part of moneys that would otherwise be payable to or on behalf of a child who is attending a residential school to the maintenance of that child at that school.

S.C. 1951, c. 29, cont'd.

**Attendance.** **115.** (1) Subject to section one hundred and sixteen, every Indian child who has attained the age of seven years shall attend school.

**Idem.** (2) The Minister may

- (a) permit an Indian who has attained the age of six years to attend school,
- (b) require an Indian who becomes sixteen years of age during the school term to continue to attend school until the end of that term, and
- (c) require an Indian who becomes sixteen years of age to attend school for such further period as the Minister considers advisable, but no Indian shall be required to attend school after he becomes eighteen years of age.

**When attendance not required.** **116.** An Indian child is not required to attend school if the child

- (a) is, by reason of sickness or other unavoidable cause that is reported promptly to the principal, unable to attend school,
- (b) has passed entrance examinations for high school,
- (c) is, with the permission in writing of the superintendent, absent from school for a period not exceeding six weeks in each term for the purpose of assisting in husbandry or urgent and necessary household duties,
- (d) is under efficient instruction at home or elsewhere, within one year after the written approval by the Minister of such instruction, or
- (e) is unable to attend school because there is insufficient accommodation in the school that the child is entitled or directed to attend.

**School to be attended.** **117.** Every Indian child who is required to attend school shall attend such school as the Minister may designate, but no child whose parent is a Protestant shall be assigned to a school conducted under Roman Catholic auspices and no child whose parent is a Roman Catholic shall be assigned to a school conducted under Protestant auspices, except by written direction of the parent.

**118.** (1) The Minister may appoint persons, to be called **Truant officers.** truant officers, to enforce the attendance of Indian children at school, and for that purpose a truant officer shall have the powers of a peace officer.

(2) Without restricting the generality of subsection one, **Powers.** a truant officer may

- (a) enter any place where he believes, on reasonable grounds, that there are Indian children who are between the ages of seven and sixteen years of age, or who are required by the Minister to attend school,
- (b) investigate any case of truancy, and
- (c) serve written notice upon the parent, guardian or other person having the care or legal custody of a child to cause the child to attend school regularly thereafter.

S.C. 1951, c. 29, cont'd.

(3) Where a notice has been served in accordance with paragraph (c) of subsection two with respect to a child who is required by this Act to attend school, and the child does not within three days after the service of notice attend school and continue to attend school regularly thereafter, the person upon whom the notice was served is guilty of an offence and is liable on summary conviction to a fine of not more than five dollars or to imprisonment for a term not exceeding ten days or to both fine and imprisonment.

Notice to attend school.

(4) Where a person has been served with a notice in accordance with paragraph (c) of subsection two, it is not necessary within a period of twelve months thereafter to serve that person with any other notice in respect of further non-compliance with the provisions of this Act, and whenever such person within the period of twelve months fails to cause the child with respect to whom the notice was served or any other child of whom he has charge or control to attend school and continue in regular attendance as required by this Act, such person is guilty of an offence and liable to the penalties imposed by subsection three as if he had been served with the notice.

No further notices required within one year of previous notice.

(5) A child who is habitually late for school shall be deemed to be absent from school.

Tardiness.

(6) A truant officer may take into custody a child whom he believes on reasonable grounds to be absent from school contrary to this Act and may convey the child to school, using as much force as the circumstances require.

Take into custody.

**119.** An Indian child who  
(a) is expelled or suspended from school, or

Child who is expelled or fails to attend deemed juvenile delinquent

(b) refuses or fails to attend school regularly, shall be deemed to be a juvenile delinquent within the meaning of *The Juvenile Delinquents Act, 1929*.

1929, c. 46.

Denomination of teacher.

**120.** (1) Where the majority of the members of a band belongs to one religious denomination the school established on the reserve that has been set apart for the use and benefit of that band shall be taught by a teacher of that denomination.

Idem

(2) Where the majority of the members of a band are not members of the same religious denomination and the band by a majority vote of those electors of the band who were present at a meeting called for the purpose requests that day schools on the reserve should be taught by a teacher belonging to a particular religious denomination, the school on that reserve shall be taught by a teacher of that denomination.

Minority religious denominations.

**121.** A Protestant or Roman Catholic minority of any band may, with the approval of and under regulations to be made by the Minister, have a separate day school or day school classroom established on the reserve unless, in the opinion of the Governor in Council, the number of children of school age does not so warrant.

S.C. 1951, c. 29, cont'd.

- Definitions**      **122.** In sections one hundred and thirteen to one hundred and twenty-one
- "child."            (a) "child" means an Indian who has attained the age of six years but has not attained the age of sixteen years, and a person who is required by the Minister to attend school,
- "school."            (b) "school" includes a day school, technical school, high school and residential school, and
- "truant officer."    (c) "truant officer" includes
- (i) a member of the Royal Canadian Mounted Police,
- (ii) a special constable appointed for police duty on a reserve, and
- (iii) a school teacher and a chief of the band, when authorized by the superintendent.

#### REPEAL.

- Repeal**            **123.** (1) Section one of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, is repealed and the following substituted therefor:
- Short title.**        "1. This Act may be cited as the *Indian (Soldier Settlement) Act*."
- (2) Sections two to one hundred and eighty-six of the **Repeal.** said Act are repealed.
- (3) Where in sections one hundred and eighty-seven to **References.** one hundred and ninety of the said Act
- (a) reference is made to the *Indian Act*, it shall be deemed to be a reference to this Act, and
- (b) reference is made to the Superintendent General or Deputy Superintendent General of Indian Affairs, it shall be deemed to be a reference to the Minister.

Indian Act  
1951, c. 29

Paragraph (b) of subsection (3) of section 123 is amended by substituting the Minister of Indian Affairs and Northern Development for the Minister therein mentioned.

S.C. 1966,  
c. 25,  
Sch. B.

#### PRIOR GRANTS.

- 124.** Where, prior to the coming into force of this Act, **Prior grants deemed authorized.**
- (a) a reserve or portion of a reserve was released or surrendered to the Crown pursuant to Part I of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, or pursuant to the provisions of the statutes relating to the release or surrender of reserves in force at the time of the release or surrender,
- (b) Letters Patent under the Great Seal of Canada were issued purporting to grant a reserve or portion of a reserve so released or surrendered, or any interest therein, to any person, and
- (c) the Letters Patent have not been declared void or inoperative by any Court of competent jurisdiction, the Letters Patent shall, for all purposes, be deemed to have been issued at the date thereof under the direction of the Governor in Council.

S.C. 1951, c. 29, cont'd.

S.C. 1953,  
c. 41, s. 3.

**3.** Section 124 of the said Act is repealed and the following substituted therefor:

Prior grants  
and sales  
deemed  
authorized.

"124. Where, prior to the fourth day of September, nineteen hundred and fifty-one, a reserve or portion of a reserve was released or surrendered to the Crown pursuant to Part I of the *Indian Act*, chapter ninety-eight of the Revised Statutes of Canada, 1927, or pursuant to the provisions of the statutes relating to the release or surrender of reserves in force at the time of the release or surrender, and

(a) prior to that date Letters Patent under the Great Seal of Canada were issued purporting to grant a reserve or portion of a reserve so released or surrendered, or any interest therein, to any person, and the Letters Patent have not been declared void or inoperative by any Court of competent jurisdiction, or

(b) prior to that date a reserve or portion of a reserve so released or surrendered, or any interest therein, was sold or agreed to be sold by the Crown to any person, and the sale or agreement for sale has not been cancelled or by any Court of competent jurisdiction declared void or inoperative,

the Letters Patent or the sale or agreement for sale, as the case may be, shall, for all purposes, be deemed to have been issued or made at the date thereof under the direction of the Governor in Council."

COMING INTO FORCE.

S.C. 1951,  
c. 29,  
s. 125.

**125.** This Act shall come into force on a day to be fixed by proclamation of the Governor in Council. Coming into force.





R.S.C. 1952, c. 149, cont'd.

- "Indian." (g) "Indian" means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian;
- "Indian moneys." (h) "Indian moneys" means all moneys collected, received or held by Her Majesty for the use and benefit of Indians or bands;
- "Intoxicant." (i) "intoxicant" includes alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption that are intoxicating;
- "Member of a band." (j) "member of a band" means a person whose name appears on a Band List or who is entitled to have his name appear on a Band List;
- "Mentally incompetent Indian." (k) "mentally incompetent Indian" means an Indian who, pursuant to the laws of the province in which he resides, has been found to be mentally defective or incompetent for the purposes of any laws of that province providing for the administration of estates of mentally defective or incompetent persons;
- "Minister." (l) "Minister" means the Minister of Citizenship and Immigration;
- "Registered." (m) "registered" means registered as an Indian in the Indian Register;
- "Registrar." (n) "Registrar" means the officer of the Department who is in charge of the Indian Register;
- "Reserve." (o) "reserve" means a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band;
- "Superintendent." (p) "superintendent" includes a commissioner, regional supervisor, Indian superintendent, assistant Indian superintendent and any other person declared by the Minister to be a superintendent for the purposes of this Act, and with reference to a band or a reserve, means the superintendent for that band or reserve;
- "Surrendered lands." (q) "surrendered lands" means a reserve or part of a reserve or any interest therein, the legal title to which remains vested in Her Majesty, that has been released or surrendered by the band for whose use and benefit it was set apart.
- "Band." (2) The expression "band" with reference to a reserve or surrendered lands means the band for whose use and benefit the reserve or the surrendered lands were set apart.

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

- (a) a power conferred upon a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the electors of the band, and
- (b) a power conferred upon the council of a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the councillors of the band present at a meeting of the council duly convened. 1951, c. 29, s. 2.

Exercise of powers conferred on band or council.

R.S.C. 1952, c. 149, cont'd.

ADMINISTRATION.

3. (1) This Act shall be administered by the Minister of Citizenship and Immigration, who shall be the superintendent general of Indian affairs. Minister to administer Act.

(2) The Minister may authorize the Deputy Minister of Citizenship and Immigration or the chief officer in charge of the branch of the Department relating to Indian affairs to perform and exercise any of the duties, powers and functions that may be or are required to be performed or exercised by the Minister under this Act or any other Act of the Parliament of Canada relating to Indian affairs. 1951. c. 29, s. 3. Authority of Deputy Minister and chief officer.

APPLICATION OF ACT.

4. (1) This Act does not apply to the race of aborigines commonly referred to as Eskimos. Eskimos.

1. (1) Subsection (1) of section 4 of the *Indian Act* is repealed and the following substituted therefor:

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

S.C. 1956,  
c. 40, s. 1.

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

R.S.C. 1952,  
c. 149, s. 4,  
cont'd.

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

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

and may by proclamation revoke any such declaration. 1951. c. 29, s. 4.

(2) Section 4 of the said Act is further amended by adding thereto the following subsection:

"(3) Sections 113 to 122 and, unless the Minister otherwise orders, sections 42 to 52 do not apply to or in respect of any Indian who does not ordinarily reside on a reserve or on lands belonging to Her Majesty in right of Canada or a province." Certain sections inapplicable to Indians living off reserves.

S.C. 1956,  
c. 40, s. 1.

DEFINITION AND REGISTRATION OF INDIANS.

5. An Indian Register shall be maintained in the Department, which shall consist of Band Lists and General Lists and in which shall be recorded the name of every person who is entitled to be registered as an Indian. 1951, c. 29, s. 5. Indian Register.

Band Lists  
and  
General  
Lists.

6. The name of every person who is a member of a band and is entitled to be registered shall be entered in the Band List for that band, and the name of every person who is not a member of a band and is entitled to be registered shall be entered in a General List. 1951, c. 29, s. 6.

R.S.C. 1952, c. 149, cont'd.

Deletions  
and  
additions.

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

Date of  
change.

(2) The Indian Register shall indicate the date on which each name was added thereto or deleted therefrom. 1951, c. 29, s. 7.

Existing  
lists to  
constitute  
Register.

8. Upon the coming into force of this Act, the band lists then in existence in the Department shall constitute the Indian Register, and the applicable lists shall be posted in a conspicuous place in the superintendent's office that serves the band or persons to whom the list relates and in all other places where band notices are ordinarily displayed. 1951, c. 29, s. 8.

Deletions  
and  
additions  
may be  
protested.

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

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

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

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

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

S.C. 1956,  
c. 40, s. 2.

2. (1) Subsection (1) of section 9 of the said Act is amended by deleting all the words after the end of paragraph (c) thereof and substituting therefor the following:

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

R.S.C. 1952,  
c. 149,  
s. 9,  
cont'd.

Registrar to  
cause in-  
vestigation.

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

R.S.C. 1952, c. 149, cont'd.

(3) Within three months from the date of a decision of the Registrar under this section <sup>Reference to Judge.</sup>

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

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

may, by notice in writing, request the Registrar to refer the decision to a judge for review, and thereupon the Registrar shall refer the decision, together with all material considered by the Registrar in making his decision, to the judge of the county or district court of the county or district in which the band is situated or in which the person in respect of whom the protest was made resides, or such other county or district as the Minister may designate, or in the Province of Quebec, to the judge of the Superior Court for the district in which the band is situated or in which the person in respect of whom the protest was made resides, or such other district as the Minister may designate.

(4) The judge of the county, district or Superior Court, <sup>Inquiry and decision.</sup> as the case may be, shall inquire into the correctness of the Registrar's decision, and for such purposes may exercise all the powers of a commissioner under Part I of the *Inquiries Act*; the judge shall decide whether the person in respect of whom the protest was made is, in accordance with the provisions of this Act, entitled or not entitled, as the case may be, to have his name included in the Indian Register, and the decision of the judge is final and conclusive. 1951, c. 29, s. 9.

(2) Section 9 of the said Act is further amended by adding thereto the following subsections:

S.C. 1956, c. 40, s. 2.

"(5) Not more than one reference of a Registrar's decision <sup>One reference only.</sup> in respect of a protest may be made to a judge under this section.

Burden of proof.

"(6) Where a decision of the Registrar has been referred to a judge for review under this section, the burden of establishing that the decision of the Registrar is erroneous is on the person who requested that the decision be so referred."

10. Where the name of a male person is included in, <sup>Wife and minor children.</sup> omitted from, added to or deleted from a Band List or a General List, the names of his wife and his minor children shall also be included, omitted, added or deleted, as the case may be. 1951, c. 29, s. 10.

R.S.C. 1952, c. 149, cont'd.

**11.** Subject to section 12, a person is entitled to be registered if that person Persons entitled to be registered.

- (a) on the 26th day of May, 1874, was, for the purposes of *An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands*, chapter 42 of the statutes of 1868, as amended by section 6 of chapter 6 of the statutes of 1869, and section 8 of chapter 21 of the statutes of 1874, considered to be entitled to hold, use or enjoy the lands and other immovable property belonging to or appropriated to the use of the various tribes, bands or bodies of Indians in Canada;
- (b) is a member of a band
- (i) for whose use and benefit, in common, lands have been set apart or since the 26th day of May, 1874, have been agreed by treaty to be set apart, or
- (ii) that has been declared by the Governor in Council to be a band for the purposes of this Act;
- (c) is a male person who is a direct descendant in the male line of a male person described in paragraph (a) or (b);
- (d) is the legitimate child of
- (i) a male person described in paragraph (a) or (b), or
- (ii) a person described in paragraph (c);
- (e) is the illegitimate child of a female person described in paragraph (a), (b) or (d), unless the Registrar is satisfied that the father of the child was not an Indian and the Registrar has declared that the child is not entitled to be registered; or

S.C. 1956,  
c. 40, s. 3.

**3.** (1) Paragraph (e) of section 11 of the said Act is repealed and the following substituted therefor:

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

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

1951, c. 29, s. 11.

R.S.C. 1952,  
c. 149, s. 11,  
cont'd.

Persons not entitled to be registered.

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

(2) Section 12 of the said Act is amended by adding thereto, immediately after subsection (1) thereof, the following subsection:

Protest re illegitimate child.

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

Coming into force.

(3) This section applies only to persons born after the coming into force of this Act.

S.C. 1956,  
c. 40, s. 3(2).

R.S.C. 1952, c. 149, cont'd,

- (a) a person who
  - (i) has received or has been allotted half-breed lands or money scrip,
  - (ii) is a descendant of a person described in subparagraph (i),
  - (iii) is enfranchised, or
  - (iv) is a person born of a marriage entered into after the 4th day of September, 1951, and has attained the age of twenty-one years, whose mother and whose father's mother are not persons described in paragraph (a), (b), (d), or entitled to be registered by virtue of paragraph (e) of section 11, unless, being a woman, that person is the wife or widow of a person described in section 11, and
- (b) a woman who is married to a person who is not an Indian.

R.S.C. 1952, c. 149, s. 12(1) cont'd.

4. Paragraph (b) of subsection (1) of section 12 of the said Act is repealed and the following substituted therefor:  
 "(b) a woman who married a person who is not an Indian, unless that woman is subsequently the wife or widow of a person described in section 11."

S.C. 1956, c. 40, s. 4.

**Certificate.** (2) The Minister may issue to any Indian to whom this Act ceases to apply, a certificate to that effect. 1951, c. 29, s. 12.

R.S.C. 1952, c. 149, s. 12(2), cont'd.

1. Section 12 of the *Indian Act* is amended by adding thereto the following subsection:

S.C. 1958, c. 19, s. 1.

- (3) Subparagraphs (i) and (ii) of paragraph (a) of subsection (1) do not apply to a person who
- (a) pursuant to this Act is registered as an Indian on the day this subsection comes into force, or
  - (b) is a descendant of a person described in paragraph (a) of this subsection."

Exception.

13. (1) Subject to the approval of the Minister, a person whose name appears on a General List may be admitted into membership of a band with the consent of the band or the council of the band.

Admission to band of persons on General List.

(2) Subject to the approval of the Minister, a member of a band may be admitted into membership of another band with the consent of the latter band or the council of that band. 1951, c. 29, s. 13.

Transfer of band membership.

5. Section 13 of the said Act is repealed and the following substituted therefor:

S.C. 1956, c. 40, s. 5.

Admission to band and transfer of membership

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

- (a) a person whose name appears on a General List may be admitted into membership of a band with the consent of the council of the band; and
- (b) a member of a band may be admitted into membership of another band with the consent of the council of the latter band."

R.S.C. 1952, c. 149, cont'd.

**14.** A woman who is a member of a band ceases to be a member of that band if she marries a person who is not a member of that band, but if she marries a member of another band, she thereupon becomes a member of the band of which her husband is a member. 1951, c. 29, s. 14.

Woman marrying outside band ceases to be member.

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

Payments to persons ceasing to be members.

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

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

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

Payments not to be made in certain cases.

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

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

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

Payments to minors.

(a) pay the moneys to the parent, guardian or other person having the custody of that person, or

S.C. 1956,  
c. 40, s. 6(1).

**6.** (1) Paragraph (a) of subsection (3) of section 15 of the said Act is repealed and the following substituted therefor:

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

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

R.S.C. 1952,  
c. 149, s.  
15(3)(b)  
cont'd.

(4) Where the name of a person is removed from the Indian Register and he is not entitled to any payment under subsection (1), the Minister shall, if he considers it equitable to do so, authorize payment, out of moneys appropriated by Parliament, of such compensation as the Minister may determine for any permanent improvements made by that person on lands in a reserve. 1951, c. 29, s. 15.

Compensation for permanent improvements.

R.S.C. 1952, c. 149, cont'd.

(2) Section 15 of the said Act is further amended by adding thereto the following subsection:

S.C. 1956,  
c. 40, s. 6(2)

"(5) Where, prior to the coming into force of this Act, any woman became entitled, under section 14 of the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, or any prior provisions to the like effect, to share in the distribution of annuities, interest moneys or rents, the Minister may, in lieu thereof, pay to such woman out of the moneys of the band an amount equal to ten times the average annual amounts of such payments made to her during the ten years last preceding or, if they were paid for less than ten years, during the years they were paid."

Commutation  
of payments  
under former  
Act.

Transfer of funds.

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

Transferred member's interest in lands and moneys.

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

Transfer of woman by marriage.

(3) Where a woman who is a member of one band becomes a member of another band by reason of marriage, and the *per capita* share of the capital and revenue moneys held by Her Majesty on behalf of the first-mentioned band is greater than the *per capita* share of such moneys so held for the second-mentioned band, there shall be transferred to the credit of the second-mentioned band an amount equal to the *per capita* share held for that band, and the remainder of the money to which the woman would, but for this section, have been entitled under section 15 shall be paid to her in such manner and at such times as the Minister may determine. 1951, c. 29, s. 16.

Minister may constitute new bands.

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

- (a) constitute new bands and establish Band Lists with respect thereto from existing Band Lists or General Lists, or both, and
- (b) amalgamate bands that, by a vote of a majority of their electors, request to be amalgamated.

7. (1) Subsection (1) of section 17 of the said Act is amended by striking out the word "and" at the end of paragraph (a) thereof, by inserting the word "and" at the end of paragraph (b) thereof and by adding thereto the following paragraph:

S.C. 1956,  
c. 40, s. 7.

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



R.S.C. 1952, c. 149, cont'd.

R.S.C. 1952,  
c. 149,  
s. 17(2),  
cont'd.

Division of  
reserves and  
funds.

(2) Where pursuant to subsection (1) a new band has been established from an existing band or any part thereof, such portion of the reserve lands and funds of the existing band as the Governor in Council determines shall be held for the use and benefit of the new band. 1951, c. 29, s. 17.

S.C. 1956,  
c. 40, s. 7(2).

(2) Subsection (2) of section 17 of the said Act is repealed and the following substituted therefor:

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

(3) No protest may be made under section 9 in respect of the deletion from or addition to a list consequent upon the exercise by the Minister of any of his powers under subsection (1)." No protest.

#### RESERVES.

Reserves to  
be held for  
use and  
benefit of  
Indians.

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

(2) The Governor in Council may authorize the use of lands in a reserve for the purpose of Indian schools, the administration of Indian affairs, Indian health projects or for any other purpose for the general welfare of the band, and may take any lands in a reserve required for such purposes, but where an individual Indian, immediately prior to such taking, was entitled to the possession of such lands, compensation for such use shall be paid to the Indian, in such amount as may be agreed between the Indian and the Minister, or, failing agreement, as may be determined in such manner as the Minister may direct. 1951, c. 29, s. 18. Use of reserves for schools, etc.

S.C. 1956,  
c. 40, s. 8.

**8.** Subsection (2) of section 18 of the said Act is repealed and the following substituted therefor:

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

R.S.C. 1952, c. 149, cont'd.

19. The Minister may

- (a) authorize surveys of reserves and the preparation of plans and reports with respect thereto,
- (b) divide the whole or any portion of a reserve into lots or other subdivisions, and
- (c) determine the location and direct the construction of roads in a reserve. 1951, c. 29, s. 19.

Minister may authorize surveys and subdivisions.

POSSESSION OF LANDS IN RESERVES.

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

Possession of lands in a reserve.

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

Certificate of Possession.

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

Location tickets issued under previous legislation.

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

Temporary possession.

Certificate of Occupation.

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

Extension of Certificate of Occupation, and approval of allotment.

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

- (a) approve the allotment by the council of the band and issue a Certificate of Possession if in his opinion the conditions as to use and settlement have been fulfilled, or
- (b) refuse approval of the allotment by the council of the band and declare the land in respect of which the Certificate of Occupation was issued to be available for re-allotment by the council of the band. 1951, c. 29, s. 20.

R.S.C. 1952, c. 149, cont'd.

**Register.** **21.** There shall be kept in the Department a register, to be known as the Reserve Land Register, in which shall be entered particulars relating to Certificates of Possession and Certificates of Occupation and other transactions respecting lands in a reserve. 1951, c. 29, s. 21.

**Improvements on lands subsequently included in a reserve.** **22.** Where an Indian who is in possession of lands at the time they are included in a reserve, made permanent improvements thereon before that time, he shall be deemed to be in lawful possession of such lands at the time they are so included. 1951, c. 29, s. 22.

**Compensation for improvements.** **23.** An Indian who is lawfully removed from lands in a reserve upon which he has made permanent improvements may, if the Minister so directs, be paid compensation in respect thereof in an amount to be determined by the Minister, either from the person who goes into possession or from the funds of the band, at the discretion of the Minister. 1951, c. 29, s. 23.

**Transfer of possession.** **24.** An Indian who is lawfully in possession of lands in a reserve may transfer to the band or to another member of the band the right to possession of the land, but no transfer or agreement for the transfer of the right to possession of lands in a reserve is effective until it is approved by the Minister. 1951, c. 29, s. 24.

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

(2) Where an Indian does not dispose of his right of possession in accordance with subsection (1), the right to possession of the land reverts to the band, subject to the payment to the Indian who was lawfully in possession of the land, from the funds of the band, of such compensation for permanent improvements as the Minister may determine. 1951, c. 29, s. 25.

**26.** Whenever a Certificate of Possession or Occupation was, in the opinion of the Minister, issued to or in the name of the wrong person, through mistake, or contains any clerical error or misnomer, or wrong description of any material fact therein, the Minister may cancel the Certificate and issue a corrected Certificate in lieu thereof. 1951, c. 29, s. 26.

S.C. 1956,  
c. 40, s. 9.

**9.** Sections 26 and 27 of the said Act are repealed and the following substituted therefor:

**Correction of Certificate or Location Tickets.**

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

R.S.C. 1952, c. 149, cont'd.

27. The Minister may, with the consent of the holder thereof, cancel any Certificate of Possession or Occupation, and may cancel any Certificate of Possession or Occupation that in his opinion was issued through fraud or in error. 1951, c. 29, s. 27.

Cancellation of Certificates.

Cancellation of Certificates or Location Tickets.

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

S.C. 1956, c. 40, s. 9, repeals R.S.C. 1952, c. 149, s. 27.

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

Grants, etc. of reserve lands void.

(2) The Minister may by permit in writing authorize any person for a period not exceeding one year to occupy or use a reserve or to reside or otherwise exercise rights on a reserve. 1951, c. 29, s. 28.

Minister may issue permits.

10. Subsection (2) of section 28 of the said Act is repealed and the following substituted therefor:

S.C. 1956, c. 40, s. 10.

Minister may issue permits.

"(2) The Minister may by permit in writing authorize any person for a period not exceeding one year, or with the consent of the council of the band for any longer period, to occupy or use a reserve or to reside or otherwise exercise rights on a reserve."

29. Reserve lands are not subject to seizure under legal process. 1951, c. 29, s. 29.

Reserve lands exempt from seizure.

TRESPASS ON RESERVES.

30. A person who trespasses on a reserve is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding one month or to both fine and imprisonment. 1951, c. 29, s. 30.

Penalty for trespass.

- Information by Attorney General.** **31.** (1) Without prejudice to section 30, where an Indian or a band alleges that persons other than Indians are or have been
- (a) unlawfully in occupation or possession of,
  - (b) claiming adversely the right to occupation or possession of, or
  - (c) trespassing upon
- a reserve or part of a reserve, the Attorney General of Canada may exhibit an Information in the Exchequer Court of Canada claiming, on behalf of the Indian or the band, the relief or remedy sought.
- Information deemed action or suit by Crown.** (2) An Information exhibited under subsection (1) shall, for all purposes of the *Exchequer Court Act*, be deemed to be an action or suit by the Crown within the meaning of paragraph (d) of section 29 of that Act.
- Existing remedies preserved.** (3) Nothing in this section shall be construed to impair, abridge or otherwise affect any right or remedy that, but for this section, would be available to Her Majesty or to an Indian or a band. 1951, c. 29, s. 31.

SALE OR BARTER OF PRODUCE.

- Sale or barter of produce prohibited unless superintendent approves.** **32.** (1) A transaction of any kind whereby a band or a member thereof purports to sell, barter, exchange, give or otherwise dispose of cattle or other animals, grain or hay, whether wild or cultivated, or root crops or plants or their products from a reserve in Manitoba, Saskatchewan or Alberta, to a person other than a member of that band, is void unless the superintendent approves the transaction in writing.
- Exemption.** (2) The Minister may at any time by order exempt a band and the members thereof or any member thereof from the operation of this section, and may revoke any such order. 1951, c. 29, s. 32.
- Offence.** **33.** Every person who enters into a transaction that is void under subsection (1) of section 32 is guilty of an offence. 1951, c. 29, s. 33.

ROADS AND BRIDGES.

- Band to maintain roads, bridges, etc.** **34.** (1) A band shall ensure that the roads, bridges, ditches and fences within the reserve occupied by that band are maintained in accordance with instructions issued from time to time by the superintendent.
- Minister may maintain roads, bridges, etc.** (2) Where, in the opinion of the Minister, a band has not carried out the instructions of the superintendent given under subsection (1), the Minister may cause the instructions to be carried out at the expense of the band or any member thereof and may recover the cost thereof from any amounts that are held by Her Majesty and are payable to the band or such member. 1951, c. 29, s. 34.

R.S.C. 1952, c. 149, cont'd.

LANDS TAKEN FOR PUBLIC PURPOSES.

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

Local authorities may take lands with consent of G. in C.

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

Procedure.

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

Grant in lieu of compulsory taking.

(4) Any amount that is agreed upon or awarded in respect of the compulsory taking or using of land under this section or that is paid for a transfer or grant of land pursuant to this section shall be paid to the Receiver General of Canada for the use and benefit of the band or for the use and benefit of any Indian who is entitled to compensation or payment as a result of the exercise of the powers referred to in subsection (1). 1951, c. 29, s. 35.

Payment.

SPECIAL RESERVES.

36. Where lands have been set apart for the use and benefit of a band and legal title thereto is not vested in Her Majesty, this Act applies as though the lands were a reserve within the meaning of this Act. 1951, c. 29, s. 36.

Act applies to reserves not vested in the Crown.

SURRENDERS.

37. Except where this Act otherwise provides, lands in a reserve shall not be sold, alienated, leased or otherwise disposed of until they have been surrendered to Her Majesty by the band for whose use and benefit in common the reserve was set apart. 1951, c. 29, s. 37.

No sale etc., until surrender.

Band may surrender.

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

Absolute or qualified.

(2) A surrender may be absolute or qualified, conditional or unconditional. 1951, c. 29, s. 38.

R.S.C. 1952, c. 149, cont'd.

How  
surrender  
made.

- 39.** (1) A surrender is void unless
- (a) it is made to Her Majesty,
  - (b) it is assented to by a majority of the electors of the band at
    - (i) a general meeting of the band called by the council of the band, or
    - (ii) a special meeting of the band called by the Minister for the purpose of considering a proposed surrender, and
  - (c) it is accepted by the Governor in Council.

S.C. 1956,  
c. 40, s.  
11.

How  
surrender  
made.

**11.** Subsections (1), (2) and (3) of section 39 of the said Act are repealed and the following substituted therefor:

- "39.** (1) A surrender is void unless
- (a) it is made to Her Majesty,
  - (b) it is assented to by a majority of the electors of the band
    - (i) at a general meeting of the band called by the council of the band,
    - (ii) at a special meeting of the band called by the Minister for the purpose of considering a proposed surrender, or
    - (iii) by a referendum as provided in the regulations, and
  - (c) it is accepted by the Governor in Council.

R.S.C. 1952, Minister may  
c. 149, call meeting  
s. 39(2). of band.

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

S.C. 1956, Minister may  
c. 40, s. 11 call meeting  
repeals or referen-  
dum.

R.S.C. 1952,  
c. 149, s.  
39(2)

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

R.S.C. Assent of  
1952, c. band.  
149, s.  
39(3).

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

S.C. 1956,  
c. 40, s.  
11,  
repeals  
R.S.C. 1952,  
c. 149, s.  
39(3).

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

R.S.C. 1952, c. 149, cont'd.

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

R.S.C. 1952,  
c. 149, s. 39  
cont'd.

**Officials required.** (5) Every meeting under this section shall be held in the presence of the superintendent or some other officer of the Department designated by the Minister. 1951, c. 29, s. 39.

**Certification of surrender.** 40. When a proposed surrender has been assented to by the band in accordance with section 39, it shall be certified on oath by the superintendent or other officer who attended the meeting and by the chief or a member of the council of the band, and shall then be submitted to the Governor in Council for acceptance or refusal. 1951, c. 29, s. 40.

**Effect of surrender.** 41. A surrender shall be deemed to confer all rights that are necessary to enable Her Majesty to carry out the terms of the surrender. 1951, c. 29, s. 41.

#### DESCENT OF PROPERTY.

42. Unless otherwise provided in this Act, all jurisdiction and authority in relation to matters and causes testamentary, with respect to deceased Indians, is vested exclusively in the Minister, and shall be exercised subject to and in accordance with regulations of the Governor in Council. 1951, c. 29, s. 42.

Powers of Minister with respect to property of deceased Indians.

12. Section 42 of the said Act is amended by adding thereto the following subsections:

S.C. 1956,  
c. 40, s. 12.

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

Deceased Indian may be deemed to have been lawfully in possession of land.

"(3) Regulations made under this section may be made applicable to estates of Indians who died before or after the coming into force of this Act."

Application of regulations

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

Particular powers.

- (a) appoint executors of wills and administrators of estates of deceased Indians, remove them and appoint others in their stead,
- (b) authorize executors to carry out the terms of the wills of deceased Indians,
- (c) authorize administrators to administer the property of Indians who die intestate,
- (d) carry out the terms of wills of deceased Indians and administer the property of Indians who die intestate, and
- (e) make or give any order, direction or finding that in his opinion it is necessary or desirable to make or give with respect to any matter referred to in section 42. 1951, c. 29, s. 43.



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

Courts may exercise jurisdiction with consent of Minister.

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

Minister may refer a matter to the court.

(3) A court that is exercising any jurisdiction or authority under this section shall not without the consent in writing of the Minister enforce any order relating to real property on a reserve. 1951, c. 29, s. 44.

Orders relating to lands.

#### WILLS.

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

Indians may make wills.

Form of will.

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

Probate.

(3) No will executed by an Indian is of any legal force or effect as a disposition of property until the Minister has approved the will or a court has granted probate thereof pursuant to this Act. 1951, c. 29, s. 45.

Minister may declare will void.

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

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

Where will declared void.

(2) Where a will of an Indian is declared by the Minister or by a court to be wholly void, the person executing the will shall be deemed to have died intestate, and where the will is so declared to be void in part only, any bequest or devise affected thereby, unless a contrary intention appears in the will, shall be deemed to have lapsed. 1951, c. 29, s. 46.

R.S.C. 1952, c. 149, cont'd.

APPEALS.

Appeal to  
Exchequer  
Court.

47. (1) A decision of the Minister made in the exercise of the jurisdiction or authority conferred upon him by section 42, 43 or 46 may, within two months from the date thereof, be appealed by any person affected thereby to the Exchequer Court of Canada, if the amount in controversy in the appeal exceeds five hundred dollars or if the Minister consents to an appeal.

Rules.

(2) The judges of the Exchequer Court may make rules respecting the practice and procedure governing appeals under this section. 1951, c. 29, s. 47.

DISTRIBUTION OF PROPERTY ON INTESTACY.

48. (1) Where the net value of the estate of an intestate does not, in the opinion of the Minister, exceed in value two thousand dollars, the estate shall go to the widow. Widow's share where net value less than \$2,000.

(2) Where the net value of the estate of an intestate, in the opinion of the Minister, is two thousand dollars or more, two thousand dollars shall go to the widow, and the remainder shall go as follows, namely, Widow's share where estate \$2,000 or more.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**"Child."** (16) In this section "child" includes a legally adopted child. 1951, c. 29, s. 48.

**13. Subsection (16) of section 48 of the said Act is repealed and the following substituted therefor:**

**"(16) In this section "child" includes a legally adopted "Child" child and a child adopted in accordance with Indian defined custom."**

R.S.C. 1952, c. 149, cont'd.

**49.** A person who claims to be entitled to possession or occupation of lands in a reserve by devise or descent shall be deemed not to be in lawful possession or occupation of that land until the possession is approved by the Minister. 1951, c. 29, s. 49.

Devisee of lands not entitled to possession until possession approved.

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

Where devisee not entitled to reside on reserve.

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

Sale by superintendent.

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

Unsold lands revert to band.

(4) The purchaser of a right to possession or occupation of land under subsection (2) shall be deemed not to be in lawful possession or occupation of the land until the possession is approved by the Minister. 1951, c. 29, s. 50.

Purchaser not entitled to possession until possession approved.

#### MENTALLY INCOMPETENT INDIANS.

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

Powers of Minister generally.

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

Particular powers.

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

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

(i) paying his debts or engagements.

(ii) discharging encumbrances on his property.

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

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

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

Property off reserve.

(3) The Minister may order that any property situated off a reserve and belonging to a mentally incompetent Indian shall be dealt with under the laws of the province in which the property is situated. 1951, c. 29, s. 51.

GUARDIANSHIP.

**Administration of property of infant children.** **52.** The Minister may administer or provide for the administration of any property to which infant children of Indians are entitled, and may appoint guardians for such purpose. 1951, c. 29, s. 52.

MANAGEMENT OF RESERVES AND SURRENDERED LANDS.

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

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

**Departmental employees not to acquire surrendered lands.** (3) No person who is appointed to manage, sell, lease or otherwise dispose of surrendered lands or who is an officer or servant of Her Majesty employed in the Department may, except with the approval of the Governor in Council, acquire directly or indirectly any interest in surrendered lands. 1951, c. 29, s. 53.

**Assignments.** **54.** Where surrendered lands have been agreed to be sold or otherwise disposed of and Letters Patent relating thereto have not issued, or where surrendered lands have been leased, the purchaser, lessee or other person having an interest in the surrendered lands may, with the approval of the Minister, assign his interest in the surrendered lands or a part thereof to any other person. 1951, c. 29, s. 54.

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

(2) A conditional assignment shall not be registered. **Conditional assignment.**

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

(4) An assignment registered under this section is valid against an unregistered assignment or an assignment subsequently registered. **Effect of registration.** 1951, c. 29, s. 55.

**56.** Where an assignment is registered there shall be endorsed on the original copy thereof a certificate of registration signed by the Minister or by an officer of the Department authorized by him to sign such certificates. **Certificate of registration rendered.** 1951, c. 29, s. 56.

R.S.C. 1952, c. 149, cont'd.

**57.** The Governor in Council may make regulations Regulations.

- (a) authorizing the Minister to grant licences to cut timber on surrendered lands, or, with the consent of the council of the band, on reserve lands,
- (b) imposing terms, conditions and restrictions with respect to the exercise of rights conferred by licences granted under paragraph (a),
- (c) providing for the disposition of surrendered mines and minerals underlying lands in a reserve,
- (d) prescribing the penalty not exceeding one hundred dollars or imprisonment for a term of three months or both fine and imprisonment that may be imposed on summary conviction for violation of any regulation made under this section, and
- (e) providing for the seizure and forfeiture of any timber or minerals taken in violation of any regulation made under this section. 1951, c. 29, s. 57.

**58.** (1) Where land in a reserve is uncultivated or unused or remains uncultivated or unused for a period of two years, the Minister may, with the consent of the council of the band, Uncultivated or unused lands.

**14.** The portion of subsection (1) of section 58 of the said Act that precedes paragraph (a) thereof is repealed and the following substituted therefor:

S.C. 1956,  
c. 40, s. 14.

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

- (a) improve or cultivate such land and employ persons therefor, authorize and direct the expenditure of so much of the capital funds of the band as he considers necessary for such improvement or cultivation including the purchase of such stock, machinery or material or for the employment of such labour as the Minister considers necessary,
- (b) where the land is in the lawful possession of any individual, grant a lease of such land for agricultural or grazing purposes or for any purpose that is for the benefit of the person in possession, and
- (c) where the land is not in the lawful possession of any individual, grant for the benefit of the band a lease of such land for agricultural or grazing purposes.

R.S.C. 1952,  
c. 149,  
s. 58(1).

Distribution  
of proceeds.

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

R.S.C. 1952, c. 149, cont'd.

Lease at  
request of  
occupant.

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

Disposition  
of grass,  
timber, non-  
metallic  
substances,  
etc.

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

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

and the proceeds of such transactions shall be credited to band funds or shall be divided between the band and the individual Indians in lawful possession of the lands in such shares as the Minister may determine. 1951, c. 29, s. 58.

Adjustment  
of contracts.

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

- (a) reduce or adjust the amount payable to Her Majesty in respect of a sale, lease or other disposition of surrendered lands or a lease or other disposition of lands in a reserve or the rate of interest payable thereon, and
- (b) reduce or adjust the amount payable to the band by an Indian in respect of a loan made to the Indian from band funds. 1951, c. 29, s. 59.

G. in C. may  
grant to  
band  
control over  
lands.

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

(2) The Governor in Council may at any time withdraw **Withdrawal.** from a band a right conferred upon the band under subsection (1). 1951, c. 29, s. 60.

#### MANAGEMENT OF INDIAN MONEYS.

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

(2) Interest upon Indian moneys held in the Consolidated Revenue Fund shall be allowed at a rate to be fixed from time to time by the Governor in Council. 1951, c. 29, s. 61. **Interest.**

**62.** All Indian moneys derived from the sale of surrendered lands or the sale of capital assets of a band shall be deemed to be capital moneys of the band and all Indian moneys other than capital moneys shall be deemed to be revenue moneys of the band. 1951, c. 29, s. 62. **Capital and revenue.**

R.S.C. 1952, c. 149, cont'd.

**63.** Notwithstanding the *Financial Administration Act*, <sup>Payments to Indians.</sup> where moneys to which an Indian is entitled are paid to a superintendent under any lease or agreement made under this Act, the superintendent may pay the moneys to the Indian. 1951, c. 29, s. 63.

**64.** With the consent of the council of a band, the Minister may authorize and direct the expenditure of <sup>Expenditure of capital moneys with consent.</sup> capital moneys of the band

- (a) to distribute *per capita* to the members of the band an amount not exceeding fifty per cent of the capital moneys of the band derived from the sale of surrendered lands,
- (b) to construct and maintain roads, bridges, ditches and water courses on the reserves or on surrendered lands,
- (c) to construct and maintain outer boundary fences on reserves,
- (d) to purchase land for use by the band as a reserve or as an addition to a reserve,
- (e) to purchase for the band the interest of a member of the band in lands on a reserve,
- (f) to purchase livestock and farm implements, farm equipment, or machinery for the band,
- (g) to construct and maintain on or in connection with a reserve such permanent improvements or works as in the opinion of the Minister will be of permanent value to the band or will constitute a capital investment,
- (h) to make to members of the band, for the purpose of promoting the welfare of the band, loans not exceeding one-half of the total value of
  - (i) the chattels owned by the borrower, and
  - (ii) the land with respect to which he holds or is eligible to receive a Certificate of Possession, and may charge interest and take security therefor,
- (i) to meet expenses necessarily incidental to the management of lands on a reserve, surrendered lands and any band property, and
- (j) for any other purpose that in the opinion of the Minister is for the benefit of the band. 1951, c. 29, s. 64.

**15.** Section 64 of the said Act is amended by deleting the word "and" at the end of paragraph (i) thereof, by re-lettering paragraph (j) thereof as paragraph (k) and by adding thereto, immediately after paragraph (i) thereof, the following paragraph:

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

S.C. 1956,  
c. 40, s. 15.



R.S.C. 1952, c. 149, cont'd.

Expenditure of capital.

**65. The Minister may pay from capital moneys**

- (a) compensation to an Indian in an amount that is determined in accordance with this Act to be payable to him in respect of land compulsorily taken from him for band purposes, and
- (b) expenses incurred to prevent or suppress grass or forest fires or to protect the property of Indians in cases of emergency. 1951, c. 29, s. 65.

Expenditure of revenue moneys with consent of band.

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

Minister may direct expenditure.

**(2)** The Minister may make expenditures out of the revenue moneys of the band to assist sick, disabled, aged or destitute Indians of the band and to provide for the burial of deceased indigent members of the band.

S.C. 1956, c. 40, s. 16.

**16. (1)** Subsection (2) of section 66 of the said Act is repealed and the following substituted therefor:

Minister may direct expenditure

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

R.S.C. 1952, c. 149, s. 66(3).

Expenditure of revenue moneys with authority of G. in C.

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

S.C. 1956, c. 40, s. 16(2).

Expenditure of revenue moneys with authority of Minister.

**(2)** The portion of subsection (3) of section 66 of the said Act that precedes paragraph (a) thereof is repealed and the following substituted therefor:

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

R.S.C. 1952, c. 149, s. 66(3), cont'd.

- (a) for the destruction of noxious weeds and the prevention of the spreading or prevalence of insects, pests or diseases that may destroy or injure vegetation on Indian reserves;
- (b) to prevent, mitigate and control the spread of diseases on reserves, whether or not the diseases are infectious or communicable;
- (c) to provide for the inspection of premises on reserves and the destruction, alteration or renovation thereof;
- (d) to prevent overcrowding of premises on reserves used as dwellings;
- (e) to provide for sanitary conditions in private premises on reserves as well as in public places on reserves; and
- (f) for the construction and maintenance of boundary fences. 1951, c. 29, s. 66.

Recovery of moneys expended for raising or collecting Indian moneys.

**17.** The said Act is further amended by adding thereto, immediately after section 66 thereof, the following section:  
"66A. Where money is expended by Her Majesty for the purpose of raising or collecting Indian moneys, the Minister may authorize the recovery of the amount so expended from the moneys of the band."

**67.** (1) Where the Minister is satisfied that a male Indian Maintenance of dependants.

- (a) has deserted his wife or family without sufficient cause,
- (b) has conducted himself in such a manner as to justify the refusal of his wife or family to live with him, or
- (c) has been separated by imprisonment from his wife and family,

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

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

(3) Where the Minister is satisfied that one or both of the parents of an illegitimate child is an Indian, Illegitimate children. he may stop payments out of any annuity or interest moneys to which either or both of the parents would otherwise be entitled and apply the moneys to the support of the child, but not so as to prejudice the welfare of any legitimate child of either Indian. 1951, c. 29, s. 67.

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

(2) The Governor in Council may make regulations to give effect to subsection (1) and may declare therein the extent to which this Act and the *Financial Administration Act* shall not apply to a band to which an order made under subsection (1) applies. 1951, c. 29, s. 68. Regulations.

R.S.C. 1952, c. 149, cont'd.

LOANS TO INDIANS.

Loans to  
Indians.

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

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

S.C. 1953,  
c. 41, s.  
4.

Loans to  
Indians.

**4.** Paragraph (a) of subsection (1) of section 69 of the *Indian Act*, chapter 149 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

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

R.S.C. 1952,  
c. 149, s.  
69(1)(b).

(b) to expend or to lend money for the carrying out of co-operative projects on behalf of Indians.

S.C. 1956,  
c. 40, s. 18.

**18.** (1) Subsection (1) of section 69 of the said Act is amended by striking out the word "or" at the end of paragraph (a) thereof, by inserting the word "or" at the end of paragraph (b) thereof, and by adding thereto the following paragraph:

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

R.S.C.  
1952,  
c. 149,  
s. 69(2),  
cont'd.

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

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

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

S.C.  
1968-69,  
c. 28,  
s. 105.

**Amendments  
and  
repeals**

**105.** The Acts and portions of Acts set out in Schedule B are repealed or amended in the manner and to the extent indicated in that Schedule.

**Indian Act  
R.S., c. 149**

Subsection 69(4) is amended by substituting the Receiver General for the Minister of Finance.

R.S.C. 1952, c. 149, cont'd.

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

R.S.C. 1952, c. 149, s. 69(5).

(2) Subsection (5) of section 69 of the said Act is repealed and the following substituted therefor:

S.C. 1956, c. 40, s. 18.

**Limitation.** "(5) The total amount of outstanding advances to the Minister under this section shall not at any one time exceed one million dollars."

**Report to Parliament.** (6) The Minister shall within fifteen days after the termination of each fiscal year or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session, lay before Parliament a report setting out the total number and amount of loans made under subsection (1) during that year. 1951, c. 29, s. 69.

R.S.C. 1952, c. 149, s. 69(6). See S.C. 1969-70, c. 24.

**FARMS.**

**Minister may operate farms.** 70. (1) The Minister may operate farms on reserves and may employ such persons as he considers necessary to instruct Indians in farming and may purchase and distribute without charge, pure seed to Indian farmers.

**Application of profits.** (2) The Minister may apply any profits that result from the operation of farms pursuant to subsection (1) on reserves to extend farming operations on the reserves or to make loans to Indians to enable them to engage in farming or other agricultural operations or he may apply such profits in any way that he considers to be desirable to promote the progress and development of the Indians. 1951, c. 29, s. 70.

**TREATY MONEY.**

71. Moneys that are payable to Indians or to Indian bands under a treaty between Her Majesty and the band and for the payment of which the Government of Canada is responsible, may be paid out of the Consolidated Revenue Fund. 1951, c. 29, s. 71.

Treaty money payable out of C.R.F.

**REGULATIONS.**

72. (1) The Governor in Council may make regulations
- (a) for the protection and preservation of fur-bearing animals, fish and other game on reserves,
  - (b) for the destruction of noxious weeds and the prevention of the spreading or prevalence of insects, pests or diseases that may destroy or injure vegetation on Indian reserves,
  - (c) for the control of the speed, operation and parking of vehicles on roads within reserves,
  - (d) for the taxation, control and destruction of dogs and for the protection of sheep on reserves,
  - (e) for the operation, supervision and control of pool rooms, dance halls and other places of amusement on reserves,
  - (f) to prevent, mitigate and control the spread of diseases on reserves, whether or not the diseases are infectious or communicable,

Regulations.

R.S.C. 1952, c. 149, cont'd.

- (g) to provide medical treatment and health services for Indians,
- (h) to provide compulsory hospitalization and treatment for infectious diseases among Indians,
- (i) to provide for the inspection of premises on reserves and the destruction, alteration or renovation thereof,
- (j) to prevent overcrowding of premises on reserves used as dwellings,
- (k) to provide for sanitary conditions in private premises on reserves as well as in public places on reserves, and
- (l) for the construction and maintenance of boundary fences.

S.C. 1956,  
c. 40, s. 19.

**19.** Subsection (1) of section 72 of the said Act is amended by striking out the word "and" at the end of paragraph (k) thereof, by adding the word "and" at the end of paragraph (l) thereof and by adding thereto the following paragraph:  
"(m) for empowering and authorizing the council of a band to borrow money for band projects or housing purposes and providing for the making of loans out of moneys so borrowed to members of the band for housing purposes."

R.S.C. 1952,  
c. 149,  
s. 72,  
cont'd.

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

Orders and  
regulations.

(3) The Governor in Council may make orders and regulations to carry out the purposes and provisions of this Act. 1951, c. 29, s. 72.

#### ELECTIONS OF CHIEFS AND BAND COUNCILS.

G. in C. may  
declare  
chiefs and  
and  
councillors  
to be elected.

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

S.C. 1956,  
c. 40,  
s. 20(1).

Elected  
councils.

**20.** (1) Subsections (1) and (2) of section 73 of the said Act are repealed and the following substituted therefor:

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

R.S.C.  
1952,  
c. 149,  
s. 73(2),  
cont'd.

Composition  
of council.

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

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

Composition  
of council.

S.C. 1956, c. 40,  
s. 20(1) repeals  
R.S.C. 1952, c.  
149, s. 73(2).

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

R.S.C. 1952,  
c. 149, s. 73(3).

- (a) that the chief of a band shall be elected by
  - (i) a majority of the votes of the electors of the band,  
or
  - (ii) a majority of the votes of the elected councillors of the band from among themselves, but the chief so elected shall remain a councillor,
- (b) that the councillors of a band shall be elected by
  - (i) a majority of the votes of the electors of the band,  
or
  - (ii) a majority of the votes of the electors of the band in the electoral section in which the candidate resides and that he proposes to represent on the council of the band,
- (c) that a reserve shall for voting purposes be divided into not more than six electoral sections containing as nearly as may be an equal number of Indians eligible to vote, and
- (d) for the manner in which electoral sections established under paragraph (c) shall be distinguished or identified.

(2) Paragraphs (c) and (d) of subsection (3) of section 73 of the said Act are repealed.

S.C. 1956,  
c. 40, s. 20(2).

Single  
electoral  
section.

(4) Where the Minister is satisfied that a majority of the electors of a band do not desire to have the reserve divided into electoral sections and reports to the Governor in Council accordingly, the Governor in Council may order that the reserve shall for voting purposes consist of one electoral section. 1951, c. 29, s. 73.

R.S.C. 1952,  
c. 149, s. 73(4).

(3) Subsection (4) of section 73 of the said Act is repealed and the following substituted therefor:

"(4) A reserve shall for voting purposes consist of one electoral section, except that where the majority of the electors of a band who were present and voted at a referendum or a special meeting held and called for the purpose in accordance with the regulations have decided that the reserve should for voting purposes be divided into electoral sections and the Minister so recommends, the Governor in Council may make orders or regulations to provide that the reserve shall for voting purposes be divided into not more than six electoral sections containing as nearly as may be an equal number of Indians eligible to vote and to provide for the manner in which electoral sections so established shall be distinguished or identified."

Electoral  
sections.

S.C. 1956,  
c. 40, s. 20(3).

R.S.C. 1952, c. 149, cont'd.

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

(2) No person may be a candidate for election as chief Nomination. or councillor unless his nomination is moved and seconded by persons who are themselves eligible to be nominated. 1951, c. 29, s. 74.

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

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

(2) The regulations made under paragraph (c) of sub-section (1) shall make provision for secrecy of voting. Secrecy of voting. 1951, c. 29, s. 75.

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

(2) A member of a band who is of the full age of twenty-one years and is ordinarily resident in a section that has been established for voting purposes is qualified to vote for a person nominated to be councillor to represent that section. 1951, c. 29, s. 76. Councillor.

**77.** (1) Subject to this section, chiefs and councillors Tenure of office. hold office for two years.

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

- (a) the person who holds that office
  - (i) is convicted of an indictable offence,
  - (ii) dies or resigns his office, or
  - (iii) is or becomes ineligible to hold office by virtue of this Act; or
- (b) the Minister declares that in his opinion the person who holds that office
  - (i) is unfit to continue in office by reason of his having been convicted of an offence,
  - (ii) has been absent from meetings of the council for three consecutive meetings without being authorized to do so, or
  - (iii) was guilty, in connection with an election, of corrupt practice, accepting a bribe, dishonesty or malfeasance.

R.S.C. 1952, c. 149, cont'd.

Disqualifi-  
cation.

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

Special  
election.

(4) Where the office of chief or councillor becomes vacant more than three months before the date when another election would ordinarily be held, a special election may be held in accordance with this Act to fill the vacancy. 1951, c. 29, s. 77.

Governor  
in Council  
may set  
aside  
election.

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

- (a) there was corrupt practice in connection with the election,
- (b) there was a violation of this Act that might have affected the result of the election, or
- (c) a person nominated to be a candidate in the election was ineligible to be a candidate. 1951, c. 29, s. 78.

Regulations  
respecting  
band and  
council  
meetings.

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

- (a) presiding officers at such meetings,
- (b) notice of such meetings,
- (c) the duties of any representative of the Minister at such meetings, and
- (d) the number of persons required at the meeting to constitute a quorum. 1951, c. 29, s. 79.

#### POWERS OF THE COUNCIL.

By-laws.

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

- (a) to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases;
- (b) the regulation of traffic;
- (c) the observance of law and order;
- (d) the prevention of disorderly conduct and nuisances;
- (e) the protection against and prevention of trespass by cattle and other domestic animals, the establishment of pounds, the appointment of pound-keepers, the regulation of their duties and the provision for fees and charges for their services;
- (f) the construction and maintenance of water courses, roads, bridges, ditches, fences and other local works;
- (g) the dividing the reserve or a portion thereof into zones and the prohibition of the construction or maintenance of any class of buildings or the carrying on of any class of business, trade or calling in any such zone;
- (h) the regulation of the construction, repair and use of buildings, whether owned by the band or by individual members of the band;



R.S.C. 1952, c. 149, cont'd.

- (i) the survey and allotment of reserve lands among the members of the band and the establishment of a register of Certificates of Possession and Certificates of Occupation relating to allotments and the setting apart of reserve lands for common use, if authority therefor has been granted under section 60;
- (j) the destruction and control of noxious weeds;
- (k) the regulation of beekeeping and poultry raising;
- (l) the construction and regulation of the use of public wells, cisterns, reservoirs and other water supplies;
- (m) the control and prohibition of public games, sports, races, athletic contests and other amusements;
- (n) the regulation of the conduct and activities of hawkers, peddlers or others who enter the reserve to buy, sell or otherwise deal in wares or merchandise;
- (o) the preservation, protection and management of fur-bearing animals, fish and other game on the reserve;
- (p) the removal and punishment of persons trespassing upon the reserve or frequenting the reserve for prescribed purposes;
- (q) with respect to any matter arising out of or ancillary to the exercise of powers under this section; and
- (r) the imposition on summary conviction of a fine not exceeding one hundred dollars or imprisonment for a term not exceeding thirty days or both fine and imprisonment for violation of a by-law made under this section. 1951, c. 29, s. 80.

Copies of  
by-laws to be  
sent to  
Minister.

**81.** (1) A copy of every by-law made under the authority of section 80 shall be forwarded by mail by the chief or a member of the council of the band to the Minister within four days after it is made.

Effective  
date of  
by-law.

(2) A by-law made under section 80 shall come into force forty days after a copy thereof is forwarded to the Minister pursuant to subsection (1), unless it is disallowed by the Minister within that period, but the Minister may declare the by-law to be in force at any time before the expiration of that period. 1951, c. 29, s. 81.

Money  
by-laws.

**82.** (1) Without prejudice to the powers conferred by section 80, where the Governor in Council declares that a band has reached an advanced stage of development, the council of the band may, subject to the approval of the Minister, make by-laws for any or all of the following purposes, namely:

- (a) the raising of money by
  - (i) the assessment and taxation of interests in land in the reserve of persons lawfully in possession thereof, and
  - (ii) the licensing of businesses, callings, trades and occupations;
- (b) the appropriation and expenditure of moneys of the band to defray band expenses;
- (c) the appointment of officials to conduct the business of the council, prescribing their duties and providing for their remuneration out of any moneys raised pursuant to paragraph (a);

R.S.C. 1952, c. 149, cont'd.

(d) the payment of remuneration, in such amount as may be approved by the Minister, to chiefs and councillors, out of any moneys raised pursuant to paragraph (a);

(e) the imposition of a penalty for non-payment of taxes imposed pursuant to this section, recoverable on summary conviction, not exceeding the amount of the tax or the amount remaining unpaid; and

21. Subsection (1) of section 82 of the said Act is amended by striking out the word "and" at the end of paragraph (e) thereof, by re-lettering paragraph (f) thereof as paragraph (g) and by adding thereto, immediately after paragraph (e) thereof, the following paragraph: "(f) the raising of money from band members to support band projects; and".

S.C. 1956, c. 40, s. 21.

(now g)

(f) with respect to any matter arising out of or ancillary to the exercise of powers under this section.

R.S.C. 1952, c. 149, s. 82, cont'd.

Restriction on expenditures.

(2) No expenditure shall be made out of moneys raised pursuant to paragraph (a) of subsection (1) except under the authority of a by-law of the council of the band. 1951, c. 29, s. 82.

Recovery of taxes.

83. Where a tax that is imposed upon an Indian by or under the authority of a by-law made under section 82 is not paid in accordance with the by-law, the Minister

may pay the amount owing together with an amount equal to one-half of one per cent thereof out of moneys payable out of the funds of the band to the Indian. 1951, c. 29, s. 83.

84. The Governor in Council may revoke a declaration made under section 82 whereupon that section shall no longer apply to the band to which it formerly applied, but any by-law made under the authority of that section and in force at the time the declaration is revoked shall be deemed to continue in force until it is revoked by the Governor in Council. 1951, c. 29, s. 84.

G.in C. may revoke authority to make money by-laws.

85. A copy of a by-law made by the council of a band under this Act, if it is certified to be a true copy by the superintendent, is prima facie evidence that the by-law was duly made by the council and approved by the Minister, without proof of the signature or official character of the superintendent, and no such by-law is invalid by reason of any defect in form. 1951, c. 29, s. 85.

Evidence.

## TAXATION.

**86.** (1) Notwithstanding any other Act of the Parliament of Canada or any Act of the legislature of a province, but subject to subsection (2) and to section 82, the following property is exempt from taxation, namely,

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

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

and no Indian or band is subject to taxation in respect of the ownership, occupation, possession or use of any property mentioned in paragraph (a) or (b) or is otherwise subject to taxation in respect of any such property; and no succession duty, inheritance tax or estate duty is payable on the death of any Indian in respect of any such property or the succession thereto if the property passes to an Indian, nor shall any such property be taken into account in determining the duty payable under the *Dominion Succession Duty Act* on or in respect of other property passing to an Indian.

(2) Subsection (1) does not apply to or in respect of the personal property of an Indian who has executed a waiver under the provisions of paragraph (e) of subsection (2) of section 14 of the *Canada Elections Act*. 1951, c. 29, s. 86.

S.C. 1960,  
c. 8, s. 1.

**1.** Subsection (2) of section 86 of the *Indian Act* is repealed.

General provincial laws applicable to Indians.

**87.** Subject to the terms of any treaty and any other Act of the Parliament of Canada, all laws of general application from time to time in force in any province are applicable to and in respect of Indians in the province, except to the extent that such laws are inconsistent with this Act or any order, rule, regulation or by-law made thereunder, and except to the extent that such laws make provision for any matter for which provision is made by or under this Act. 1951, c. 29, s. 87.

Property on reserve not subject to alienation.

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

Conditional sales.

(2) A person who sells to a band or a member of a band a chattel under an agreement whereby the right of property or right of possession thereto remains wholly or in part in the seller, may exercise his rights under the agreement notwithstanding that the chattel is situated on a reserve. 1951, c. 29, s. 88.

Property deemed situated on reserve.

89. (1) For the purposes of sections 86 and 88, personal property that was

(a) purchased by Her Majesty with Indian moneys or moneys appropriated by Parliament for the use and benefit of Indians or bands, or

(b) given to Indians or to a band under a treaty or agreement between a band and Her Majesty, shall be deemed always to be situated on a reserve.

Restriction on transfer.

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

Destruction of property.

(3) Every person who enters into any transaction that is void by virtue of subsection (2) is guilty of an offence, and every person who, without the written consent of the Minister, destroys personal property that is by this section deemed to be situated on a reserve, is guilty of an offence. 1951, c. 29, s. 89.

#### TRADING WITH INDIANS.

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

Certain property on a reserve may not be acquired.

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

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

Articles manufactured for sale. Removal, destruction, etc.

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

(4) A person who violates this section is guilty of an offence and is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months. 1951, c. 29, s. 90.

Penalty.

91. (1) No person who is

- (a) an officer or employee in the Department,
- (b) a missionary engaged in mission work among Indians, or
- (c) a school teacher on a reserve,

Departmental employees, etc., prohibited from trading without a licence.

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

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

Cancellation of licence.

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

Penalty.

(4) Without prejudice to subsection (3), an officer or employee in the Department who contravenes subsection (1) may be dismissed from office. 1951, c. 29, s. 91.

Dismissal.

R.S.C. 1952, c. 149, cont'd.

**PENALTIES.**

**92.** A person who, without the written permission of the Minister or his duly authorized representative, Removal of material from reserve

- (a) removes from a reserve
- (i) minerals, stone, sand, gravel, clay or soil, or
  - (ii) trees, saplings, shrubs, underbrush, timber, cordwood or hay, or

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

is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 1951, c. 29, s. 92.

Offence and penalty.

S.C. 1956,  
c. 40, s. 22.

**22.** Section 92 of the said Act and the heading immediately preceding that section are repealed and the following substituted therefor:

**"REMOVAL OF MATERIALS FROM RESERVES.**

**92.** A person who, without the written permission of the Minister or his duly authorized representative, Removal of material from reserve.

- (a) removes or permits anyone to remove from a reserve
- (i) minerals, stone, sand, gravel, clay or soil, or
  - (ii) trees, saplings, shrubs, underbrush, timber, cordwood or hay, or

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

is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment."

Sale of intoxicants.

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

- (a) sells, barter, supplies or gives an intoxicant to
- (i) any person on a reserve, or
  - (ii) an Indian outside a reserve,

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

(c) makes or manufactures intoxicants on a reserve, is guilty of an offence and is liable on summary conviction to a fine of not less than fifty dollars and not more than three hundred dollars or to imprisonment for a term of not less than one month and not more than six months, with or without hard labour, or to both fine and imprisonment. 1951, c. 29, s. 93.

Possession of  
intoxicants  
off a reserve.

**94.** An Indian who

- (a) has intoxicants in his possession,
- (b) is intoxicated, or
- (c) makes or manufactures intoxicants

off a reserve, is guilty of an offence and is liable on summary conviction to a fine of not less than ten dollars and not more than fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 1951, c. 29, s. 94.

Exception re  
sale of  
intoxicants.

**95.** (1) No offence is committed against subparagraph (ii) of paragraph (a) of section 93 or paragraph (a) of section 94 if intoxicants are sold to an Indian for consumption in a public place in accordance with a law of the province where the sale takes place authorizing the sale of intoxicants to a person for consumption in a public place.

Coming  
into force.

(2) This section shall not come into force in any province until a proclamation bringing it into force in the province is issued by the Governor in Council at the request of the Lieutenant-Governor in Council of the province. 1951, c. 29, s. 95.

Coming into  
force of this  
section.

**23.** (1) Section 95 of the said Act is repealed and the following substituted therefor:

**95.** (1) Subsection (2) or subsection (3) shall come into force, or cease to be in force, in a province or in a part thereof only if a proclamation declaring it to be in force, or to cease to be in force, as the case may be, in the province or part thereof is issued by the Governor in Council at the request of the Lieutenant-Governor in Council of the province.

Exception  
to offences.

(2) No offence is committed against subparagraph (ii) of paragraph (a) of section 93 or paragraph (a) of section 94 if intoxicants are sold to an Indian for consumption in a public place in accordance with the law of the province where the sale takes place.

Idem

(3) No offence is committed against subparagraph (ii) of paragraph (a) of section 93 or paragraph (a) of section 94 if intoxicants are sold to or had in possession by an Indian in accordance with the law of the province where the sale takes place or the possession is had."

**96.** A person who is found

- (a) with intoxicants in his possession, or
- (b) intoxicated

on a reserve, is guilty of an offence and is liable on summary conviction to a fine of not less than ten dollars and not more than fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 1951, c. 29, s. 96.

Possession of  
intoxicants  
on a reserve.

S.C. 1956,  
c. 40, s.  
23(1).

S.C. 1956,  
c. 40,  
s. 23(2).

**Comine into force of this section** (2) The said Act is further amended by adding thereto, immediately after section 96 thereof, the following section:  
**"96A.** (1) Subsection (2) shall come into force, or cease to be in force, in a reserve only if a proclamation declaring it to be in force, or to cease to be in force, as the case may be, in the reserve, is issued by the Governor in Council.

**Exception to offences.** (2) No offence is committed against paragraph (a) of section 96 if intoxicants are had in possession by any person in accordance with the law of the province where the possession is had.

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

**Regulations.** (4) The Governor in Council may make regulations  
 (a) respecting the taking of votes and the holding of a referendum for the purposes of this section; and  
 (b) defining a reserve for the purposes of subsection (1) to consist of one or more reserves or any part thereof.

**When proclamation may issue.** (5) No proclamation bringing subsection (2) into force in a reserve shall be issued unless the council of the band has transmitted to the Minister a resolution of the council requesting that subsection (2) be brought into force in the reserve, and either  
 (a) the reserve is situated in a province or part thereof in which subsection (3) of section 95 is in force, or  
 (b) the Minister has communicated the contents of the resolution to the Attorney General of the province in which the reserve is situated, the Lieutenant-Governor in Council of the province has not, within sixty days after such communication, objected to the granting of the request, and the Governor in Council has directed that the wishes of the band with respect thereto be ascertained by a referendum of the electors of the band.

(6) Where subsection (2) is in force in a reserve no offence is committed against subparagraph (ii) of paragraph (a) of section 93 or paragraph (a) of section 94 if intoxicants are sold to or had in possession by a member of the band in accordance with the law of the province in which the reserve is situated."

**97.** The provisions of this Act relating to intoxicants do not apply where the intoxicant is used or is intended to be used in cases of sickness or accident. 1951, c. 29, s. 97.

**98.** In any prosecution under this Act the burden of proof that an intoxicant was used or was intended to be used in a case of sickness or accident is upon the accused. 1951, c. 29, s. 98.

**99.** In every prosecution under this Act a certificate of analysis furnished by an analyst employed by the Government of Canada or by a province shall be accepted as *prima facie* evidence of the facts stated therein and of the authority of the person giving or issuing the certificate, without proof of the signature of the person appearing to have signed the certificate or his official character, and without further proof thereof. 1951, c. 29, s. 99.

**100.** Every person who is guilty of an offence against any provision of this Act or any regulation made by the Governor in Council or the Minister for which a penalty is not provided elsewhere in this Act or the regulations, is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 1951, c. 29, s. 100.

Penalty where no other provided.

**101.** (1) Whenever a peace officer or a superintendent or a person authorized by the Minister believes on reasonable grounds that an offence against section 33, 89, 93, 94 or 96 has been committed, he may seize all goods and chattels by means of or in relation to which he reasonably believes the offence was committed.

Seizure of goods.

**5.** Subsection (1) of section 101 of the said Act is repealed and the following substituted therefor:

S.C. 1953, c. 41, s.5.

Seizure of goods.

**"101.** (1) Whenever a peace officer or a superintendent or a person authorized by the Minister believes on reasonable grounds that an offence against section 33, 89, 92, 93, 94 or 96 has been committed, he may seize all goods and chattels by means of or in relation to which he reasonably believes the offence was committed, and he may enter, open and search any place or thing in or upon which he reasonably believes any such goods or chattels may be found."

**24.** (1) Subsection (1) of section 101 of the said Act is repealed and the following substituted therefor:

S.C. 1956, c. 40, s. 24.

**"FORFEITURES AND PENALTIES.**

**101.** (1) Whenever a peace officer or a superintendent or a person authorized by the Minister believes on reasonable grounds that an offence against section 33, 89, 92, 93, 94 or 96 has been committed, he may seize all goods and chattels by means of or in relation to which he reasonably believes the offence was committed."

Seizure of goods.

(2) All goods and chattels seized pursuant to subsection (1) may be detained for a period of three months following the day of seizure unless during that period proceedings under this Act in respect of such offence are undertaken, in which case the goods and chattels may be further detained until such proceedings are finally concluded.

Detention.

R.S.C. 1952, c. 149, s. 101, cont'd.

**Forfeiture.** (3) Where a person is convicted of an offence against the sections mentioned in subsection (1), the convicting court or judge may order that the goods and chattels by means of or in relation to which the offence was committed, in addition to any penalty imposed, are forfeited to Her Majesty. 1951, c. 29, s. 101.



R.S.C. 1952, c. 149, cont'd.

S.C. 1956,  
c. 40,  
s. 24(2).

(2) Subsection (3) of section 101 of the said Act is repealed and the following substituted therefor:

"(3) Where a person is convicted of an offence against <sup>Forfeiture.</sup> the sections mentioned in subsection (1), the convicting court or judge may order that the goods and chattels by means of or in relation to which the offence was committed, in addition to any penalty imposed, are forfeited to Her Majesty and may be disposed of as the Minister directs.

"(4) A justice who is satisfied by information upon <sup>Search.</sup> oath that there is reasonable ground to believe that there are upon a reserve or in any building, receptacle or place any goods or chattels by means of or in relation to which an offence against any of the sections mentioned in subsection (1) has been, is being or is about to be committed, may at any time issue a warrant under his hand authorizing a person named therein or a peace officer at any time to search the reserve, building, receptacle or place for any such goods or chattels."

Disposition  
of fines.

**102.** Every fine, penalty or forfeiture imposed under this Act belongs to Her Majesty for the benefit of the band with respect to which or to one or more members of which the offence was committed or to which the offender, if an Indian, belongs, but the Governor in Council may from time to time direct that the fine, penalty or forfeiture shall be paid to a provincial, municipal or local authority that bears in whole or in part the expense of administering the law under which the fine, penalty or forfeiture is imposed, or that the fine, penalty or forfeiture shall be applied in the manner that he considers will best promote the purposes of the law under which the fine, penalty or forfeiture is imposed, or the administration of that law. 1951, c. 29, s. 102.

Description  
of Indians  
in writs, etc.

**103.** In any order, writ, warrant, summons or proceeding issued under this Act it is sufficient if the name of the person or Indian referred to therein is the name given to, or the name by which the person or Indian is known by, the person who issues the order, writ, warrant, summons or proceedings, and if no part of the name of the person is given to or known by the person issuing the order, writ, warrant, summons or proceedings, it is sufficient if the person or Indian is described in any manner by which he may be identified. 1951, c. 29, s. 103.

Jurisdiction  
of  
magistrates.

**104.** A police magistrate or a stipendiary magistrate has and may exercise, with respect to matters arising under this Act, jurisdiction over the whole county, union of counties or judicial district in which the city, town or other place for which he is appointed or in which he has jurisdiction under provincial laws is situated. 1951, c. 29, s. 104.

R.S.C. 1952, c. 149, cont'd.

Appointment of justices.

**105.** The Governor in Council may appoint persons to be, for the purposes of this Act, justices of the peace and those persons have and may exercise the powers and authority of two justices of the peace with regard to

- (a) offences under this Act,
- (b) offences under the *Criminal Code* with respect to inciting Indians on reserves to commit riotous acts, and robbing of Indian graves, and

**25.** Paragraph (b) of section 105 of the said Act is repealed.

S.C. 1956, c. 40, s. 25.

- (c) any offence against the provisions of the *Criminal Code* relating to cruelty to animals, common assault, breaking and entering and vagrancy, where the offence is committed by an Indian or relates to the person or property of an Indian. 1951, c. 29, s. 105.

R.S.C. 1952, c. 149, s. 105, cont'd.

**106.** Where, immediately prior to the 4th day of September, 1951, an Indian agent was *ex officio* a justice of the peace under the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, he shall be deemed, for the purposes of this Act, to have been appointed under section 105, and he may exercise the powers and authority conferred by that section until his appointment is revoked by the Minister. 1951, c. 29, s. 106.

Indian agent *ex officio* a J.P.

**107.** For the purposes of this Act or any matter relating to Indian affairs

Commissioners for taking oaths.

- (a) persons appointed by the Minister for the purpose,
- (b) superintendents, and
- (c) the Minister, Deputy Minister and the chief officer in charge of the branch of the Department relating to Indian affairs

are *ex officio* commissioners for the taking of oaths. 1951, c. 29, s. 107.

ENFRANCHISEMENT.

**108.** (1) On the report of the Minister that an Indian has applied for enfranchisement and that in his opinion the Indian

Enfranchisement of Indian and wife and minor children.

- (a) is of the full age of twenty-one years,
- (b) is capable of assuming the duties and responsibilities of citizenship, and
- (c) when enfranchised, will be capable of supporting himself and his dependants,

the Governor in Council may by order declare that the Indian and his wife and minor unmarried children are enfranchised.

(2) On the report of the Minister that an Indian woman married a person who is not an Indian. the Governor in Council may by order declare that the woman is enfranchised as of the date of her marriage.

Enfranchisement of married women.

R.S.C. 1952, c. 149, cont'd.

S.C. 1956,  
c. 40, s. 26.

**26.** Subsection (2) of section 108 of the said Act is repealed and the following substituted therefor:

"(2) On the report of the Minister that an Indian woman married a person who is not an Indian, the Governor in Council may by order declare that the woman is enfranchised as of the date of her marriage and, on the recommendation of the Minister may by order declare that all or any of her children are enfranchised as of the date of the marriage or such other date as the order may specify."

R.S.C. 1952,  
c. 149, s. 108,  
cont'd.

(3) Where, in the opinion of the Minister, the wife of an Indian is living apart from her husband. the names of his wife and his minor children who are living with the wife shall not be included in an order under subsection (1) that enfranchises the Indian unless the wife has applied for enfranchisement, but where the Governor in Council is satisfied that such wife is no longer living apart from her husband, the Governor in Council may by order declare that the wife and the minor children are enfranchised.

Where wife living apart.

Order of enfranchisement.

(4) A person is not enfranchised unless his name appears in an order of enfranchisement made by the Governor in Council. 1951, c. 29, s. 108.

Enfranchised person ceases to be Indian.

**109.** A person with respect to whom an order for enfranchisement is made under section 108 shall, from the date thereof, be deemed not to be an Indian within the meaning of this Act or any other statute or law. 1951, c. 29, s. 109.

S.C. 1956,  
c. 40,  
s. 27.

Enfranchised person ceases to be Indian.

**27.** Section 109 of the said Act is repealed and the following substituted therefor:

"**109.** A person with respect to whom an order for enfranchisement is made under this Act shall, from the date thereof, or from the date of enfranchisement provided for therein, be deemed not to be an Indian within the meaning of this Act or any other statute or law."

Sale of lands of enfranchised Indian.

**110.** (1) Upon the issue of an order of enfranchisement, any interest in land and improvements on an Indian reserve of which the enfranchised Indian was in lawful possession or over which he exercised rights of ownership, at the time of his enfranchisement, may be disposed of by him by gift or private sale to the band or another member of the band, but if not so disposed of within thirty days after the date of the order of enfranchisement such land and improvements shall be offered for sale by tender by the superintendent and sold to the highest bidder and the proceeds of such sale paid to him; and if no bid is received and the property remains unsold after six months from the date of such offering, the land, together with improvements, shall revert to the band free from any interest of the enfranchised person therein, subject to the payment, at the discretion of the Minister, to the enfranchised Indian, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.

R.S.C. 1952, c. 149, cont'd.

**Grant to enfranchised Indian.** (2) When an order of enfranchisement issues or has issued, the Governor in Council may, with the consent of the council of the band, by order declare that any lands within a reserve of which the enfranchised Indian had formerly been in lawful possession shall cease to be Indian reserve lands.

(3) When an order has been made under subsection (2), the enfranchised Indian is entitled to occupy such lands for a period of ten years from the date of his enfranchisement, and the enfranchised Indian shall pay to the funds of the band, or there shall, out of any money payable to the enfranchised Indian under this Act, be transferred to the funds of the band, such amount per acre for the lands as the Minister considers to be the value of the common interest of the band in the lands.

(4) At the end of the ten-year period referred to in subsection (3) the Minister shall cause a grant of the lands to be made to the enfranchised Indian or to his legal representatives. 1951, c. 29, s. 110.

**111.** (1) Where the Minister reports that a band has applied for enfranchisement, and has submitted a plan for the disposal or division of the funds of the band and the lands in the reserve, and in his opinion the band is capable of managing its own affairs as a municipality or part of a municipality, the Governor in Council may by order approve the plan, declare that all the members of the band are enfranchised, either as of the date of the order or such later date as may be fixed in the order, and may make regulations for carrying the plan and the provisions of this section into effect. **Enfranchisement of band.**

(2) An order for enfranchisement may not be made under subsection (1) unless more than fifty per cent of the electors of the band signify, at a meeting of the band called for the purpose, their willingness to become enfranchised under this section, and their approval of the plan. **Majority vote required.**

(3) The Governor in Council may, for the purpose of giving effect to this section, authorize the Minister to enter into an agreement with a province or a municipality, or both, upon such terms as may be agreed upon by the Minister and the province or municipality, or both. **Agreements with provinces or municipalities.**

(4) Without restricting the generality of subsection (3), an agreement made thereunder may provide for financial assistance to be given to the province or the municipality or both to assist in the support of indigent, infirm or aged persons to whom the agreement applies, and such financial assistance, or any part thereof, shall, if the Minister so directs, be paid out of moneys of the band, and any such financial assistance not paid out of moneys of the band shall be paid out of moneys appropriated by Parliament. **Financial assistance.** 1951, c. 29, s. 111.

R.S.C. 1952, c. 149, cont'd.

**112.** (1) The Minister may appoint a committee to inquire into and report upon the desirability of enfranchising within the meaning of this Act an Indian or a band, whether or not the Indian or the band has applied for enfranchisement. Committee of inquiry.

(2) A committee appointed under subsection (1) shall consist of Composition.

(a) a judge or retired judge of a superior, surrogate, district or county court,

(b) an officer of the Department, and

(c) a member of the band to be appointed by the council of the band, but if no appointment is made by the council of the band within thirty days after a request therefor is sent by the Minister to the band, a member of the band appointed by the Minister.

Report of committee.

(3) Where the committee or a majority thereof reports

(a) in the case of an Indian, that in its opinion the Indian is qualified under paragraphs (a), (b) and (c) of subsection (1) of section 108 to be enfranchised,

(b) in the case of a band, that in the opinion of the committee the band is capable of managing its own affairs as a municipality or part of a municipality, and the committee has submitted a plan for the disposal or division of the funds of the band and the lands in the reserve, and

(c) that it is desirable that the Indian or the band, as the case may be, should be enfranchised, the report, if approved by the Minister, shall be deemed to be an application for enfranchisement by the Indian or by the band and shall be dealt with as such in accordance with this Act, except that, in the case of a band, the provisions of subsection (2) of section 111 are not applicable.

Treaty to be observed.

(4) An Indian or the members of a band shall not be enfranchised under this section contrary to the terms of any treaty, agreement or undertaking between a band and Her Majesty that is applicable. 1951, c. 29, s. 112.

**1.** Section 112 of the *Indian Act* is repealed and the following substituted therefor:

**"112.** (1) Where a band has applied for enfranchisement within the meaning of this Act and has submitted a plan for the disposal or division of the funds of the band and the lands in the reserve, the Minister may appoint a committee to inquire into and report upon any or all of the following matters, namely: Committee of inquiry.

(a) the desirability of enfranchising the band;

(b) the adequacy of the plan submitted by it; and

(c) any other matter relating to the application for enfranchisement or to the disposition thereof.

(2) A committee appointed under subsection (1) shall consist of Composition.

(a) a judge or retired judge of a superior, surrogate, district or county court,

(b) an officer of the Department, and

(c) a member of the band to be designated by the council of the band."

S.C. 1960-61,  
c. 9, s. 1.

R.S.C. 1952, c. 149, cont'd.

SCHOOLS.

- Schools.** **113.** The Governor in Council may authorize the Minister, in accordance with this Act,
- (a) to establish, operate and maintain schools for Indian children,
  - (b) to enter into agreements on behalf of Her Majesty for the education in accordance with this Act of Indian children, with
    - (i) the government of a province,
    - (ii) the council of the Northwest Territories,
    - (iii) the council of the Yukon Territory,
    - (iv) a public or separate school board, and
    - (v) a religious or charitable organization.
- 1951, c. 29, s. 113.

**28.** Section 113 of the said Act is repealed and the following substituted therefor:

S.C. 1956,  
c. 40, s. 28.

**Schools.**

- "113.** (1) The Governor in Council may authorize the Minister, in accordance with this Act, to enter into agreements on behalf of Her Majesty for the education in accordance with this Act of Indian children, with
- (a) the government of a province,
  - (b) the Commissioner of the Northwest Territories,
  - (c) the Commissioner of the Yukon Territory,
  - (d) a public or separate school board, and
  - (e) a religious or charitable organization.
- (2) The Minister may, in accordance with this Act, establish, operate and maintain schools for Indian children."

**Regulations.**

- 114.** The Minister may
- (a) provide for and make regulations with respect to standards for buildings, equipment, teaching, education, inspection and discipline in connection with schools,
  - (b) provide for the transportation of children to and from school,
  - (c) enter into agreements with religious organizations for the support and maintenance of children who are being educated in schools operated by those organizations, and
  - (d) apply the whole or any part of moneys that would otherwise be payable to or on behalf of a child who is attending a residential school to the maintenance of that child at that school. 1951, c. 29, s. 114.

**115.** (1) Subject to section 116, every Indian child who has attained the age of seven years shall attend school. Attendance.

(2) The Minister may

Idem.

- (a) permit an Indian who has attained the age of six years to attend school,

R.S.C. 1952, c. 149, cont'd.

S.C. 1956,  
c. 40, s. 29.

**29.** Paragraph (a) of subsection (2) of section 115 of the said Act is repealed and the following substituted therefor:

"(a) require an Indian who has attained the age of six years to attend school,"

R.S.C. 1952,  
c. 149, s. 115,  
cont'd.

(b) require an Indian who becomes sixteen years of age during the school term to continue to attend school until the end of that term, and

(c) require an Indian who becomes sixteen years of age to attend school for such further period as the Minister considers advisable, but no Indian shall be required to attend school after he becomes eighteen years of age. 1951, c. 29, s. 115.

**116.** An Indian child is not required to attend school if the child When attendance not required.

(a) is, by reason of sickness or other unavoidable cause that is reported promptly to the principal, unable to attend school,

(b) has passed entrance examinations for high school,

S.C. 1956,  
c. 40, s.  
30.

Repeal.

**30.** Paragraph (b) of section 116 of the said Act is repealed.

R.S.C. 1952,  
c. 149,  
s. 116,  
cont'd.

(c) is, with the permission in writing of the superintendent, absent from school for a period not exceeding six weeks in each term for the purpose of assisting in husbandry or urgent and necessary household duties,

(d) is under efficient instruction at home or elsewhere, within one year after the written approval by the Minister of such instruction, or

(e) is unable to attend school because there is insufficient accommodation in the school that the child is entitled or directed to attend. 1951, c. 29, s. 116.

**117.** Every Indian child who is required to attend school shall attend such school as the Minister may designate, but no child whose parent is a Protestant shall be School to be attended.

assigned to a school conducted under Roman Catholic auspices and no child whose parent is a Roman Catholic shall be assigned to a school conducted under Protestant auspices, except by written direction of the parent. 1951, c. 29, s. 117.

R.S.C. 1952, c. 149, cont'd.

Truant officers.

**118.** (1) The Minister may appoint persons, to be called truant officers, to enforce the attendance of Indian children at school, and for that purpose a truant officer has the powers of a peace officer.

Powers.

(2) Without restricting the generality of subsection (1), a truant officer may

(a) enter any place where he believes, on reasonable grounds, that there are Indian children who are between the ages of seven and sixteen years of age, or who are required by the Minister to attend school,

(b) investigate any case of truancy, and

(c) serve written notice upon the parent, guardian or other person having the care or legal custody of a child to cause the child to attend school regularly thereafter.

Notice to attend school.

(3) Where a notice has been served in accordance with paragraph (c) of subsection (2) with respect to a child who is required by this Act to attend school, and the child does not within three days after the service of notice attend school and continue to attend school regularly thereafter, the person upon whom the notice was served is guilty of an offence and is liable on summary conviction to a fine of not more than five dollars or to imprisonment for a term not exceeding ten days or to both fine and imprisonment.

No further notices required within one year of previous notice.

(4) Where a person has been served with a notice in accordance with paragraph (c) of subsection (2), it is not necessary within a period of twelve months thereafter to serve that person with any other notice in respect of further non-compliance with the provisions of this Act, and whenever such person within the period of twelve months fails to cause the child with respect to whom the notice was served or any other child of whom he has charge or control to attend school and continue in regular attendance as required by this Act, such person is guilty of an offence and liable to the penalties imposed by subsection (3) as if he had been served with the notice.

Tardiness.

(5) A child who is habitually late for school shall be deemed to be absent from school.

Take into custody.

(6) A truant officer may take into custody a child whom he believes on reasonable grounds to be absent from school contrary to this Act and may convey the child to school, using as much force as the circumstances require. 1951, c. 29, s. 118.

**119.** An Indian child who

(a) is expelled or suspended from school, or

(b) refuses or fails to attend school regularly,

shall be deemed to be a juvenile delinquent within the meaning of the *Juvenile Delinquents Act*. 1951, c. 29, s. 119.

Child who is expelled or fails to attend deemed juvenile delinquent.



R.S.C. 1952, c. 149, cont'd.

**120.** (1) Where the majority of the members of a band belongs to one religious denomination the school established on the reserve that has been set apart for the use and benefit of that band shall be taught by a teacher of that denomination. Denomina-  
tion  
of teacher.

(2) Where the majority of the members of a band are not members of the same religious denomination and the band by a majority vote of those electors of the band who were present at a meeting called for the purpose requests that day schools on the reserve should be taught by a teacher belonging to a particular religious denomination, the school on that reserve shall be taught by a teacher of that denomination. 1951, c. 29, s. 120. Idem.

**121.** A Protestant or Roman Catholic minority of any band may, with the approval of and under regulations to be made by the Minister, have a separate day school or day school classroom established on the reserve unless, in the opinion of the Governor in Council, the number of children of school age does not so warrant. 1951, c. 29, s. 121. Minority  
religious  
denomina-  
tions.

**122.** In sections 113 to 121

Definitions.

- (a) "child" means an Indian who has attained the age of six years but has not attained the age of sixteen years, and a person who is required by the Minister to attend school, "Child."
- (b) "school" includes a day school, technical school, high school and residential school, and "School."
- (c) "truant officer" includes "Truant  
officer."
- (i) a member of the Royal Canadian Mounted Police,
- (ii) a special constable appointed for police duty on a reserve, and
- (iii) a school teacher and a chief of the band, when authorized by the superintendent.

1951, c. 29, s. 122.

#### PRIOR GRANTS.

Prior grants  
deemed  
authorized.

**123.** Where, prior to the 4th day of September, 1951,

(a) a reserve or portion of a reserve was released or surrendered to the Crown pursuant to Part I of the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, or pursuant to the provisions of the statutes relating to the release or surrender of reserves in force at the time of the release or surrender,

(b) Letters Patent under the Great Seal of Canada were issued purporting to grant a reserve or portion of a reserve so released or surrendered, or any interest therein, to any person, and

(c) the Letters Patent have not been declared void or inoperative by any Court of competent jurisdiction, the Letters Patent shall, for all purposes, be deemed to have been issued at the date thereof under the direction of the Governor in Council. 1951, c. 29, s. 124.

R.S.C. 1952, c. 149, cont'd.

6. Section 123 of the said Act is repealed and the following substituted therefor:

S.C. 1953,  
c. 41, s. 6.

"123. Where, prior to the 4th day of September, 1951, a reserve or portion of a reserve was released or surrendered to the Crown pursuant to Part I of the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, or pursuant to the provisions of the statutes relating to the release or surrender of reserves in force at the time of the release or surrender, and

Prior grants  
and sales  
deemed  
authorized.

(a) prior to that date Letters Patent under the Great Seal of Canada were issued purporting to grant a reserve or portion of a reserve so released or surrendered, or any interest therein, to any person, and the Letters Patent have not been declared void or inoperative by any Court of competent jurisdiction, or

(b) prior to that date a reserve or portion of a reserve so released or surrendered, or any interest therein, was sold or agreed to be sold by the Crown to any person, and the sale or agreement for sale has not been cancelled or by any Court of competent jurisdiction declared void or inoperative,

the Letters Patent or the sale or agreement for sale, as the case may be, shall, for all purposes, be deemed to have been issued or made at the date thereof under the direction of the Governor in Council."

7. This Part shall come into force, and Part I is repealed, on the day the Revised Statutes of Canada, 1952, come into force.

Coming  
into force

(Part I applies  
to S.C. 1951,  
c. 29.)

## CHAPTER I-6

## An Act respecting Indians

## SHORT TITLE

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

## INTERPRETATION

Definitions 2. (1) In this Act

"band"  
"bande"  
"band" means a body of Indians  
(a) for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart before, on or after the 4th day of September 1951,  
(b) for whose use and benefit in common, moneys are held by Her Majesty, or  
(c) declared by the Governor in Council to be a band for the purposes of this Act;

"child"  
"enfant"  
"child" includes a legally adopted Indian child;

"council of the band"  
"conseil..."  
"council of the band" means  
(a) in the case of a band to which section 74 applies, the council established pursuant to that section,  
(b) in the case of a band to which section 74 does not apply, the council chosen according to the custom of the band, or, where there is no council, the chief of the band chosen according to the custom of the band;

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

"elector"  
"electeur"  
"elector" means a person who  
(a) is registered on a Band List,  
(b) is of the full age of twenty-one years, and  
(c) is not disqualified from voting at band elections;

R.S.C. 1970, c. I-6, cont'd.

<p>"estate" «biens»</p>	<p>"estate" includes real and personal property and any interest in land;</p>
<p>"Indian" «Indien»</p>	<p>"Indian" means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian;</p>
<p>"Indian moneys" «deniers...»</p>	<p>"Indian moneys" means all moneys collected, received or held by Her Majesty for the use and benefit of Indians or bands;</p>
<p>"intoxicant" «spiritueux»</p>	<p>"intoxicant" includes alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption that are intoxicating;</p>
<p>"member of a band" «membre...»</p>	<p>"member of a band" means a person whose name appears on a Band List or who is entitled to have his name appear on a Band List;</p>
<p>"mentally incompetent Indian" «Indien mentalement incapable»</p>	<p>"mentally incompetent Indian" means an Indian who, pursuant to the laws of the province in which he resides, has been found to be mentally defective or incompetent for the purposes of any laws of that province providing for the administration of estates of mentally defective or incompetent persons;</p>
<p>"Minister" «Ministre»</p>	<p>"Minister" means the Minister of Indian Affairs and Northern Development;</p>
<p>"registered" «inscrit»</p>	<p>"registered" means registered as an Indian in the Indian Register;</p>
<p>"Registrar" «registraire»</p>	<p>"Registrar" means the officer of the Department who is in charge of the Indian Register;</p>
<p>"reserve" «réserve»</p>	<p>"reserve" means a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band;</p>
<p>"superintendent" «surintendant»</p>	<p>"superintendent" includes a commissioner, regional supervisor, Indian superintendent, assistant Indian superintendent and any other person declared by the Minister to be a superintendent for the purposes of this Act, and with reference to a band or a reserve, means the superintendent for that band or reserve;</p>
<p>"surrendered lands" «terres...»</p>	<p>"surrendered lands" means a reserve or part of a reserve or any interest therein, the legal title to which remains vested in Her Majesty, that has been released or surrendered by the band for whose use and benefit it was set apart.</p>
<p>"Band"</p>	<p>(2) The expression "band" with reference to a reserve or surrendered lands means the band for whose use and benefit the reserve or the surrendered lands were set apart.</p>

R.S.C. 1970, c. I-6, cont'd.

Exercise of  
powers conferred  
on band or  
council

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

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

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

#### ADMINISTRATION

Minister to  
administer Act

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

Authority of  
Deputy Minister  
and chief officer

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

#### APPLICATION OF ACT

Application of  
Act

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

Act may be  
declared  
inapplicable

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

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

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

and may by proclamation revoke any such declaration.

Certain sections  
inapplicable to  
Indians living  
off reserves

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

DEFINITION AND REGISTRATION OF INDIANS

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

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

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

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

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

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

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

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

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

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

Registrar to  
cause  
investigation

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

Reference to  
judge

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

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

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

may, by notice in writing, request the Registrar to refer the decision to a judge for review, and thereupon the Registrar shall refer the decision, together with all material considered by the Registrar in making his decision, to the judge of the county or district court of the county or district in which the band is situated or in which the person in respect of whom the protest was made resides, or such other county or district as the Minister may designate, or in the Province of Quebec, to the judge of the Superior Court for the district in which the band is situated or in which the person in respect of whom the protest was made resides, or such other district as the Minister may designate.

S.C. 1974-75-76,  
c. 48, s. 25.

Amendments

**25.** (1) The Acts mentioned in Schedule II to this Act are amended in the manner and to the extent indicated in that Schedule.

Transitional:  
proceedings

(2) Proceedings to which any of the provisions amended by Schedule II apply that were commenced before the coming into force of this section shall be continued in accordance with those amended provisions without any further formality.

Transitional:  
other references

(3) A reference in any Act, other than this Act, or in any document, instrument, regulation, proclamation or order in council, to a County Court of Judicature of Prince Edward Island shall be held, as regards any transaction, matter or thing subsequent to the coming into force of this section, to be a reference to the Supreme Court of Prince Edward Island.

R.S.C. 1970, c. I-6, cont'd.

Indian Act  
R.S., c. I-6

Subsections 9(3) and (4) are repealed and the following substituted therefor:

S.C. 1974-75-76,  
c. 48, Sch. II.

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

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

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

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

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

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

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

Inquiry and  
decision

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

R.S.C. 1970,  
c. I-6, s. 9(4),  
cont'd.



R.S.C. 1970, c. I-6, cont'd.

S.C. 1974-75-76,  
c. 48, Sch. II.  
(repeals R.S.C.  
1970, c. I-6,  
s. 9(4).

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

R.S.C. 1970,  
c. I-6,  
s. 9(5).

One reference  
only

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

Burden of proof

(6) Where a decision of the Registrar has been referred to a judge for review under this section, the burden of establishing that the decision of the Registrar is erroneous is on the person who requested that the decision be so referred. R.S., c. 149, s. 9; 1956, c. 40, s. 2.

Wife and minor  
children

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

Persons entitled  
to be registered

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

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

(b) is a member of a band

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

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

(c) is a male person who is a direct descendant in the male line of a male

R.S.C. 1970, c. I-6, cont'd.

- person described in paragraph (a) or (b);  
 (d) is the legitimate child of  
 (i) a male person described in paragraph (a) or (b), or  
 (ii) a person described in paragraph (c);  
 (e) is the illegitimate child of a female person described in paragraph (a), (b) or (d); or  
 (f) is the wife or widow of a person who is entitled to be registered by virtue of paragraph (a), (b), (c), (d) or (e).
- Exception** (2) Paragraph (1)(e) applies only to persons born after the 13th day of August 1956. R.S., c. 149, s. 11; 1956, c. 40, s. 3.
- Persons not entitled to be registered** 12. (1) The following persons are not entitled to be registered, namely,  
 (a) a person who  
 (i) has received or has been allotted half-breed lands or money scrip,  
 (ii) is a descendant of a person described in subparagraph (i),  
 (iii) is enfranchised, or  
 (iv) is a person born of a marriage entered into after the 4th day of September 1951 and has attained the age of twenty-one years, whose mother and whose father's mother are not persons described in paragraph 11(1)(a),(b) or (d) or entitled to be registered by virtue of paragraph 11(1)(e),  
 unless, being a woman, that person is the wife or widow of a person described in section 11, and  
 (b) a woman who married a person who is not an Indian, unless that woman is subsequently the wife or widow of a person described in section 11.
- Protest re illegitimate child** (2) The addition to a Band List of the name of an illegitimate child described in paragraph 11(1)(e) may be protested at any time within twelve months after the addition, and if upon the protest it is decided that the father of the child was not an Indian, the child is not entitled to be registered under that paragraph.
- Certificate** (3) The Minister may issue to any Indian to whom this Act ceases to apply, a certificate to that effect.
- Exception** (4) Subparagraphs (1)(a)(i) and (ii) do not apply to a person who

R.S.C. 1970, c. I-6, cont'd.

- (a) pursuant to this Act is registered as an Indian on the 13th day of August 1958, or  
 (b) is a descendant of a person described in paragraph (a) of this subsection.
- Idem** (5) Subsection (2) applies only to persons born after the 13th day of August 1956. R.S., c. 149, s. 12; 1956, c. 40, ss. 3, 4; 1958, c. 19, s. 1.
- Admission to band and transfer** 13. Subject to the approval of the Minister and, if the Minister so directs, to the consent of the admitting band,  
 (a) a person whose name appears on a General List may be admitted into membership of a band with the consent of the council of the band, and  
 (b) a member of a band may be admitted into membership of another band with the consent of the council of the latter band. 1956, c. 40, s. 5.
- Woman marrying outside band** 14. A woman who is a member of a band ceases to be a member of that band if she marries a person who is not a member of that band, but if she marries a member of another band, she thereupon becomes a member of the band of which her husband is a member. R.S., c. 149, s. 14.
- Payments to persons ceasing to be members** 15. (1) Subject to subsection (2), an Indian who becomes enfranchised or who otherwise ceases to be a member of a band is entitled to receive from Her Majesty  
 (a) one per capita share of the capital and revenue moneys held by Her Majesty on behalf of the band, and  
 (b) an amount equal to the amount that in the opinion of the Minister he would have received during the next succeeding twenty years under any treaty then in existence between the band and Her Majesty if he had continued to be a member of the band.
- Payments not to be made in certain cases** (2) A person is not entitled to receive any amount under subsection (1)  
 (a) if his name was removed from the Indian register pursuant to a protest made under section 9, or  
 (b) if he is not entitled to be a member of a band by reason of the application of paragraph 11(1)(e) or subparagraph 12(1)(a)(iv).
- Payments to minors** (3) Where by virtue of this section moneys

R.S.C. 1970, c. I-6, cont'd.

are payable to a person who is under the age of twenty-one, the Minister may

- (a) pay the moneys to the parent, guardian or other person having the custody of that person or to the public trustee, public administrator or other like official for the province in which that person resides, or
- (b) cause payment of the moneys to be withheld until that person reaches the age of twenty-one.

Compensation  
for permanent  
improvements

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

Commutation of  
payments under  
former Act

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

Transfer of  
funds

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

Transferred  
member's  
interest

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

R.S.C. 1970, c. I-6, cont'd.

Transfer of  
woman by  
marriage

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

Minister may  
constitute new  
bands

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

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

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

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

Division of  
reserves and  
funds

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

No protest

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

#### RESERVES

Reserves to be  
held for use and  
benefit of  
Indians

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

R.S.C. 1970, c. I-6, cont'd.

purpose for which lands in a reserve are used or are to be used is for the use and benefit of the band.

Use of reserves  
for schools, etc.

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

Surveys and  
subdivisions

19. The Minister may

- (a) authorize surveys of reserves and the preparation of plans and reports with respect thereto,
- (b) divide the whole or any portion of a reserve into lots or other subdivisions, and
- (c) determine the location and direct the construction of roads in a reserve. R.S., c. 149, s. 19.

#### POSSESSION OF LANDS IN RESERVES

Possession of  
lands in a  
reserve

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

Certificate of  
Possession

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

Location tickets  
issued under  
previous  
legislation

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

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

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

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

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

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

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

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

**Compensation for improvements** 23. An Indian who is lawfully removed from lands in a reserve upon which he has made permanent improvements may, if the Minister so directs, be paid compensation in

R.S.C. 1970, c. I-6, cont'd.

respect thereof in an amount to be determined by the Minister, either from the person who goes into possession or from the funds of the band, at the discretion of the Minister. R.S., c. 149, s. 23.

Transfer of  
possession

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

Indian ceasing  
to reside on  
reserve

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

When right of  
possession  
reverts

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

Correction of  
Certificate or  
Location Tickets

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

Cancellation of  
Certificates or  
Location Tickets

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



R.S.C. 1970, c. I-6, cont'd.

Grants, etc. of  
reserve lands  
void

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

Minister may  
issue permits

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

Exemption from  
seizure

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

#### TRESPASS ON RESERVES

Penalty for  
trespass

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

Information by  
Attorney  
General

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

- (a) unlawfully in occupation or possession of,
- (b) claiming adversely the right to occupation or possession of, or
- (c) trespassing upon

a reserve or part of a reserve, the Attorney General of Canada may exhibit an Information in the Exchequer Court of Canada claiming, on behalf of the Indian or the band, the relief or remedy sought.

Information  
deemed action  
by Crown

(2) An Information exhibited under subsection (1) shall, for all purposes of the *Exchequer Court Act*, be deemed to be an action or suit by the Crown within the meaning of paragraph 29(d) of that Act.

R.S.C. 1970, c. I-6, cont'd.

**Amendments 65.** The Acts mentioned in Schedule II to this Act are amended in the manner and to the extent indicated in that Schedule.

R.S.C. 1970  
(2nd Supp.),  
c. 10, s. 65.

19 Indian Act  
R.S., c. I-6

1. Subsection 31(2) is repealed and the following substituted therefor:

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

Existing  
remedies  
preserved

(3) Nothing in this section shall be construed to impair, abridge or otherwise affect any right or remedy that, but for this section, would be available to Her Majesty or to an Indian or a band. R.S., c. 149, s. 31.

R.S.C. 1970,  
c. I-6, s. 31(3).

SALE OR BARTER OF PRODUCE

Sale or barter of  
produce

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

Exemption

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

Offence

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

ROADS AND BRIDGES

Roads, bridges,  
etc.

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

Idem

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

see R.S.C.  
1970, c. S-1,  
s. 19(5).

#### LANDS TAKEN FOR PUBLIC PURPOSES

Taking of lands  
by local  
authorities

**35. (1)** Where by an Act of the Parliament of Canada or a provincial legislature, Her

Majesty in right of a province, a municipal or local authority or a corporation is empowered to take or to use lands or any interest therein without the consent of the owner, the power may, with the consent of the Governor in Council and subject to any terms that may be prescribed by the Governor in Council, be exercised in relation to lands in a reserve or any interest therein.

Procedure

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

Grant in lieu of  
compulsory  
taking

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

Payment

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

#### SPECIAL RESERVES

Reserves not  
vested in the  
Crown

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

SURRENDERS

- No sale etc.,  
until surrender

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

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

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

**39. (1)** A surrender is void unless

  - (a) it is made to Her Majesty,
  - (b) it is assented to by a majority of the electors of the band
    - (i) at a general meeting of the band called by the council of the band,
    - (ii) at a special meeting of the band called by the Minister for the purpose of considering a proposed surrender, or
    - (iii) by a referendum as provided in the regulations, and
  - (c) it is accepted by the Governor in Council.
- Minister may  
call meeting or  
referendum

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

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

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

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

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

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

#### DESCENT OF PROPERTY

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

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

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

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

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

R.S.C. 1970, c. I-6, cont'd.

Courts may  
exercise  
jurisdiction with  
consent of  
Minister

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

Minister may  
refer a matter to  
the court

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

Orders relating  
to lands

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

#### WILLS

Indians may  
make wills

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

Form of will

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

Probate

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

Minister may  
declare will void

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

- (a) the will was executed under duress or undue influence;
- (b) the testator at the time of execution of the will lacked testamentary capacity;
- (c) the terms of the will would impose hardship on persons for whom the testator had a responsibility to provide;
- (d) the will purports to dispose of land in a reserve in a manner contrary to the interest of the band or contrary to this Act;

(e) the terms of the will are so vague, uncertain or capricious that proper administration and equitable distribution of the estate of the deceased would be difficult or impossible to carry out in accordance with this Act; or

(f) the terms of the will are against the public interest.

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

APPEALS

47. (1) A decision of the Minister made in the exercise of the jurisdiction or authority conferred upon him by section 42, 43 or 46 may, within two months from the date thereof, be appealed by any person affected thereby to the Exchequer Court of Canada, if the amount in controversy in the appeal exceeds five hundred dollars or if the Minister consents to an appeal.

(2) The judges of the Exchequer Court may make rules respecting the practice and procedure governing appeals under this section. R.S., c. 149, s. 47.

R.S.C. 1970  
(2nd Supp.),  
c. 10, s. 65

Sch. II,  
Item 19.

19

Indian Act

R.S., c. I-6

Amendments

65. The Acts mentioned in Schedule II to this Act are amended in the manner and to the extent indicated in that Schedule.

2. Subsection 47(2) is repealed.

DISTRIBUTION OF PROPERTY ON INTESTACY

Widow's share

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

Idem

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

R.S.C. 1970, c. I-6, cont'd.

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

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

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

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

Where children  
not provided for

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

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

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

Distribution to  
issue

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

Distribution to  
father and  
mother

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

Distribution to  
brothers, sisters  
and their issue

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

Next-of-kin

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



R.S.C. 1970, c. I-6, cont'd.

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

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

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

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

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

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

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

R.S.C. 1970, c. I-6, cont'd.

"Widow"  
includes  
"widower"

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

"Child"

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

Devisee's  
entitlement

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

Non-resident of  
reserve

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

Sale by  
superintendent

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

Unsold lands  
revert to band

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

Approval  
required

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

## MENTALLY INCOMPETENT INDIANS

Powers of  
Minister  
generally

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

Particular  
powers

(2) Without restricting the generality of subsection (1), the Minister may

(a) appoint persons to administer the estates of mentally incompetent Indians;

(b) order that any property of a mentally incompetent Indian shall be sold, leased, alienated, mortgaged, disposed of or otherwise dealt with for the purpose of

(i) paying his debts or engagements,

(ii) discharging encumbrances on his property,

(iii) paying debts or expenses incurred for his maintenance or otherwise for his benefit, or

(iv) paying or providing for the expenses of future maintenance; and

(c) make such orders and give such directions as he considers necessary to secure the satisfactory management of the estates of mentally incompetent Indians.

Property off  
reserve

(3) The Minister may order that any property situated off a reserve and belonging to a mentally incompetent Indian shall be dealt with under the laws of the province in which the property is situated. R.S., c. 149, s. 51.

## GUARDIANSHIP

Property of  
infant children

52. The Minister may administer or provide for the administration of any property to which infant children of Indians are entitled, and may appoint guardians for such purpose. R.S., c. 149, s. 52.

R.S.C. 1970, c. I-6, cont'd.

**MANAGEMENT OF RESERVES AND  
SURRENDERED LANDS**

- |                                     |  |
|-------------------------------------|--|
| Disposition of surrendered lands    | <p><b>53. (1)</b> The Minister or a person appointed by him for the purpose may manage, sell, lease or otherwise dispose of surrendered lands in accordance with this Act and the terms of the surrender.</p>  |
| Grant where original purchaser dead | <p><b>(2)</b> Where the original purchaser of surrendered lands is dead and the heir, assignee or devisee of the original purchaser applies for a grant of the lands, the Minister may, upon receipt of proof in such manner as he directs and requires in support of any claim for the grant and upon being satisfied that the claim has been equitably and justly established, allow the claim and authorize a grant to issue accordingly.</p> |
| Departmental employees              | <p><b>(3)</b> No person who is appointed to manage, sell, lease or otherwise dispose of surrendered lands or who is an officer or servant of Her Majesty employed in the Department may, except with the approval of the Governor in Council, acquire directly or indirectly any interest in surrendered lands. R.S., c. 149, s. 53.</p>   |
| Assignments                         | <p><b>54.</b> Where surrendered lands have been agreed to be sold or otherwise disposed of and letters patent relating thereto have not issued, or where surrendered lands have been leased, the purchaser, lessee or other person having an interest in the surrendered lands may, with the approval of the Minister, assign his interest in the surrendered lands or a part thereof to any other person. R.S., c. 149, s. 54.</p>              |
| Surrendered Lands Register          | <p><b>55. (1)</b> There shall be kept in the Department a register, to be known as the Surrendered Lands Register, in which shall be entered particulars in connection with any lease or other disposition of surrendered lands by the Minister or any assignment thereof.</p>   |
| Conditional assignment              | <p><b>(2)</b> A conditional assignment shall not be registered.</p>  |
| Proof of execution                  | <p><b>(3)</b> Registration of an assignment may be refused until proof of its execution has been furnished.</p>  |
| Effect of registration              | <p><b>(4)</b> An assignment registered under this section is valid against an unregistered assignment or an assignment subsequently registered. R.S., c. 149, s. 55.</p>   |

R.S.C. 1970, c. I-6, cont'd.

Certificate of  
registration

**56.** Where an assignment is registered there shall be endorsed on the original copy thereof a certificate of registration signed by the Minister or by an officer of the Department authorized by him to sign such certificates. R.S., c. 149, s. 56.

Regulations

**57.** The Governor in Council may make regulations

(a) authorizing the Minister to grant licences to cut timber on surrendered lands, or, with the consent of the council of the band, on reserve lands;

(b) imposing terms, conditions and restrictions with respect to the exercise of rights conferred by licences granted under paragraph (a);

(c) providing for the disposition of surrendered mines and minerals underlying lands in a reserve;

(d) prescribing the penalty not exceeding one hundred dollars or imprisonment for a term of three months, or both, that may be imposed on summary conviction for violation of any regulation made under this section; and

(e) providing for the seizure and forfeiture of any timber or minerals taken in violation of any regulation made under this section. R.S., c. 149, s. 57.

Uncultivated or  
unused lands

**58.** (1) Where land in a reserve is uncultivated or unused, the Minister may, with the consent of the council of the band,

(a) improve or cultivate such land and employ persons therefor, and authorize and direct the expenditure of so much of the capital funds of the band as he considers necessary for such improvement or cultivation including the purchase of such stock, machinery or material or for the employment of such labour as the Minister considers necessary;

(b) where the land is in the lawful possession of any individual, grant a lease of such land for agricultural or grazing purposes or for any purpose that is for the benefit of the person in possession; and

(c) where the land is not in the lawful possession of any individual, grant for the benefit of the band a lease of such land for agricultural or grazing purposes.

R.S.C. 1970, c. I-6, cont'd.

**Distribution of proceeds** (2) Out of the proceeds derived from the improvement or cultivation of lands pursuant to paragraph (1)(b), a reasonable rent shall be paid to the individual in lawful possession of the lands or any part thereof, and the remainder of the proceeds shall be placed to the credit of the band, but if improvements are made on the lands occupied by an individual, the Minister may deduct the value of such improvements from the rent payable to such individual under this subsection.

**Lease at request of occupant** (3) The Minister may lease for the benefit of any Indian upon his application for that purpose, the land of which he is lawfully in possession without the land being surrendered.

**Disposition of grass, timber, non-metallic substances, etc.** (4) Notwithstanding anything in this Act, the Minister may, without a surrender

(a) dispose of wild grass or dead or fallen timber, and

(b) with the consent of the council of the band, dispose of sand, gravel, clay and other non-metallic substances upon or under lands in a reserve, or, where such consent cannot be obtained without undue difficulty or delay, may issue temporary permits for the taking of sand, gravel, clay and other non-metallic substances upon or under lands in a reserve, renewable only with the consent of the council of the band,

and the proceeds of such transactions shall be credited to band funds or shall be divided between the band and the individual Indians in lawful possession of the lands in such shares as the Minister may determine. R.S., c. 149, s. 58; 1956, c. 40, s. 14.

**Adjustment of contracts** 59. The Minister may, with the consent of the council of a band,

(a) reduce or adjust the amount payable to Her Majesty in respect of a sale, lease or other disposition of surrendered lands or a lease or other disposition of lands in a reserve or the rate of interest payable thereon, and

(b) reduce or adjust the amount payable to the band by an Indian in respect of a loan made to the Indian from band funds. R.S., c. 149, s. 59.

**Control over lands**

60. (1) The Governor in Council may at the request of a band grant to the band the right to exercise such control and management over lands in the reserve occupied by that band as the Governor in Council considers desirable.

R.S.C. 1970, c. I-6, cont'd.

**Withdrawal** (2) The Governor in Council may at any time withdraw from a band a right conferred upon the band under subsection (1). R.S., c. 149, s. 60.

MANAGEMENT OF INDIAN MONEYS

**Indian moneys to be held for use and benefit** 61. (1) Indian moneys shall be expended only for the benefit of the Indians or bands for whose use and benefit in common the moneys are received or held, and subject to this Act and to the terms of any treaty or surrender, the Governor in Council may determine whether any purpose for which Indian moneys are used or are to be used is for the use and benefit of the band.

**Interest** (2) Interest upon Indian moneys held in the Consolidated Revenue Fund shall be allowed at a rate to be fixed from time to time by the Governor in Council. R.S., c. 149, s. 61.

**Capital and revenue** 62. All Indian moneys derived from the sale of surrendered lands or the sale of capital assets of a band shall be deemed to be capital moneys of the band and all Indian moneys other than capital moneys shall be deemed to be revenue moneys of the band. R.S., c. 149, s. 62.

**Payments to Indians** 63. Notwithstanding the *Financial Administration Act*, where moneys to which an Indian is entitled are paid to a superintendent under any lease or agreement made under this Act, the superintendent may pay the moneys to the Indian. R.S., c. 149, s. 63.

**Expenditure of capital moneys with consent** 64. With the consent of the council of a band, the Minister may authorize and direct the expenditure of capital moneys of the band

(a) to distribute per capita to the members of the band an amount not exceeding fifty per cent of the capital moneys of the band derived from the sale of surrendered lands;

(b) to construct and maintain roads, bridges, ditches and water courses on the reserves or on surrendered lands;

(c) to construct and maintain outer boundary fences on reserves;

(d) to purchase land for use by the band as a reserve or as an addition to a reserve;

(e) to purchase for the band the interest of a member of the band in lands on a reserve;

(f) to purchase livestock and farm implements, farm equipment, or machinery for the band;

R.S.C. 1970, c. I-6, cont'd.

(g) to construct and maintain on or in connection with a reserve such permanent improvements or works as in the opinion of the Minister will be of permanent value to the band or will constitute a capital investment;

(h) to make to members of the band, for the purpose of promoting the welfare of the band, loans not exceeding one-half of the total value of

(i) the chattels owned by the borrower, and

(ii) the land with respect to which he holds or is eligible to receive a Certificate of Possession,

and may charge interest and take security therefor;

(i) to meet expenses necessarily incidental to the management of lands on a reserve, surrendered lands and any band property;

(j) to construct houses for members of the band, to make loans to members of the band for building purposes with or without security and to provide for the guarantee of loans made to members of the band for building purposes; and

(k) for any other purpose that in the opinion of the Minister is for the benefit of the band. R.S., c. 149, s. 64; 1956, c. 40, s. 15.

Expenditure of capital

65. The Minister may pay from capital moneys

(a) compensation to an Indian in an amount that is determined in accordance with this Act to be payable to him in respect of land compulsorily taken from him for band purposes, and

(b) expenses incurred to prevent or suppress grass or forest fires or to protect the property of Indians in cases of emergency. R.S., c. 149, s. 65.

Expenditure of revenue moneys with consent of band

66. (1) With the consent of the council of a band, the Minister may authorize and direct the expenditure of revenue moneys for any purpose that in his opinion will promote the general progress and welfare of the band or any member of the band.

Minister may direct expenditure

(2) The Minister may make expenditures out of the revenue moneys of the band to assist sick, disabled, aged or destitute Indians of the band and to provide for the burial of deceased indigent members of the band and to provide for the payment of contributions under the *Unemployment Insurance Act* on behalf of employed persons who are paid in respect of their employment out of moneys of the band.



R.S.C. 1970, c. I-6, cont'd.

Expenditure of  
revenue moneys  
with authority  
of Minister

(3) The Minister may authorize the expenditure of revenue moneys of the band for all or any of the following purposes, namely:

- (a) for the destruction of noxious weeds and the prevention of the spreading or prevalence of insects, pests or diseases that may destroy or injure vegetation on Indian reserves;
- (b) to prevent, mitigate and control the spread of diseases on reserves, whether or not the diseases are infectious or communicable;
- (c) to provide for the inspection of premises on reserves and the destruction, alteration or renovation thereof;
- (d) to prevent overcrowding of premises on reserves used as dwellings;
- (e) to provide for sanitary conditions in private premises on reserves as well as in public places on reserves; and
- (f) for the construction and maintenance of boundary fences. R.S., c. 149, s. 66; 1956, c. 40, s. 16.

Recovery of  
certain expenses

67. Where money is expended by Her Majesty for the purpose of raising or collecting Indian moneys, the Minister may authorize the recovery of the amount so expended from the moneys of the band. 1956, c. 40, s. 17.

Maintenance of  
dependants

68. (1) Where the Minister is satisfied that a male Indian

- (a) has deserted his wife or family without sufficient cause,
- (b) has conducted himself in such a manner as to justify the refusal of his wife or family to live with him, or
- (c) has been separated by imprisonment from his wife and family,

he may order that payments of any annuity or interest money to which that Indian is entitled shall be applied to the support of the wife or family or both the wife and family of that Indian.

Idem

(2) Where the Minister is satisfied that a female Indian has deserted her husband or family, he may order that payments of any annuity or interest money to which that Indian is entitled shall be applied to the support of her family.

Illegitimate  
children

(3) Where the Minister is satisfied that one or both of the parents of an illegitimate child is an Indian, he may stop payments out of any annuity or interest moneys to which either or both of the parents would otherwise be entitled and apply the moneys to the support of the child, but not so as to prejudice the welfare of any legitimate child of either Indian. R.S., c. 149, s. 67.

R.S.C. 1970, c. I-6, cont'd.

**Management of revenue moneys by band**      **69.** (1) The Governor in Council may by order permit a band to control, **manage and** expend in whole or in part its revenue moneys and may amend or revoke any such order.

**Regulations**      (2) The Governor in Council may make regulations to give effect to subsection (1) and may declare therein the extent to which this Act and the *Financial Administration Act* shall not apply to a band to which an order made under subsection (1) applies. R.S., c. 149, s. 68.

#### LOANS TO INDIANS

**Loans to Indians**      **70.** (1) The Minister of Finance may from time to time authorize advances to the Minister out of the Consolidated Revenue Fund of such sums of money as the Minister may require to enable him

(a) to make loans to bands, groups of Indians or individual Indians for the purchase of farm implements, machinery, livestock, motor vehicles, fishing equipment, seed grain, fencing materials, materials to be used in native handicrafts, any other equipment, and gasoline and other petroleum products, or for the making of repairs or the payment of wages, or for the clearing and breaking of land within reserves,

(b) to expend or to lend money for the carrying out of cooperative projects on behalf of Indians, or

(c) to provide for any other matter prescribed by the Governor in Council.

**Regulations**      (2) The Governor in Council may make regulations to give effect to subsection (1).

**Accounting**      (3) Expenditures that are made under subsection (1) shall be accounted for in the same manner as public moneys.

**Repayment**      (4) The Minister shall pay to the Receiver General all moneys that he receives from bands, groups of Indians or individual Indians by way of repayments of loans made under subsection (1).

**Limitation**      (5) The total amount of outstanding advances to the Minister under this section shall not at any one time exceed six million and fifty thousand dollars.

Report to  
Parliament

(6) The Minister shall within fifteen days after the termination of each fiscal year or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session, lay before Parliament a report setting out the total number and amount of loans made under subsection (1) during that year. R.S., c. 149, s. 69; 1952-53, c. 41, s. 4; 1956, c. 40, s. 18; 1968-69, c. 28, s. 105; 1969-70, c. 2, Sch. vote L50a. [See 1969-70, c. 24, Sch. vote L53b.]

#### FARMS

Minister may  
operate farms

71. (1) The Minister may operate farms on reserves and may employ such persons as he considers necessary to instruct Indians in farming and may purchase and distribute without charge, pure seed to Indian farmers.

Application of  
profits

(2) The Minister may apply any profits that result from the operation of farms pursuant to subsection (1) on reserves to extend farming operations on the reserves or to make loans to Indians to enable them to engage in farming or other agricultural operations or he may apply such profits in any way that he considers to be desirable to promote the progress and development of the Indians. R.S., c. 149, s. 70.

#### TREATY MONEY

Treaty money  
payable out of  
C.R.F.

72. Moneys that are payable to Indians or to Indian bands under a treaty between Her Majesty and the band and for the payment of which the Government of Canada is responsible, may be paid out of the Consolidated Revenue Fund. R.S., c. 149, s. 71.

#### REGULATIONS

Regulations

73. (1) The Governor in Council may make regulations

(a) for the protection and preservation of fur-bearing animals, fish and other game on reserves;

(b) for the destruction of noxious weeds and the prevention of the spreading or prevalence of insects, pests or diseases that may destroy or injure vegetation on Indian reserves;

(c) for the control of the speed, operation and parking of vehicles on roads within reserves;

(d) for the taxation, control and destruction of dogs and for the protection of sheep on reserves;

R.S.C. 1970, c. I-6, cont'd.

(e) for the operation, supervision and control of pool rooms, dance halls and other places of amusement on reserves;

(f) to prevent, mitigate and control the spread of diseases on reserves, whether or not the diseases are infectious or communicable;

(g) to provide medical treatment and health services for Indians;

(h) to provide compulsory hospitalization and treatment for infectious diseases among Indians;

(i) to provide for the inspection of premises on reserves and the destruction, alteration or renovation thereof;

(j) to prevent overcrowding of premises on reserves used as dwellings;

(k) to provide for sanitary conditions in private premises on reserves as well as in public places on reserves;

(l) for the construction and maintenance of boundary fences; and

(m) for empowering and authorizing the council of a band to borrow money for band projects or housing purposes and providing for the making of loans out of moneys so borrowed to members of the band for housing purposes.

Penalty

(2) The Governor in Council may prescribe the penalty, not exceeding a fine of one hundred dollars or imprisonment for a term not exceeding three months, or both, that may be imposed on summary conviction for violation of a regulation made under subsection (1).

Orders and regulations

(3) The Governor in Council may make orders and regulations to carry out the purposes and provisions of this Act. R.S., c. 149, s. 72; 1956, c. 40, s. 19.

#### ELECTIONS OF CHIEFS AND BAND COUNCILS

Elected councils

74. (1) Whenever he deems it advisable for the good government of a band, the Minister may declare by order that after a day to be named therein the council of the band, consisting of a chief and councillors, shall be selected by elections to be held in accordance with this Act.

Composition of council

(2) Unless otherwise ordered by the Minister, the council of a band in respect of which an order has been made under subsection (1) shall consist of one chief, and one councillor for every one hundred members of the band, but the number of councillors shall not be less than two nor more than twelve and no band shall have more than one chief.

R.S.C. 1970, c. I-6, cont'd.

- Regulations** (3) The Governor in Council may, for the purposes of giving effect to subsection (1), make orders or regulations to provide
- (a) that the chief of a band shall be elected by
- (i) a majority of the votes of the electors of the band, or
- (ii) a majority of the votes of the elected councillors of the band from among themselves, but the chief so elected shall remain a councillor; and
- (b) that the councillors of a band shall be elected by
- (i) a majority of the votes of the electors of the band, or
- (ii) a majority of the votes of the electors of the band in the electoral section in which the candidate resides and that he proposes to represent on the council of the band.

**Electoral sections** (4) A reserve shall for voting purposes consist of one electoral section, except that where the majority of the electors of a band who were present and voted at a referendum or a special meeting held and called for the purpose in accordance with the regulations have decided that the reserve should for voting purposes be divided into electoral sections and the Minister so recommends, the Governor in Council may make orders or regulations to provide that the reserve shall for voting purposes be divided into not more than six electoral sections containing as nearly as may be an equal number of Indians eligible to vote and to provide for the manner in which electoral sections so established shall be distinguished or identified. R.S., c. 149, s. 73; 1956, c. 40, s. 20.

**Eligibility** 75. (1) No person other than an elector who resides in a section may be nominated for the office of councillor to represent that section on the council of the band.

**Nomination** (2) No person may be a candidate for election as chief or councillor unless his nomination is moved and seconded by persons who are themselves eligible to be nominated. R.S., c. 149, s. 74.

R.S.C. 1970, c. I-6, cont'd.

- Regulations governing elections**      **76.** (1) The Governor in Council may make orders and regulations with respect to band elections and, without restricting the generality of the foregoing, may make regulations with respect to
- (a) meetings to nominate candidates;
  - (b) the appointment and duties of electoral officers;
  - (c) the manner in which voting shall be carried out;
  - (d) election appeals; and
  - (e) the definition of residence for the purpose of determining the eligibility of voters.
- Secrecy of voting**      (2) The regulations made under paragraph (1)(c) shall make provision for secrecy of voting. R.S., c. 149, s. 75.
- Eligibility of voters for chief**      **77.** (1) A member of a band who is of the full age of twenty-one years and is ordinarily resident on the reserve is qualified to vote for a person nominated to be chief of the band, and where the reserve for voting purposes consists of one section, to vote for persons nominated as councillors.
- Councillor**      (2) A member of a band who is of the full age of twenty-one years and is ordinarily resident in a section that has been established for voting purposes is qualified to vote for a person nominated to be councillor to represent that section. R.S., c. 149, s. 76.
- Tenure of office**      **78.** (1) Subject to this section, chiefs and councillors hold office for two years.
- Vacancy**      (2) The office of chief or councillor becomes vacant when
- (a) the person who holds that office
    - (i) is convicted of an indictable offence,
    - (ii) dies or resigns his office, or
    - (iii) is or becomes ineligible to hold office by virtue of this Act; or
  - (b) the Minister declares that in his opinion the person who holds that office
    - (i) is unfit to continue in office by reason of his having been convicted of an offence,
    - (ii) has been absent from meetings of the council for three consecutive meetings without being authorized to do so, or
    - (iii) was guilty, in connection with an election, of corrupt practice, accepting a bribe, dishonesty or malfeasance.

**Disqualification** (3) The Minister may declare a person who ceases to hold office by virtue of subparagraph (2)(b)(iii) to be ineligible to be a candidate for chief or councillor for a period not exceeding six years.

**Special election** (4) Where the office of chief or councillor becomes vacant more than three months before the date when another election would ordinarily be held, a special election may be held in accordance with this Act to fill the vacancy. R.S., c. 149, s. 77.

**Governor in Council may set aside election** 79. The Governor in Council may set aside the election of a chief or a councillor on the report of the Minister that he is satisfied that

- (a) there was corrupt practice in connection with the election;
- (b) there was a violation of this Act that might have affected the result of the election; or
- (c) a person nominated to be a candidate in the election was ineligible to be a candidate. R.S., c. 149, s. 78.

**Regulations respecting band and council meetings** 80. The Governor in Council may make regulations with respect to band meetings and council meetings and, without restricting the generality of the foregoing, may make regulations with respect to

- (a) presiding officers at such meetings;
- (b) notice of such meetings;
- (c) the duties of any representative of the Minister at such meetings; and
- (d) the number of persons required at the meeting to constitute a quorum. R.S., c. 149, s. 79.

#### POWERS OF THE COUNCIL

**By-laws** 81. The council of a band may make by-laws not inconsistent with this Act or with any regulation made by the Governor in Council or the Minister, for any or all of the following purposes, namely:

- (a) to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases;
- (b) the regulation of traffic;
- (c) the observance of law and order;
- (d) the prevention of disorderly conduct and nuisances;

R.S.C. 1970, c. I-6, cont'd.

(e) the protection against and prevention of trespass by cattle and other domestic animals, the establishment of pounds, the appointment of pound-keepers, the regulation of their duties and the provision for fees and charges for their services;

(f) the construction and maintenance of water courses, roads, bridges, ditches, fences and other local works;

(g) the dividing of the reserve or a portion thereof into zones and the prohibition of the construction or maintenance of any class of buildings or the carrying on of any class of business, trade or calling in any such zone;

(h) the regulation of the construction, repair and use of buildings, whether owned by the band or by individual members of the band;

(i) the survey and allotment of reserve lands among the members of the band and the establishment of a register of Certificates of Possession and Certificates of Occupation relating to allotments and the setting apart of reserve lands for common use, if authority therefor has been granted under section 60;

(j) the destruction and control of noxious weeds;

(k) the regulation of bee-keeping and poultry raising;

(l) the construction and regulation of the use of public wells, cisterns, reservoirs and other water supplies;

(m) the control and prohibition of public games, sports, races, athletic contests and other amusements;

(n) the regulation of the conduct and activities of hawkers, peddlers or others who enter the reserve to buy, sell or otherwise deal in wares or merchandise;

(o) the preservation, protection and management of fur-bearing animals, fish and other game on the reserve;

(p) the removal and punishment of persons trespassing upon the reserve or frequenting the reserve for prescribed purposes;

(q) with respect to any matter arising out of or ancillary to the exercise of powers under this section; and

(r) the imposition on summary conviction of a fine not exceeding one hundred dollars or imprisonment for a term not exceeding thirty days, or both, for violation of a by-law made under this section. R.S., c. 149, s. 80.



Copies of by-laws to be sent to Minister

**82.** (1) A copy of every by-law made under the authority of section 81 shall be forwarded by mail by the chief or a member of the council of the band to the Minister within four days after it is made.

Effective date of by-law

(2) A by-law made under section 81 comes into force forty days after a copy thereof is forwarded to the Minister pursuant to subsection (1), unless it is disallowed by the Minister within that period, but the Minister may declare the by-law to be in force at any time before the expiration of that period. R.S., c. 149, s. 81.

Money by-laws

**83.** (1) Without prejudice to the powers conferred by section 81, where the Governor in Council declares that a band has reached an advanced stage of development, the council of the band may, subject to the approval of the Minister, make by-laws for any or all of the following purposes, namely

(a) the raising of money by

(i) the assessment and taxation of interests in land in the reserve of persons lawfully in possession thereof, and

(ii) the licensing of businesses, callings, trades and occupations;

(b) the appropriation and expenditure of moneys of the band to defray band expenses;

(c) the appointment of officials to conduct the business of the council, prescribing their duties and providing for their remuneration out of any moneys raised pursuant to paragraph (a);

(d) the payment of remuneration, in such amount as may be approved by the Minister, to chiefs and councillors, out of any moneys raised pursuant to paragraph (a);

(e) the imposition of a penalty for non-payment of taxes imposed pursuant to this section, recoverable on summary conviction, not exceeding the amount of the tax or the amount remaining unpaid;

(f) the raising of money from band members to support band projects; and

(g) with respect to any matter arising out of or ancillary to the exercise of powers under this section.

Restriction on expenditures

(2) No expenditure shall be made out of moneys raised pursuant to paragraph (1)(a) except under the authority of a by-law of the council of the band. R.S., c. 149, s. 82; 1956, c. 40, s. 21.

R.S.C. 1970, c. I-6, cont'd.

Recovery of  
taxes

**84.** Where a tax that is imposed upon an Indian by or under the authority of a by-law made under section 83 is not paid in accordance with the by-law, the Minister may pay the amount owing together with an amount equal to one-half of one per cent thereof out of moneys payable out of the funds of the band to the Indian. R.S., c. 149, s. 83.

Revoking of  
authority to  
make money by-  
laws

**85.** The Governor in Council may revoke a declaration made under section 83 whereupon that section no longer applies to the band to which it formerly applied, but any by-law made under the authority of that section and in force at the time the declaration is revoked shall be deemed to continue in force until it is revoked by the Governor in Council. R.S., c. 149, s. 84.

Proof

**86.** A copy of a by-law made by the council of a band under this Act, if it is certified to be a true copy by the superintendent, is evidence that the by-law was duly made by the council and approved by the Minister, without proof of the signature or official character of the superintendent, and no such by-law is invalid by reason of any defect in form. R.S., c. 149, s. 85.

#### TAXATION

Property exempt  
from taxation

**87.** Notwithstanding any other Act of the Parliament of Canada or any Act of the legislature of a province, but subject to subsection (2) and to section 83, the following property is exempt from taxation, namely:

(a) the interest of an Indian or a band in reserve or surrendered lands; and

(b) the personal property of an Indian or band situated on a reserve;

and no Indian or band is subject to taxation in respect of the ownership, occupation, possession or use of any property mentioned in paragraph (a) or (b) or is otherwise subject to taxation in respect of any such property; and no succession duty, inheritance tax or estate duty is payable on the death of any Indian in respect of any such property or the succession thereto if the property passes to an Indian, nor shall any such property be taken into account in determining the duty payable under the *Dominion Succession Duty Act*, being chapter 89 of the Revised Statutes of Canada, 1952, or the tax payable under the *Estate Tax Act*, on or in respect of other property passing to an Indian. R.S., c. 149, s. 86; 1958, c. 29, s. 59; 1960, c. 8, s. 1.

## LEGAL RIGHTS

General  
provincial laws  
applicable to  
Indians

**88.** Subject to the terms of any treaty and any other Act of the Parliament of Canada, all laws of general application from time to time in force in any province are applicable to and in respect of Indians in the province, except to the extent that such laws are inconsistent with this Act or any order, rule, regulation or by-law made thereunder, and except to the extent that such laws make provision for any matter for which provision is made by or under this Act. R.S., c. 149, s. 87.

Property on  
reserve not  
subject to  
alienation

**89.** (1) Subject to this Act, the real and personal property of an Indian or a band situated on a reserve is not subject to charge, pledge, mortgage, attachment, levy, seizure, distress or execution in favour or at the instance of any person other than an Indian.

Conditional  
sales

(2) A person who sells to a band or a member of a band a chattel under an agreement whereby the right of property or right of possession thereto remains wholly or in part in the seller, may exercise his rights under the agreement notwithstanding that the chattel is situated on a reserve. R.S., c. 149, s. 88.

Property  
deemed situated  
on reserve

**90.** (1) For the purposes of sections 87 and 89, personal property that was

(a) purchased by Her Majesty with Indian moneys or moneys appropriated by Parliament for the use and benefit of Indians or bands, or

(b) given to Indians or to a band under a treaty or agreement between a band and Her Majesty,

shall be deemed always to be situated on a reserve.

Restriction on  
transfer

(2) Every transaction purporting to pass title to any property that is by this section deemed to be situated on a reserve, or any interest in such property, is void unless the transaction is entered into with the consent of the Minister or is entered into between members of a band or between the band and a member thereof.

Destruction of  
property

(3) Every person who enters into any transaction that is void by virtue of subsection (2) is guilty of an offence, and every person who, without the written consent of the Minister, destroys personal property that is by this section deemed to be situated on a reserve, is guilty of an offence. R.S., c. 149, s. 89.

R.S.C. 1970, c. I-6, cont'd.

TRADING WITH INDIANS

- Certain property on a reserve may not be acquired**      **91.** (1) No person may, without the written consent of the Minister, acquire title to any of the following property situated on a reserve, namely:
- (a) an Indian grave house;
  - (b) a carved grave pole;
  - (c) a totem pole;
  - (d) a carved house post; or
  - (e) a rock embellished with paintings or carvings.
- Saving**      (2) Subsection (1) does not apply to chattels referred to therein that are manufactured for sale by Indians.
- Removal, destruction, etc.**      (3) No person shall remove, take away, mutilate, disfigure, deface or destroy any chattel referred to in subsection (1) without the written consent of the Minister.
- Penalty**      (4) A person who violates this section is guilty of an offence and is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months. R.S., c. 149, s. 90.
- Departmental employees, etc., prohibited from trading without a licence**      **92.** (1) No person who is
- (a) an officer or employee in the Department,
  - (b) a missionary engaged in mission work among Indians, or
  - (c) a school teacher on a reserve,
- shall, without a licence from the Minister or his duly authorized representative, trade for profit with an Indian or sell to him directly or indirectly goods or chattels, but no such licence shall be issued to a full-time officer or employee in the Department.
- Cancellation of licence**      (2) The Minister or his duly authorized representative may at any time cancel a licence given under this section.
- Penalty**      (3) A person who violates subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars.
- Dismissal**      (4) Without prejudice to subsection (3), an officer or employee in the Department who contravenes subsection (1) may be dismissed from office. R.S., c. 149, s. 91.

## REMOVAL OF MATERIALS FROM RESERVES

Removal of  
material from  
reserve

93. A person who, without the written permission of the Minister or his duly authorized representative,

(a) removes or permits anyone to remove from a reserve

(i) minerals, stone, sand, gravel, clay or soil, or

(ii) trees, saplings, shrubs, underbrush, timber, cordwood or hay, or

(b) has in his possession anything removed from a reserve contrary to this section,

is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months, or to both. 1956, c. 40, s. 22.

Sale of  
intoxicants

94. A person who directly or indirectly by himself or by any other person on his behalf knowingly

(a) sells, barter, supplies or gives an intoxicant to

(i) any person on a reserve, or

(ii) an Indian outside a reserve,

(b) opens or keeps or causes to be opened or kept on a reserve a dwelling-house, building, tent, or place in which intoxicants are sold, supplied or given to any person, or

(c) makes or manufactures intoxicants on a reserve,

is guilty of an offence and is liable on summary conviction to a fine of not less than fifty dollars and not more than three hundred dollars or to imprisonment for a term of not less than one month and not more than six months, with or without hard labour, or to both fine and imprisonment. R.S., c. 149, s. 93.

Possession of  
intoxicants off a  
reserve

95. An Indian who

(a) has intoxicants in his possession,

(b) is intoxicated, or

(c) makes or manufactures intoxicants,

off a reserve, is guilty of an offence and is liable on summary conviction to a fine of not less than ten dollars and not more than fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. R.S., c. 149, s. 94.

R.S.C. 1970, c. I-6, cont'd.

Coming into  
force of this  
section

96. (1) Subsection (2) or subsection (3) comes into force, or ceases to be in force, in a province or in a part thereof only if a proclamation declaring it to be in force, or to cease to be in force, as the case may be, in the province or part thereof is issued by the Governor in Council at the request of the lieutenant governor in council of the province.

Exception to  
offences

(2) No offence is committed against subparagraph 94(a)(ii) or paragraph 95(a) if intoxicants are sold to an Indian for consumption in a public place in accordance with the law of the province where the sale takes place.

Idem

(3) No offence is committed against subparagraph 94(a)(ii) or paragraph 95(a) if intoxicants are sold to or had in possession by an Indian in accordance with the law of the province where the sale takes place or the possession is had. 1956, c. 40, s. 23.

Possession of  
intoxicants on a  
reserve

97. A person who is found

(a) with intoxicants in his possession, or  
(b) intoxicated,

on a reserve, is guilty of an offence and is liable on summary conviction to a fine of not less than ten dollars and not more than fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. R.S., c. 149, s. 96.

Coming into  
force of this  
section

98. (1) Subsection (2) comes into force, or ceases to be in force, in a reserve only if a proclamation declaring it to be in force, or to cease to be in force, as the case may be, in the reserve, is issued by the Governor in Council.

Exception to  
offences

(2) No offence is committed against paragraph 97(a) if intoxicants are had in possession by any person in accordance with the law of the province where the possession is had.

Referendum

(3) A proclamation in respect of a reserve shall not be issued under subsection (1) except in accordance with the wishes of the band, as expressed at a referendum of the electors of the band by a majority of the electors who voted thereat.

Regulations

(4) The Governor in Council may make regulations

(a) respecting the taking of votes and the holding of a referendum for the purposes of this section, and

(b) defining a reserve for the purposes of subsection (1) to consist of one or more reserves or any part thereof.

- When proclamation may issue** (5) No proclamation bringing subsection (2) into force in a reserve shall be issued unless the council of the band has transmitted to the Minister a resolution of the council requesting that subsection (2) be brought into force in the reserve, and either
- (a) the reserve is situated in a province or part thereof in which subsection 96(3) is in force, or
- (b) the Minister has communicated the contents of the resolution to the attorney general of the province in which the reserve is situated, the lieutenant governor in council of the province has not, within sixty days after such communication, objected to the granting of the request, and the Governor in Council has directed that the wishes of the band with respect thereto be ascertained by a referendum of the electors of the band.
- Further exception to offences** (6) Where subsection (2) is in force in a reserve no offence is committed against subparagraph 94(a)(ii) or paragraph 95(a) if intoxicants are sold to or had in possession by a member of the band in accordance with the law of the province in which the reserve is situated. 1956, c. 40, s. 23.
- Exception where intoxicant used for sickness** 99. The provisions of this Act relating to intoxicants do not apply where the intoxicant is used or is intended to be used in cases of sickness or accident. R.S., c. 149, s. 97.
- Onus of proof** 100. In any prosecution under this Act the burden of proof that an intoxicant was used or was intended to be used in a case of sickness or accident is upon the accused. R.S., c. 149, s. 98.
- Certificate of analysis is evidence** 101. In every prosecution under this Act a certificate of analysis furnished by an analyst employed by the Government of Canada or by a province shall be accepted as evidence of the facts stated therein and of the authority of the person giving or issuing the certificate, without proof of the signature of the person appearing to have signed the certificate or his official character, and without further proof thereof. R.S., c. 149, s. 99.
- Penalty where no other provided** 102. Every person who is guilty of an offence against any provision of this Act or any regulation made by the Governor in Council or the Minister for which a penalty is not provided elsewhere in this Act or the regulations, is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months, or to both. R.S., c. 149, s. 100.

R.S.C. 1970, c. I-6, cont'd.

FORFEITURES AND PENALTIES

**Seizure of goods** 103. (1) Whenever a peace officer or a superintendent or a person authorized by the Minister believes on reasonable grounds that an offence against section 33, 90, 93, 94, 95 or 97 has been committed, he may seize all goods and chattels by means of or in relation to which he reasonably believes the offence was committed.

**Detention** (2) All goods and chattels seized pursuant to subsection (1) may be detained for a period of three months following the day of seizure unless during that period proceedings under this Act in respect of such offence are undertaken, in which case the goods and chattels may be further detained until such proceedings are finally concluded.

**Forfeiture** (3) Where a person is convicted of an offence against the sections mentioned in subsection (1), the convicting court or judge may order that the goods and chattels by means of or in relation to which the offence was committed, in addition to any penalty imposed, are forfeited to Her Majesty and may be disposed of as the Minister directs.

**Search** (4) A justice who is satisfied by information upon oath that there is reasonable ground to believe that there are upon a reserve or in any building, receptacle or place any goods or chattels by means of or in relation to which an offence against any of the sections mentioned in subsection (1) has been, is being or is about to be committed, may at any time issue a warrant under his hand authorizing a person named therein or a peace officer at any time to search the reserve, building, receptacle or place for any such goods or chattels. R.S., c. 149, s. 101; 1952-53, c. 41, s. 5; 1956, c. 40, s. 24.

**Disposition of fines** 104. Every fine, penalty or forfeiture imposed under this Act belongs to Her Majesty for the benefit of the band with respect to which or to one or more members of which the offence was committed or to which the offender, if an Indian, belongs, but the Governor in Council may from time to time direct that the fine, penalty or forfeiture shall be paid to a provincial, municipal or local authority that bears in whole or in part the expense of administering the law under which the fine, penalty or forfeiture is imposed, or that the fine, penalty or forfeiture shall be applied in the manner that he



R.S.C. 1970, c. I-6, cont'd.

considers will best promote the purposes of the law under which the fine, penalty or forfeiture is imposed, or the administration of that law. R.S., c. 149, s. 102.

Description of  
Indians in writs,  
etc.

**105.** In any order, writ, warrant, summons or proceeding issued under this Act it is sufficient if the name of the person or Indian referred to therein is the name given to, or the name by which the person or Indian is known by, the person who issues the order, writ, warrant, summons or proceedings, and if no part of the name of the person is given to or known by the person issuing the order, writ, warrant, summons or proceedings, it is sufficient if the person or Indian is described in any manner by which he may be identified. R.S., c. 149, s. 103.

Jurisdiction of  
magistrates

**106.** A police magistrate or a stipendiary magistrate has and may exercise, with respect to matters arising under this Act, jurisdiction over the whole county, union of counties or judicial district in which the city, town or other place for which he is appointed or in which he has jurisdiction under provincial laws is situated. R.S., c. 149, s. 104.

Appointment of  
justices

**107.** The Governor in Council may appoint persons to be, for the purposes of this Act, justices of the peace and those persons have and may exercise the powers and authority of two justices of the peace with regard to

- (a) offences under this Act, and
- (b) any offence against the provisions of the *Criminal Code* relating to cruelty to animals, common assault, breaking and entering and vagrancy, where the offence is committed by an Indian or relates to the person or property of an Indian. R.S., c. 149, s. 105; 1956, c. 40, s. 25.

Commissioners  
for taking oaths

**108.** For the purposes of this Act or any matter relating to Indian affairs

- (a) persons appointed by the Minister for the purpose,
- (b) superintendents, and
- (c) the Minister, Deputy Minister and the chief officer in charge of the branch of the

Department relating to Indian affairs, are *ex officio* commissioners for the taking of oaths. R.S., c. 149, s. 107.

R.S.C. 1970, c. I-6, cont'd.

**ENFRANCHISEMENT**

Enfranchise-  
ment of Indian  
and wife and  
minor children

**109.** (1) On the report of the Minister that an Indian has applied for enfranchisement and that in his opinion the Indian

- (a) is of the full age of twenty-one years,
- (b) is capable of assuming the duties and responsibilities of citizenship, and
- (c) when enfranchised, will be capable of supporting himself and his dependants,

the Governor in Council may by order declare that the Indian and his wife and minor unmarried children are enfranchised.

Enfranchise-  
ment of married  
women

(2) On the report of the Minister that an Indian woman married a person who is not an Indian, the Governor in Council may by order declare that the woman is enfranchised as of the date of her marriage and, on the recommendation of the Minister may by order declare that all or any of her children are enfranchised as of the date of the marriage or such other date as the order may specify.

Where wife  
living apart

(3) Where, in the opinion of the Minister, the wife of an Indian is living apart from her husband, the names of his wife and his minor children who are living with the wife shall not be included in an order under subsection (1) that enfranchises the Indian unless the wife has applied for enfranchisement, but where the Governor in Council is satisfied that such wife is no longer living apart from her husband, the Governor in Council may by order declare that the wife and the minor children are enfranchised.

Order of  
enfranchisement

(4) A person is not enfranchised unless his name appears in an order of enfranchisement made by the Governor in Council. R.S., c. 149, s. 108; 1956, c. 40, s. 26.

Enfranchised  
person ceases to  
be Indian

**110.** A person with respect to whom an order for enfranchisement is made under this Act shall, from the date thereof, or from the date of enfranchisement provided for therein, be deemed not to be an Indian within the meaning of this Act or any other statute or law. 1956, c. 40, s. 27.

R.S.C. 1970, c. I-6, cont'd.

Sale of lands of  
enfranchised  
Indian

111. (1) Upon the issue of an order of enfranchisement, any interest in land and improvements on an Indian reserve of which the enfranchised Indian was in lawful possession or over which he exercised rights of ownership, at the time of his enfranchisement, may be disposed of by him by gift or private sale to the band or another member of the band, but if not so disposed of within thirty days after the date of the order of enfranchisement such land and improvements shall be offered for sale by tender by the superintendent and sold to the highest bidder and the proceeds of such sale paid to him; and if no bid is received and the property remains unsold after six months from the date of such offering, the land, together with improvements, shall revert to the band free from any interest of the enfranchised person therein, subject to the payment, at the discretion of the Minister, to the enfranchised Indian, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.

Grant to  
enfranchised  
Indian

(2) When an order of enfranchisement issues or has issued, the Governor in Council may, with the consent of the council of the band, by order declare that any lands within a reserve of which the enfranchised Indian had formerly been in lawful possession shall cease to be Indian reserve lands.

Reimbursing  
funds of the  
band

(3) When an order has been made under subsection (2), the enfranchised Indian is entitled to occupy such lands for a period of ten years from the date of his enfranchisement, and the enfranchised Indian shall pay to the funds of the band, or there shall, out of any money payable to the enfranchised Indian under this Act, be transferred to the funds of the band, such amount per acre for the lands as the Minister considers to be the value of the common interest of the band in the lands.

Grant of lands

(4) At the end of the ten-year period referred to in subsection (3) the Minister shall cause a grant of the lands to be made to the enfranchised Indian or to his legal representatives. R.S., c. 149, s. 110.

R.S.C. 1970, c. I-6, cont'd.

Enfranchisement of band

**112. (1)** Where the Minister reports that a band has applied for enfranchisement, and has submitted a plan for the disposal or division of the funds of the band and the lands in the reserve, and in his opinion the band is capable of managing its own affairs as a municipality or part of a municipality, the Governor in Council may by order approve the plan, declare that all the members of the band are enfranchised, either as of the date of the order or such later date as may be fixed in the order, and may make regulations for carrying the plan and the provisions of this section into effect.

Majority vote required

(2) An order for enfranchisement may not be made under subsection (1) unless more than fifty per cent of the electors of the band signify, at a meeting of the band called for the purpose, their willingness to become enfranchised under this section, and their approval of the plan.

Agreements with provinces or municipalities

(3) The Governor in Council may, for the purpose of giving effect to this section, authorize the Minister to enter into an agreement with a province or a municipality, or both, upon such terms as may be agreed upon by the Minister and the province or municipality, or both.

Financial assistance

(4) Without restricting the generality of subsection (3), an agreement made thereunder may provide for financial assistance to be given to the province or the municipality or both to assist in the support of indigent, infirm or aged persons to whom the agreement applies, and such financial assistance, or any part thereof, shall, if the Minister so directs, be paid out of moneys of the band, and any such financial assistance not paid out of moneys of the band shall be paid out of moneys appropriated by Parliament. R.S., c. 149, s. 111.

Committee of inquiry

**113. (1)** Where a band has applied for enfranchisement within the meaning of this Act and has submitted a plan for the disposal or division of the funds of the band and the lands in the reserve, the Minister may appoint a committee to inquire into and report upon any or all of the following matters, namely:

- (a) the desirability of enfranchising the band;
- (b) the adequacy of the plan submitted by it; and
- (c) any other matter relating to the application for enfranchisement or to the disposition thereof.

R.S.C. 1970, c. I-6, cont'd.

- Composition** (2) A committee appointed under subsection (1) shall consist of
- (a) a judge or retired judge of a superior, surrogate, district or county court,
  - (b) an officer of the Department, and
  - (c) a member of the band to be designated by the council of the band. 1960-61, c. 9, s. 1.

#### SCHOOLS

- Agreements with provinces, etc.** 114. (1) The Governor in Council may authorize the Minister, in accordance with this Act, to enter into agreements on behalf of Her Majesty for the education in accordance with this Act of Indian children, with
- (a) the government of a province,
  - (b) the Commissioner of the Northwest Territories,
  - (c) the Commissioner of the Yukon Territory,
  - (d) a public or separate school board, and
  - (e) a religious or charitable organization.

- Schools** (2) The Minister may, in accordance with this Act, establish, operate and maintain schools for Indian children. 1956, c. 40, s. 28.

- Regulations** 115. The Minister may
- (a) provide for and make regulations with respect to standards for buildings, equipment, teaching, education, inspection and discipline in connection with schools;
  - (b) provide for the transportation of children to and from school;
  - (c) enter into agreements with religious organizations for the support and maintenance of children who are being educated in schools operated by those organizations; and
  - (d) apply the whole or any part of moneys that would otherwise be payable to or on behalf of a child who is attending a residential school to the maintenance of that child at that school. R.S., c. 149, s. 114.

- Attendance** 116. (1) Subject to section 117, every Indian child who has attained the age of seven years shall attend school.

R.S.C. 1970, c. I-6, cont'd.

*Idem*

(2) The Minister may

(a) require an Indian who has attained the age of six years to attend school;

(b) require an Indian who becomes sixteen years of age during the school term to continue to attend school until the end of that term; and

(c) require an Indian who becomes sixteen years of age to attend school for such further period as the Minister considers advisable, but no Indian shall be required to attend school after he becomes eighteen years of age. R.S., c. 149, s. 115; 1956, c. 40, s. 29.

*When attendance not required*

117. An Indian child is not required to attend school if the child

(a) is, by reason of sickness or other unavoidable cause that is reported promptly to the principal, unable to attend school;

(b) is, with the permission in writing of the superintendent, absent from school for a period not exceeding six weeks in each term for the purpose of assisting in husbandry or urgent and necessary household duties;

(c) is under efficient instruction at home or elsewhere, within one year after the written approval by the Minister of such instruction; or

(d) is unable to attend school because there is insufficient accommodation in the school that the child is entitled or directed to attend. R.S., c. 149, s. 116; 1956, c. 40, s. 30.

*School to be attended*

118. Every Indian child who is required to attend school shall attend such school as the Minister may designate, but no child whose parent is a Protestant shall be assigned to a school conducted under Roman Catholic auspices and no child whose parent is a Roman Catholic shall be assigned to a school conducted under Protestant auspices, except by written direction of the parent. R.S., c. 149, s. 117.

*Truant officers*

119. (1) The Minister may appoint persons, to be called truant officers, to enforce the attendance of Indian children at school, and for that purpose a truant officer has the powers of a peace officer.

## Powers

(2) Without restricting the generality of subsection (1), a truant officer may

- (a) enter any place where he believes, on reasonable grounds, that there are Indian children who are between the ages of seven and sixteen years of age, or who are required by the Minister to attend school;
- (b) investigate any case of truancy; and
- (c) serve written notice upon the parent, guardian or other person having the care or legal custody of a child to cause the child to attend school regularly thereafter.

## Notice to attend school

(3) Where a notice has been served in accordance with paragraph (2)(c) with respect to a child who is required by this Act to attend school, and the child does not within three days after the service of notice attend school and continue to attend school regularly thereafter, the person upon whom the notice was served is guilty of an offence and is liable on summary conviction to a fine of not more than five dollars or to imprisonment for a term not exceeding ten days, or to both.

## Further notices

(4) Where a person has been served with a notice in accordance with paragraph (2)(c), it is not necessary within a period of twelve months thereafter to serve that person with any other notice in respect of further non-compliance with the provisions of this Act, and whenever such person within the period of twelve months fails to cause the child with respect to whom the notice was served or any other child of whom he has charge or control to attend school and continue in regular attendance as required by this Act, such person is guilty of an offence and liable to the penalties imposed by subsection (3) as if he had been served with the notice.

## Tardiness

(5) A child who is habitually late for school shall be deemed to be absent from school.

## Take into custody

(6) A truant officer may take into custody a child whom he believes on reasonable grounds to be absent from school contrary to this Act and may convey the child to school, using as much force as the circumstances require. R.S., c. 149, s. 118.

## Where child deemed juvenile delinquent

**120. An Indian child who**

- (a) is expelled or suspended from school, or
- (b) refuses or fails to attend school regularly,

shall be deemed to be a juvenile delinquent within the meaning of the *Juvenile Delinquents Act*. R.S., c. 149, s. 119.

R.S.C. 1970, c. I-6, cont'd.

**Denomination of teacher**      **121. (1)** Where the majority of the members of a band belongs to one religious denomination, the school established on the reserve that has been set apart for the use and benefit of that band shall be taught by a teacher of that denomination.

**Idem**      **(2)** Where the majority of the members of a band are not members of the same religious denomination and the band by a majority vote of those electors of the band who were present at a meeting called for the purpose requests that day schools on the reserve should be taught by a teacher belonging to a particular religious denomination, the school on that reserve shall be taught by a teacher of that denomination. R.S., c. 149, s. 120.

**Minority religious denominations**      **122.** A Protestant or Roman Catholic minority of any band may, with the approval of and under regulations to be made by the Minister, have a separate day school or day school classroom established on the reserve unless, in the opinion of the Governor in Council, the number of children of school age does not so warrant. R.S., c. 149, s. 121.

**Definitions**      **123.** In sections 114 to 122

**"child"**      "child" means an Indian who has attained the age of six years but has not attained the age of sixteen years, and a person who is required by the Minister to attend school;

**"school"**      "school" includes a day school, technical school, high school and residential school;

**"truant officer"**      "truant officer" includes

(a) a member of the Royal Canadian Mounted Police,

(b) a special constable appointed for police duty on a reserve; and

(c) a school teacher and a chief of the band, when authorized by the superintendent.

R.S., c. 149, s. 122.



R.S.C. 1970, c. I-6, cont'd.

PRIOR GRANTS

Prior grants and  
sales deemed  
authorized

124. Where, prior to the 4th day of September 1951, a reserve or portion of a reserve was released or surrendered to the Crown pursuant to Part I of the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, or pursuant to the provisions of the statutes relating to the release or surrender of reserves in force at the time of the release or surrender, and

(a) prior to that date Letters Patent under the Great Seal were issued purporting to grant a reserve or portion of a reserve so released or surrendered, or any interest therein, to any person, and the Letters Patent have not been declared void or inoperative by any Court of competent jurisdiction, or

(b) prior to that date a reserve or portion of a reserve so released or surrendered, or any interest therein, was sold or agreed to be sold by the Crown to any person, and the sale or agreement for sale has not been cancelled or by any Court of competent jurisdiction declared void or inoperative,

the Letters Patent or the sale or agreement for sale, as the case may be, shall, for all purposes, be deemed to have been issued or made at the date thereof under the direction of the Governor in Council. 1952-53, c. 41, s. 6.