

10 - 11 GEORGE V.

CHAP. 50.

An Act to amend the Indian Act.

[Assented to 1st July 1920.]

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

1. Sections nine and eleven of the *Indian Act*, Revised Statutes of Canada, 1906, chapter eighty-one, and section ten of the said Act as enacted by chapter thirty-five of the statutes of 1914, are repealed and the following are substituted therefor:-

“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.

“(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.

“(3) The Superintendent General may provide for the transport of Indian children to and from the boarding or industrial schools to which they are assigned, including transportation to and from such schools for the annual vacations.

“(4) The Superintendent General shall have power to make regulations prescribing a standard for the buildings, equipment, teaching and discipline of and in all schools, and for the inspection of such schools.

“(5) The chief and council of any band that has children in a school shall have the right to inspect such school at such reasonable times as may be agreed upon by the Indian agent and the principal of the school.

“(6) The Superintendent General may apply the whole or any part of the annuities and interest moneys of Indian children attending an industrial or boarding school to the maintenance of such school or to the maintenance of the children themselves.

“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.

“(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.

“(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, has been excused in writing by the Indian agent or teacher for temporary absence to assist in husbandry or urgent and necessary household duties.

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.

3. Paragraph (h) of section two, and sections one hundred and seven to one hundred and twenty-three, both inclusive, of the said Act are repealed and the following are substituted therefor:-

“107. (1) The Superintendent General may appoint a Board to consist of two officers of the Department of Indian Affairs and a member of the Band to which the Indian or Indians under investigation belongs, to make enquiry and report as to the fitness of any Indian or Indians to be enfranchised. The Indian member of the Board shall be nominated by the council of the Band, within thirty days after the date of notice having been given to the council, and in default of such nomination, the appointment shall be made by the Superintendent General. In the course of such enquiry it shall be the duty of the Board to take into consideration and report upon the attitude of any such Indian towards his enfranchisement, which attitude shall be a factor in determining the question of fitness.

Such report shall contain a description of the land occupied by each Indian, the amount thereof and the improvements thereon, the names, ages and sex of every Indian whose interests it is anticipated will be affected, and such other information as the Superintendent General may direct such Board to obtain.

“(2) On the report of the Superintendent General that any Indian, male or female, over the age of twenty-one years is fit for enfranchisement, the Governor in Council may by order direct that such Indians shall be and become enfranchised at the expiration of two years from the date of such order or earlier if requested by such Indian, and from the date of such enfranchisement the provisions of the *Indian Act* and of any other Act or law making any distinction between the legal rights, privileges, disabilities and liabilities of Indians and those of His Majesty's other subjects, shall cease to apply to such Indian or to his or her minor unmarried children, or, in the case of a married male Indian, to the wife of such Indian, and every such Indian and child and wife shall thereafter have, possess and enjoy all the legal powers, rights and privileges of His Majesty's other subjects, and shall no longer be deemed to be Indians within the meaning of any laws relating to Indians.

“(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 names by which he or she has been theretofore commonly known.

“(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 Indians 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 the 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.

“(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.

“(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.

“(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.

“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.

“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.

“110. The Governor General 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 band, and to decide any questions arising under the said sections, and the decision of the Governor in Council thereon shall be final and conclusive.

“111. The Minister shall, within fifteen days after the opening of each session of Parliament, submit to both Houses of Parliament a list of the Indians enfranchised under this Act during the previous fiscal year, and the amount of land and money granted and paid to each Indian so enfranchised.

4. Section one hundred and thirty-nine of the said Act is amended by adding thereto the following subsection: -

“(2) Any person or Indian who has been gambling or has been drunk on an Indian reserve, or has had liquor in his possession on an Indian reserve, shall be liable on summary conviction to imprisonment for any term not exceeding three months, or to a penalty not exceeding fifty dollars and not less than ten dollars, with costs of prosecution, half of which pecuniary penalty shall belong to the informer.

5. Subsection two of section one hundred and ninety-four of the said Act is amended by inserting the following paragraph immediately after paragraph (g) thereof:-

“(gg) the construction, maintenance and improvement of water, sewerage and lighting works and systems.