

# Chap 28

## An Act to amend and consolidate the laws respecting Indians.

[Assented to 7th May, 1880.]

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:-

1. This Act shall be known and may be cited as "*The Indian Act, 1880*;" and shall, subject to the expectations herein contained, apply to all the Provinces , and to the North-West Territories, including the District of Keewatin.
2. The Following are terms contained on the Act shall be held to have the meaning hereinafter assigned to them, unless such meaning be repugnant to the subject or the inconsistent with the context :-
  1. The term "band " means any tribe 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 hand as such, means the band in council.
  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.
  3. The term "Indian means –  
First. Any male person of the 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 to 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 nay 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 the treaty or otherwise for the use or benefit of or granted to a particular band if Indians, of which the legal title is in the Crown , but which is unsurrendered, and includes all the trees, wood, timber, soil, stone, minerals and other valuables thereon or therein.
  7. The term "special reserve" means any tract or tracts of land and everything belonging thereto set apart for the use or benefit of any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued, or in a person or persons of European descent, but which land is held in trust for such band or irregular band of Indians.
  8. The term "Indian Lands" means any reserve or portion of a reserve which has been surrendered to

the Crown.

9. The term "intoxicants" means and includes all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, as also opium and any other preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them be liquid or solid.
  10. The term "Superintendent-General" means the Superintendent of Indian Affairs.
  11. The term "Agent" includes a commissioner, superintendent, agent, or other officer acting under the instructions of the Superintendent-General.
  12. The term "person" means as individual other than an Indian, unless the context clearly requires another construction.
1. The minister of the Interior shall be the Superintendent-General of the Indian Affairs.
  2. 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.
  3. 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 Department duties, and with the control and management of the offices, clerks and servants of the Department and with such other powers and duties as may be assigned to him by the Governor in Council.
  4. 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.
  5. 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 to hitherto been conducted in what is usually known as the "Indian Branch" of that Department, shall fall under the management, charge and directions of the council may from time to time assign to the Department of the 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.
  6. 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.
  9. The Governor in Council may appoint an Indian Commissioner for Manitoba. Keewatin and the North-West Territories, or an Indian Commissioner for 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 of exceeding two years, may, at any time be excluded from the membership thereof by the Superintendent-General.
  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 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.

12. Any Indian woman marrying any other than a 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.
  1. Any Indian woman marrying any other Indian or non-treaty Indian, shall cease to be a member of the band to which she formerly belonged, and become a member of the band of irregular band of which her husband is a member; but should 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.
  2. 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 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 quality of any land , or scrip, which such half-breed, as such, may be entitled to receive from the government.
    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 already 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 usage which others of the band enjoy.
3. All reserves for Indians or for any other 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.
4. 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.
5. 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.
6. 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 filled by the agent, who shall also cause the same to be copied into a register of the band to be provided for the purpose.
7. The Conferring of any such location title as aforesaid shall not have the effect of rendering the band 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 proceeding section.

8. Upon the death of any such Indian holding under location or other duly recognized title of 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 the 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 the 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 a lot or parcel of land and his goods and chattel shall be vested in her, and if he leaves no widow, then in the Indian nearest akin to the deceased; but if he no heir nearer than a cousin then the same shall be vested in the Crown for the benefit of the bands ; 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 and 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 restrictions upon the disposition of property in a reserve.
9. 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, respect of such plot, as an Indian enjoys who holds under a location title.
  1. No person, or Indian other than an Indian of the band, shall settle, reside or hunt upon, or 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.
  2. 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, 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 on any ordinary suit:

Provided that nothing containing in this Act shall prevent an Indian or non-Indian, if five years a resident on 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.

3. If any person or Indian, after having been removed or notified as aforesaid, returns to settle, resides or hunts upon or occupies, or uses as aforesaid, any of the land, marsh or lots or parts of lots ; settles or resides upon or occupies any of the said 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 gaol on the said county or district, or if there be no gaol in the said county or district to the said, then to the gaol nearest to the said reserve on 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.
4. 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.
5. The Superintendent-General, or such officer or person aforesaid, shall cause the judgement or order against the offender to be drawn up and filed in his office ; and such judgement shall not be removed *certiorari* or otherwise, or be appealed from, but shall be final.
6. 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 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 dollar; 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, if over the value of one dollar, the sum of , 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 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 country or district in which the said reserve or any part thereof lies, for a period not exceeding thirty days when the penalty does not exceed twenty dollars, or for a period not exceeding three months when the penalty does exceed twenty dollars; and upon the return of any warrant for distress or sale, if the amount thereof has not been made, or if any part of it remains unpaid, the said Superintendent-General , or such other person as aforesaid, may commit the

person in default to the common gaol, as aforesaid, for a period not exceeding thirty days, if the sum claimed upon the said warrant does not exceed twenty dollars, or for a time not exceeding three months if the sum does exceed twenty dollars. All such penalties shall be paid to the Receiver-General to be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in council may direct.

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

28. If any Indian, without the license in writing of the Superintendent-General, or of some officer or person deputed by him for that purpose, trespasses upon the land of an Indian who holds a location title, or who is otherwise recognized by the Department as the occupant of such land by cutting, carrying away, or removing therefrom any of the trees, saplings, shrubs, underwood, timber or hay thereon, or by removing any of the stone, soil, minerals, metals or other valuables off the said land: or if any Indian, without license as aforesaid, cuts, carries away, or removes from any portion of the reserve of this 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.

7. 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 not truly given to or known by him, he may name or describe the person or Indian by any part of name 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 of purporting to give the name or description of any such person or Indian as aforesaid shall *prima facie* be sufficient.
8. All sheriffs, gaolers or peace officers to whom any such process is directed by the Superintendent-General, or by any other 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.
9. 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 the Act of Parliament, or of the Legislature of any province, compensation shall be made to them thereof 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 be paid to the matter relating to the settlement of such compensation; and the amount rewarded 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 of the benefit for of any Indian having improvements thereon.
10. 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.
11. 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 breaking up of any person or persons without 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.

12. 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, office, 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 on 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 regulation such labour and the performance thereof.
13. 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 instruction 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, either out of their or his annual allowances, or otherwise.
14. No reserve or portion of a reserve shall be sold, alienated or leased until has been released or surrendered to the Crown for the purpose of the 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.
15. 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.
  1. 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 question.
  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.
1. 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.

2. Nothing in this Act shall confirm any release or surrender which would have been invalid if this act had 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.
3. All Indians 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.
4. No agent for the sake 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 or four hundred dollars for every such offence, which may be recovered in action of debt by any person who may sue for the same.
5. 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 lands 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 *prima facie* evidence for the purpose of possession by such person, or the assignee under the 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.
6. The Superintendent-General shall keep book for registering ( at the option of the parties interested) the particulars of any assignment made, as well by the original purchaser or leasee of Indian lands or his heir or legal representative, as by any subsequent assignee of any such lands, or the heir or legal representative, 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 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, 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.
7. If any subscribing witness to any such assignment is deceased, or has left the province, 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.
8. 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.

1. If the Superintendent-General is satisfied that any purchase or leasee 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 a sale, or lease and resume the land therein mentioned, or dispose of it as if no sale or lease thereof made, and all such cancellations heretofore by the Governor in council or the Superintendent-General shall continue valid until altered.
2. When any purchaser , leasee 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 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, leasee 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 the 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.
3. Whenever any rent payable to the Crown on any lease of Indian lands is in arrear, the Superintendent-General , or 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 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.
4. Whenever 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.
5. 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 the registry 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.
6. 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 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 value to such extent as to him, the Superintendent-General, may issue just and equitable under the circumstances; but no such claim be entertained unless it be preferred within five years from discovery of the error.

7. Wherever 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 shall be entitled 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.
  8. 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, or 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 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.
  9. 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.
  10. 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.
1. 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.
  2. No license shall be so granted for 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.
  3. 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 consent; and every license shall entitle the holder thereof to seize in revindication or otherwise, such trees and the logs, timber and 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.

4. 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 be 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.
5. All trees cut, and 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 collections of such dues may follow and seize and detain the same wherever it is found, until the dues are paid or secured.
6. 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.
7. 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 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.
8. If any person without authority cuts, or employs or induces any other person to cut, or assist in cutting any trees of any kind on Indian land, 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 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.
9. Whenever satisfactory information, supported by affidavit made before a Justice of the Peace or before 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 of the logs, timber or other products thereof can be found, and said Superintendent-General, officer or agent, or any of them, may seize of course 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.

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

10. 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 treat if such assault, force or violence, 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 conviction justice or other functionary.
11. 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 the 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.

2. And whenever any trees, logs, timber or other products thereof are seized for non-payment of Crown dues or for any other causes of forfeiture, or any prosecution is brought for any penalty or forfeiture under this Act, and any questions 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.
12. 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 agent of the Superintendent-General, that he claims or intends to claim the same; failing such notice, the officer or agent shall report the circumstances to the Superintendent-General, who may order the sale of the same by the said officer or agent;

2. And any judge of a superior, county or district court, or any Stipendiary Magistrate, may, in a summary way and following the procedure on summary trials before Justice 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, - 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 and 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.
13. 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.
14. 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 reserve 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.

15. The Governor of 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, of 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 then 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.
16. The proceeds arising from the sale or lease of any Indians lands, or from the timber, hay, stone, minerals or other valuables thereon, or on a reserve, shall be paid to the Reciever-General to the credit of the Indian Fund.
17. 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 chief 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, immortality or incompetence ; and they may be in the proportion of one head chief and two second chiefs or councilors for every two hundred Indians : provided that no band shall have more that six head chiefs and twelve second chiefs, but any bands composed of thirty Indians may have one chief : Provided always, that al 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, immortality 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 chief unless elected under such order to the exercise of such powers.
18. 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 instructions, shall be sufficient to determine such elections, or grant such consent :  
  
Provided that in the case of any band having a council of chiefs or councilor's, any ordinary consent required of the band may be granted by a vote of a majority of such chiefs or councilor's at a council summoned according to their rules, and held in the presence of the Superintendent-General of his agent.
19. The chief of chiefs of any band any frame, subject to confirmation by the Governor in Council , rules and regulations for the following subjects, viz. :-
  1. As to what to 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 ;

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 ;
  11. The imposition of punishment, by fine or penalty, or imprisonment, or both, for infraction of any of such rules or regulations; the fine or penalty in no case exceed thirty dollars, and the imprisonment in no case to exceed thirty days ; and proceedings for the imposition of such punishment to be taken in the usual summary way before a Justice of Peace , following the procedure on summary trials before a justice out of sessions.
1. 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 on the locality in which it is situate.
  2. All land vested in the Crown, or in any person or body corporate, in trust for of for the use of any Indian of Indians or non-treaty Indians, or any band or irregular band of Indians or non-treaty Indians, shall be exempt from taxation.
  3. No person shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgement 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 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.
  4. 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.
  5. No pawn taken of any Indian or non-treaty Indian for any toxicant shall be retained by the person to whom such pawn is delivered, but the things 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.
  6. No presents given to Indians or non-treaty Indians nor any property purchases or acquired with or

by means of any annuities granted to Indians or any part thereof, and on the possession of any band 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 other than an Indian of such band ; and any person or Indian other than an Indian of such band k 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 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 , or 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 annuities granted to Indians, be unlawful 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, nay, 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.

## Disabilities and Penalties

7. 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 or Manitoba, the North-West Territories or the District of Keewatin, or the right to share in the distribution of any lands allotted to half-breeds, subject to the following exceptions :-
  - A. he shall not be disturbed In the occupation or 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 compensation 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
1. 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.
2. 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 r her 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.
1. 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.

2. 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 whosoever committed, it shall be lawful for any court, judge, Stipendiary Magistrate, coroner, or Justice of 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, 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 Peace as most binding on the conscience of such Indian or non-treaty Indian.
3. Provided that in the case on 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 work of the person acting as interpreter ( if any) and by the signature of the judge, Stipendiary Magistrate, or coroner, or Justice of Peace or person before whom such evidence or information has been given.
4. The court, judge, Stipendiary Magistrate, or Justice of Peace shall, before taking 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.
5. 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.
6. 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 on the case of falsehood.
7. 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 Peace, upon the evidence of one credible witness other than the informer or prosecutor, or in the Province or Manitoba, in the District of Keewatin, in the North-west Territories or in the Province of British Columbia, upon the evidence of the informer alone if he be a credible person, be liable to imprisonment for a period not less than one month nor exceeding six months, with or without hard labour, or be fined not less than fifty nor more than three hundred dollars, with costs of prosecution, one moiety of the fine to go to the informer or prosecutor, and the 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 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 Justice of Peace ; and the commander or person on 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 moiety of the fine to be applicable as herein before 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 sell, 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.

8. The keg or barrel, case, box, package or receptacle whence any toxicant 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 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 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 belong to the prosecutor and the other half to Her Majesty, or 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.
9. 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.
10. Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which, in contravention of this Act, the consideration, either in wholly or part, may be any intoxicant, shall be forfeited to Her Majesty and shall be seized as in the ninety-first section on respect to any receptacle of any intoxicant, and may be sold, and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned.
11. 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 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.

12. 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 a house with the intention of prostituting herself therein, such a person shall be deemed guilty of an offense 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 or 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.
13. 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 or 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.
14. 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.
15. 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.
16. Where 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 to the band, and the name of the applicant to the Superintendent-General; Whereupon the Superintendent-General, is 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.
  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 Barister 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 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 fo 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.
1. After the expiration of the 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 the letters patent, granting to such Indian in fee simple the land which had, with this object in view, been allotted the him or her by the 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.

2. 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 or surname, he or she shall be held to be also enfranchised, 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 the 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, 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, and interest moneys , and rents and councils of the band if 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, during his or her parents' probationary period, be unqualified for enfranchisement, or of any child of such parent, having been a minor at the commencement, or if any 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.
3. 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 hers 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 any ordinary location ticket, as provided in the seventeenth, eighteenth, nineteenth and the twentieth sections of this Act.
4. 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.
5. In allotting land to probationary Indians, the quantity to be located to the head of the 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 the 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.
6. 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 right to participate in the annuities, interest moneys, rents or council of the band.
7. 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 any 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'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 for her minor unmarried children's share; and the unmarried children of such married Indians, who become of age during the p[ro]bationary 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 within the meaning of any other Act or law.

8. Sections ninety-nine to one hundred and six, both inclusive, of this Act, shall not apply to any band of Indians in the Province or British Columbia, the Province or 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.

9. All affidavits required under this Act, or intended to be used in reference to any claim, business or transaction in connection with Indians 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 such affidavit shall be perjury.
10. 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 original records, documents, books or papers, could be evidence.
11. 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 reserve 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.
12. The Governor may, from time to time, appoint officers and agents to carry out this Act, and any orders on Council made under it,-- Which officers and agents shall be paid in such manner and at such rates as the Governor on Council may direct out of any fund that may be appropriated by law of that purpose.
13. 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 provisions in any matter provided for by this Act, except only s to things done, rights acquired, obligations contracted, or penalties incurred before the coming into force of this Act ; and this Act shall be constructed 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.

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

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