

An Act to amend "The Indian Act." S.C. 1887, c. 33 (50-51Vict.)

CHAP. 33

An Act to amend "The Indian Act."

1887.]

[Assented to 23^d June,

WHEREAS it is expedient to amend the Revised Statutes of Canada, chapter forty-three intituled "An Act respecting Indians:" Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: -

1. The Superintendent General, may, from time to time, upon the report of an officer, or other person specially appointed by him to make an inquiry, determine who is or who is not a member of any band of Indians entitled to share in the property and annuities of the band; and the decision of the Superintendent General in any such matter shall be final and conclusive, subject to an appeal to the Governor in Council.
2. The Superintendent General, his deputy, or other person specially authorized by the Governor in Council, shall have power, by subpoena issued by him, to summon any person before him and to examine such person under oath in respect of any matter affecting Indians, and to compel the production of papers and writings before him relating to such matters; and if any person duly summoned neglects or refuses to appear at the time and place specified in the subpoena upon such person duly served, or refuses to give evidence or to produce the papers or writings demanded of him, may, by warrant under his hand and seal, cause such person, so refusing or neglecting, to be taken into custody and to be imprisoned in the nearest common gaol, as for contempt of court, for a period not exceeding fourteen days.
3. Sub-section five of section twenty-six of the said Act is hereby repealed.
4. The twenty-seventh section of the said Act is hereby repealed and the following section substituted therefore; -
 "27. Every Indian who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, butts, carries away or removes from the land of an Indian who holds a location title, or who is otherwise recognized by the department as the occupant of such land, any of the trees, saplings, shrubs, underwood, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables off the said land; and every Indian who, without license as aforesaid, cuts, carries away or removes from any portion of the reserve of his band, for sale and not for the immediate use of himself and his family, any trees, timber, or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables therefrom, for sale, as aforesaid, or who cuts or uses any pine or large timber for any other purpose than for building on his own location or farm, unless with the consent of the band and the approval of the Superintendent General, shall incur the penalties provided in the next preceding section in respect to Indians of other bands and other persons, and the same proceedings may be had for the recovery thereof as are provided or in the said section."
5. The thirty-fifth section of the said Act is hereby amended by striking out the words "If any" in the first line thereof and by substituting therefor the words following, that is to say: - "No portion of any reserve shall be taken for the purposes of any railway, road or public work without the consent of the Governor in Council, and if any."

Section 62 repealed; new provision.

Seizure of trees cut without authority.

Section 63 repealed; new provision.

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

Witness may be summoned and examined under oath. Payment of annuity may

Penalties and offences in connection with participation in lands, in case of desertion of family.

Sub-section five of section 26 repealed.

Section 27 repealed; new provision.

Punishment of Indians who take fire on Indian lands.

Section 19 repealed; new provision.

Or Indians found using pine large timber without consent. Penalties.

May be arrested without warrant and confined till sober.

Section 35 amended.

Section 16 amended.

6. The sixty-second section of the said Act is hereby repealed and the following section substituted therefor: -
 “62. Any officer or agent acting under the Superintendent General may seize or cause to be seized in Her Majesty’s name any logs, timber, wood or other products of trees or any trees themselves, cut without authority on Indian lands or on an Indian reserve, wherever they are found, and place the same under proper custody until a decision can be had in the matter from competent authority.”
7. The sixty-third section of the said Act is hereby repealed, and the following section substituted therefor: -
 “63. When the logs, timber, wood or other products of trees cut without authority, or the trees themselves so cut without authority on Indian Lands or on an India reserve, have been made up or intermingled with other trees, wood, timber, logs or other products thereof, into a crib, dram or raft, or in any other manner, so that it is difficult to distinguish the timber cut on a reserve or on Indian lands, and shall be seized and forfeited and sold by the Superintendent General or any officer or agent acting under him, unless evidence satisfactory to him is aduced showing the probably quantity not cut on a reserve or on Indian lands.”
8. The seventy-second section of the said Act is hereby repealed and the following section substituted therefor: -
 “72. The superintendent General may stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the Superintendent General, guilty of deserting his family; and the Superintendent General may apply the same towards the support of any family, woman or child, so deserted.”
9. The seventy-third section of the said Act is hereby repealed and the following section substituted therefor: -
 “73. The Superintendent General may also stop the payment of the annuity and interest money of ,as well as deprive of any participation in the real property of the band, any woman who has no children, and who deserts her husband and lives immorally with another man.”
10. The one hundred and fourth section of the said Act is hereby repealed and the following section substituted therefor: -
 “104. Every Indian who is found in a state of intoxication shall be liable on summary conviction thereof to imprisonment for any term not exceeding one month or to a penalty not exceeding thirty dollars and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent.”
 “2 Any constable or other peace officer may, without warrant, arrest any Indian or non-treaty Indian found in a state of intoxication, and convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he is sober; and such Indian or non-treaty Indian shall, when sober, be brought for trail before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent.
11. Sub-section one of the one hundred and sixth section of the said Act is hereby repealed and the following sub-section substituted therefor: -
 “106. Every person and Indian who, being the keeper of any house, tent or wigwam allows or suffers any Indian woman to be or remain in such house, tent or wigwam, knowing, or having probably cause for believing, that such Indian woman is in or remains in such house, tent or wigwam, with the intention of prostituting herself therein, is guilty of an offence against this Act, and shall, on summary conviction before any stipendiary magistrate, police magistrate, justice of the peace or Indian

S. 72, c. 43,
 R.S.C. 1886,
 amended by
 s, 8m c, 33m
 S.C. 1887
 and
 subsequently
 repealed and
 replaced by
 s. 4, c. 32,
 S.C. 1894
 and by
 s. 7, c. 34,
 S.C. 1898.

S. 73, c. 43,
 R.S.C. 1886,
 amended by
 s. 9, c. 33,
 S.C. 1887
 and
 subsequently
 repealed and
 replaced by
 s. 8,, c. 34,
 S.C. 1898.

**Penalty for
 harboring In-
 dian prosti-
 tutes.**

**And on keep-
 ers who are
 Indians and
 prostitutes.**

agent, be liable to a penalty no exceeding one hundred dollars and not less than ten dollars, or to imprisonment in any gaol or place of confinement for a term not exceeding six months.”