

## CHAPTER 43.

### An Act respecting Indians

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

#### SHORT TITLE

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

#### INTERPRETATION.

2. In this Act, unless the context otherwise requires,-
  - a. The expression "Superintendent General" means the Superintendent General of Indian Affairs, and the expression "Deputy Superintendent General" means the Deputy Superintendent General of Indian Affairs;
  - b. The expression "Agent," or "Indian Agent," means and includes a commissioner, assistant commissioner, superintendent, agent or other officer acting under the instructions of the Superintendent General;
  - c. The expression "person" means any individual other than an Indian;
  - d. The expression "band" means any tribe, band or body of Indians who own or are interested in a reserve or in Indian lands in common, of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities or interest moneys for which the Government of Canada is responsible;
  - e. The expression "the Band" means the band to which the context relates;
  - f. The expression "band," when action is being taken by the band as such, means the band in council;
  - g. The expression "irregular band" means any tribe, band or body of persons of Indian blood who own no interest in any reserve or lands of which the legal title is vested in the Crown, who possess no common fund managed by the Government of Canada, and who have not had any treaty relations with the Crown;
  - h. The expression "Indian" means-
    - First.* Any male person of Indian blood reputed to belong to a particular band;
    - Secondly.* Any child of such person;
    - Thirdly.* Any woman who is or was lawfully married to such person;
  - i. The expression "non-treaty Indian" means any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even if such person is only a temporary resident in Canada;
  - j. The expression "enfranchised Indian" means any Indian, his wife or minor unmarried child, who has received letters patent granting to him in fee simple any portion of the reserve which has been allotted to him or to his wife and minor children, by the band to which he belongs, or any unmarried Indian who has received letters patent for an allotment of the reserve;
  - k. The expression "reserve" means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, and which remains a portion of the said reserve, and includes all the trees, wood, timber, soil, stone, minerals, metals and other valuables thereon or therein;

- l. The expression "special reserve" means any tract or tracts of land and everything belonging thereto, set apart for the use or benefit of any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued, or in a person or persons of European descent,- but which land is held in trust for such band or irregular band of Indians;
- m. The expression "Indian lands" means any reserve or portion of a reserve which has been surrendered to the Crown;
- n. The expression "intoxicants" means and includes all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, and opium and any preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them are liquid or solid. 43 V., c.28, s.2;-45 V., c.30, s.1.

#### APPLICATION OF ACT.

3. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this Act, or from the operation of any one or more of the sections of this Act, Indians or non-treaty Indians, or any of them, or any band or irregular band of them, or the reserves or special reserves, or Indian lands, or any portions of them, in any Province, or in the North-West Territories, or in the District of Keewatin, or in any of them; and may again, by proclamation, from time to time, remove such exemption. 43 V., c.28, s.110.
4. The Minister of the Interior, or the head of any other department appointed for that purpose by the Governor in Council, shall be the Superintendent General of Indian Affairs, and shall, as such, have the control and management of the lands and property of the Indians on Canada. 46 V., c.6, s.1.
5. There shall be a department of the Civil Service of Canada, which shall be called the Department of Indian Affairs, over which the Superintendent General shall preside. 43 V., c.28, s. 4.
6. The Department of Indian Affairs shall have the management, charge and direction of Indian Affairs. 43 V., c.28, s.7, *part*.
7. The Governor in Council may appoint an officer who shall be called the Deputy of the Superintendent General of Indian Affairs, and may also appoint such other officers, clerks and servants as are requisite for the proper conduct of the business of the department. 43 V., c.28, ss. 5 and 8, *parts*.
8. The Governor in Council may appoint an Indian Commissioner for Manitoba, Keewatin and the North-West Territories, or an Indian Commissioner for Manitoba and Keewatin, and an Indian Commissioner for the North-West Territories, and may also appoint an Indian Superintendent for British Columbia, who shall have, respectively, by the Governor in Council:
  2. The Governor in Council may also appoint an Assistant Indian Commissioner for Manitoba, Keewatin and the North-West Territories, or an Assistant Indian Commissioner for Manitoba and Keewatin, and an Assistant Indian Commissioner for the North-West Territories, who shall have such of the powers and duties of the Commissioner, and such other powers and duties as are assigned to him by the Governor in Council:
  3. The Governor in Council may, also, from time to time, appoint officers and agents to carry out this Act, and Orders in Council made under it- which officers and agents shall be paid in such manner fund at such rates as the Governor in Council directs, out of any fund that is appropriated by law for that purpose:
  4. The Governor in Council may appoint a Deputy Governor, who shall have the power, in the absence of or under instructions of the Governor General, to sign letters patent for Indian lands, and the signature of such Deputy Governor to such patents shall have the same force and virtue as if such patents were signed by the Governor General. 43 V., c.28, ss. 9 and 111; -44 V., c. 17, s. 14; 49 V., c.7, s.1.
9. Any illegitimate child may,-unless he has, with the consent of the band whereof the father or mother of such

child is a member, shared in the distribution moneys of such band for a period exceeding two years,-be, at any time, excluded from the membership thereof by the Superintendent General. 43 V., c.28, s.10.

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

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

1. Section eleven of "*The Indian Act*," is hereby amended by adding the following sub-section thereto:-

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

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

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

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

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

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

## RESERVES

14. All reserves for Indians, or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as they were held before the passing of this Act, but shall be subject to the provisions of this Act. 43 V., c.28, s.15.
15. The Superintendent General may authorize surveys, plans and reports to be made of any reserve for Indians, showing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as is required; and may authorize the whole or any portion of a reserve to be sub-divided into lots. 43 V., c.28, s.16.
16. No Indian shall be deemed to be lawfully in possession of any land in a reserve, unless he has been or is located for the same by the band, or council of the band, with the approval of the Superintendent General; but no Indian shall be dispossessed of any land on which he has improvements, without receiving compensation therefor, at a valuation approved by the Superintendent General, from the Indian who obtains the land, or from the funds of the band, as is determined by the Superintendent General. 43 V., c.28, s.17.
  2. Section sixteen of the said Act is hereby amended, by adding the following words at the end thereof: "Provided always, that prior to the location of an Indian under this section, the Indian Commissioner for Manitoba, Keewatin and The Western Territories may issue a certificate of occupancy to any Indian belonging to a band residing upon a reserve in the aforesaid Province, District or Territories, of so much land, (in no case however to exceed one hundred and sixty acres,) as the Indian, with the approval of the Commissioner selects; and such certificate may be cancelled at any time by the Indian Commissioner, but shall, while it remains in force, vest in the holder thereof, as against all others, lawful possession of the lands described therein.
17. When the Superintendent General approves of any location as aforesaid, he shall issue, in triplicate, a ticket granting a location title to such Indian, one triplicate of which he shall retain in a book to be kept for the purpose; and the other two of which he shall forward to the local agent-one to be delivered to the Indian in whose favor it was issued, and the other to be filed by the agent, who shall also cause the same to be copied into a register of the band, provided for the purpose. 43 V., c.28, s.19.
18. The conferring of any such location title shall not have an effect of rendering the land covered thereby subject to seizure under legal process, and such title shall be transferable only to an Indian of the same band, and then only with the consent and approval shall be given only by the issue of a ticket, in the manner prescribed in the next preceding section. 43 V., c.28, s.19.
19. Every Indian and every 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, previously to the selection of a reserve, possession of and who has made permanent improvements on a plot of land which is or shall be included in, or surrounded by a reserve, shall have the same privileges, in respect of such plot, as an Indian enjoys who holds under a location title. 43V., c.28, s.21.

## DESCENT OF PROPERTY

20. Any Indian who holds, under location ticket or other duly recognized title, any parcel of land upon the reserve of his band, or upon a reserve of any other band, upon which he, or he and his family, or any of them, resided at the date of his death, may devise the same by will, as well as his personal effects or other property of which he is the recognized owner, to such member or members of his family, or relative or relatives as to him seems proper; provided the said will, after his death, is consented to by the band owning the said reserve, and approved of by the Superintendent General, and that such devise is not to any relative who is not entitled to reside upon the reserve of the band on which the property devised is situated, or to any relative farther removed than a second cousin:
  3. The devise may be made subject to such trusts as to the deviser seems proper, if the same are within the provisions of this Act, or any other Act respecting Indian affairs:

4. If such will is not assented to or approved of, as aforesaid, the Indian shall be deemed to have died intestate:
5. Upon the death of any Indian who holds, under location ticket or other duly recognized title, any parcel of land, and who has died intestate, the right and interest therein of such deceased Indian shall, together with his goods and chattels, devolve one-third upon his widow, if any, if she is a woman of good moral character and was living with her husband at the time of his death, and the remainder upon his children, in equal shares, if they are Indians within the meaning of this Act, and such children shall have a like estate in such land as their father had; but the Superintendent General may, in his discretion, direct that the widow, if she is of good moral character, shall have the right to occupy such parcel of land, and have the use of such goods and chattels during the term of her widowhood:
6. During the minority of such children, the administration and charge of such land and goods and chattels as they are entitled to, as aforesaid, shall devolve upon the widow, if any, of such deceased Indian, if she is a woman of good moral character, and was living with her husband at the time of his death; and as such male child attains the age of twenty-one years, and each female child attains that age or marries before that age, with the consent of the said widow the share of such male or female child shall be conveyed or delivered, as the case may be, to him or her; but the Superintendent General may, at any time, remove the widow from such administration and charge, and confer the same upon some other person, and, in like manner, may remove such other person and appoint another, and so, from time to time, as occasion requires:
7. If any such Indian dies without issue, leaving a widow of good moral character, such lot or parcel of land, and his goods and chattels, shall be vested in her, and if he leaves no widow, then they shall be vested in the Indian nearest of kin to the deceased; but if he has no heir nearer than a cousin, the same shall be vested in Her Majesty for the benefit of the band:
8. Whatever is the final disposition of the land, the claimant shall not be held to be lawfully in possession until he obtains a location ticket from the Superintendent General, in the manner prescribed in regard to new locations:
9. The Superintendent General may, whenever there are minor children, appoint a fit and proper person to take charge of such children and their property, and may remove such person and appoint another, and so, from time to time, as occasion requires:
1. The Superintendent General may decide all questions which arise respecting the distribution, among those entitled, of the lands and goods and chattels of a deceased Indian, and may also do whatever he, under the circumstances, thinks will best give to each claimant his share, according to the true intent and meaning of this Act, whether such share is part of the lands or goods and chattels themselves, or is part of the proceeds thereof, if it is thought best to dispose thereof- regard always being had in any such disposition to restrictions upon the disposition of property in a reserve. 47 V., c.27, s.5.

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

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

such disallowance takes place.

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

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

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

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

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

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

"8. The superintendent general may decide all questions which arise under this Act, respecting the

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

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

#### TRESPASSING ON RESERVES

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

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

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

22. If any person, or Indian other than an Indian of the band, without the license of the Superintendent General (which license he may at any time revoke, settles, resides or hunts upon, occupies, uses, or causes or permits any cattle or other animals owned by him, or in his charge, to trespass on any such land or marsh, or fishes in any marsh, river, stream or creek on or running through a reserve, or settles, resides upon or occupies any such road, or allowance for road, on such reserve,-or if any Indian is illegally in possession of any land in a reserve-the Superintendent General, or such officer or person as he thereunto deposes and authorizes, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith-
- a. To remove from the said land, marsh or road, or allowance for road, every such person or Indian and his family, so settled, or who is residing or hunting upon, or occupying, or is illegally in possession of the same; or-
  - b. To remove such cattle or other animals from such land or marsh; or-
  - c. To cause such person or Indian to cease fishing in any marsh, river, stream or creek, as aforesaid; or-
  - d. To notify such person or Indian to cease using, as aforesaid, the said lands, river, streams, creeks or marshes, roads or allowances for roads;

And such person shall accordingly remove or notify every such person or Indian, or remove such cattle or other animals, or cause such person or Indian to cease fishing, as aforesaid, and for that purpose shall have the same powers as in the execution of criminal process; and the expenses incurred in any such removal or notification shall be borne by the person removed or notified, or who owns the cattle or other animals removed, or who had them in charge, and may be recovered from him as the costs in any ordinary action or suit, or if the trespasser is an Indian, such expenses may be deducted from his share of annuity and interest money, if any such are due to him. 47 V., c.27, s.21.

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

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

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

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

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

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

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

23. If any person or Indian, after he has been removed or notified as aforesaid, or after any cattle or other animals owned by him or in his charge have been removed, as aforesaid, returns to, settles, resides or hunts upon, or occupies or uses, as aforesaid, any of the said land, marsh or lots, or parts of lots, or causes or permits any cattle or other animals owned by him or in his charge, to return to any of the said land, marsh, or lots or parts of lots, or returns to any marsh, river, stream or creek on or running through a reserve, for the purpose of fishing therein, or settles or resides upon or occupies any of the said roads, allowances for roads, or lots or parts of lots, the Superintendent General, or any officer or person deputed and authorized, as aforesaid, upon view, or upon proof on oath made before him, or to his satisfaction, that the said person or Indian has returned to, settled, resided or hunted upon, or occupied or used, as aforesaid, any of the said lands, marches, lots or parts of lots, or has returned to, settled or resided upon or occupied any of the said roads, or allowances for roads, or lots or parts of lots, or has caused or permitted any cattle or other animals owned by him, or in his charge, to return to any of the said land, marsh or lots or parts of lots, or has returned to any marsh, river, stream or creek, on or running through a reserve, for the purpose of fishing therein, shall direct and send his warrant, signed and sealed, to the sheriff of the proper county or district, or to any literate person therein; and if the said reserve is not situated within any county or district, then to any literate person, commanding him forthwith to arrest such person or Indian, and bring him before any stipendiary magistrate, police magistrate, justice of the peace, or Indian agent, who may, on conviction, commit him to the common gaol of the said county or district; or if there is no gaol in the said county or district, then to the gaol nearest to the said reserve in the Province or Territory, there to remain for the time ordered in such warrant, but which shall not exceed thirty days for the first offence, and thirty days additional for each subsequent offence. 43 V., c.28, s.24;-45 V., c.30, s.3;-47 V., c.27, s.6.
24. Such sheriff or other person shall accordingly arrest the said person or Indian, and deliver him to the gaoler or sheriff of the proper county, district, Province or Territory, who shall receive such person or Indian, and imprison him in the said gaol for the term aforesaid. 43 V., c.28, s.25.
25. The Superintendent General, or such officer or person aforesaid, shall cause the judgment or order against the offender to be drawn up and filed in his office; and such judgment shall not be appealed from, or



removed by *certiorari* or otherwise, but shall be final. 43 V., c.28, s.26.

26. Every person, or Indian other than an Indian of the band to which the reserve belongs, who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away, or removes from any of the said land, roads or allowances for roads, in the said reserve, any of the trees, saplings, shrubs, underwood, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables from the said land, roads or allowances for roads, shall, on conviction thereof before any stipendiary magistrate, police magistrate, or any two justices of the peace or Indian agent, incur-
- a. For every tree he cuts, carries away or removes, a penalty of twenty dollars;
  - b. For cutting, carrying away or removing any of the saplings, shrubs, underwood, timber or hay, if under the value of one dollar, a penalty of twenty dollars;
  - c. For removing any of the stone, soil, minerals, metals or other valuables aforesaid, a penalty of twenty dollars,-

And the costs of prosecution in each case:

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

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

" (a.) For every tree he cuts, carries away or removes, a penalty of twenty dollars;

" (b.) For cutting, carrying away or removing any of the saplings, shrubs, underwood, timber, cordwood or part of a tree or hay, if under the value of one dollar, a penalty of four dollars; but, if over the value of one dollar, a penalty of twenty dollars;

" (c.) For removing any of the stone, soil, minerals, metals, or other valuables aforesaid, a penalty of twenty dollars:-

"And the costs of prosecution in each case:"

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

claimed upon the said warrant does not exceed twenty dollars, or for a term not exceeding three months if the sum exceeds twenty dollars:

2. All such penalties shall be paid to the Minister of Finance and Receiver General, and shall be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council directs:
3. Nothing herein contained shall be construed to prevent the Superintendent General from issuing a license to any person or Indian to cut and remove trees, wood, timber and hay, or to quarry and remove stone and gravel on and from the reserve, if he, or his agent, acting by his instructions, first obtains the consent of the band thereto in the ordinary manner, as hereinafter provided. 43 V., c.28, s.27, *part*; -45 V., c.30, s.3;-47V., c.27, s.7.

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

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

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

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

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

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

execution thereof. 44 V., c.,17, s.9.

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

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

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

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

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

#### ROADS AND BRIDGES.

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

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

"**33.** Indians residing upon any reserve shall be liable, if so directed by the Superintendent General, or any officer or person by him thereunto authorized, to perform labour upon the public roads laid out or used in or through, or abutting upon such reserve, which labour shall be performed under the sole control of the

Superintendent General, or officer or person aforesaid, who may direct when, where and how and in what manner such labour shall be applied, and to what extent the same shall be imposed upon Indians who are resident upon any of the said lands; and the Superintendent General, or officer or person aforesaid; shall have the like power to enforce the performance of such labour by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the province or territory in which such reserve is situate, for the non-performance of statute labour; but the labour to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same province, territory, county or other local division, under the laws requiring and regulating such labour and the performance thereof."

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

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

35. If any railway, road or public work passes through or caused injury to any reserve belonging to or in possession of any band of Indians, or if any act occasioning damage to any reserve is done under the authority of an Act of Parliament, or of the Legislature of any Province, compensation shall be made to them therefor in the same manner as is provided with respect to the lands or rights of other persons; and the Superintendent General shall, in any case in which an arbitration is had, name the arbitrator on behalf of the Indians, and shall act for them in any matter relating to the settlement of such compensation; and the amount awarded in any case shall be paid to the Minister of Finance and Receiver General for the use of the band of Indians for whose benefit the reserve is held, and for the benefit of any Indian who has improvements thereon. 42 V., c.9, s.9, sub-s. 37;-43 V., c.28, s.31.

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."

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

#### SURRENDER AND FORFEITURE OF LANDS IN RESERVE.

37. If, by the violation of the conditions of any such trust as aforesaid, or by the breaking up of any person or persons without a legal succession of trusteeship, in who the title to a special reserve is held in trust, the said title lapses or becomes void in law, the legal title shall become vested in Her Majesty in trust, and the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve:
0. The trustees of any special reserve may, at any time, surrender the same to Her Majesty in trust, whereupon the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve. 43 V., c.28, s. 33.
29. No reserve or portion of a reserve shall be sold, alienated or leased until it had been released or surrendered to the Crown for the purposes of this Act, excepting that in cases of aged, sick and infirm Indians and widows or children left without a guardian, or in the cases of Indians engaged in the practice of any one of the learned professions, or in teaching schools, or in pursuing a trade which interferes with their cultivating land on the reserve, the Superintendent General shall have the power to lease, for their support or benefit, the lands to which they are entitled. 43 V., c.28, s. 36;-47 V., c.27, s.8.

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

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

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

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

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

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

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

- a. The release or surrender shall be assented to by a majority of the male members of the band, of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose, according to the rules of the band, and held in the presence of the Superintendent General, or of an officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General; but no Indian shall be entitled to vote or be present at such council unless he habitually resides on or near and is interested in the reserve in question;
- b. The fact that such release or surrender has been assented to by the band at such council or meeting, shall be certified on oath before some judge of a superior, county or district court, or stipendiary magistrate, by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some one of the chiefs or principal men present thereat and entitled to vote; and when such assent has been so certified, as aforesaid, such release or surrender shall be submitted to the Governor in Council for acceptance or refusal. 43 V., c.28, s.37.

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

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

- b. The fact that such release or surrender has been assented to by the band at such council or meeting shall be certified on oath by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some one of the chiefs or principal men present thereat and entitled to vote, before some judge of a superior, county or district court, stipendiary magistrate or justice of the peace, or, in the case of reserves in Manitoba or the North-west Territories, before the Indian Commissioner for Manitoba and the

North-west Territories, and in the case of reserves in British Columbia, before the visiting Indian Superintendent for British Columbia, or, in either case, before some other person or officer specially thereunto authorized by the Governor in Council; and when such assent has been so certified, as aforesaid; such release or surrender shall be submitted to the Governor in Council for acceptance or refusal."

40. Nothing in this Act shall confirm any release or surrender which, but for this Act, would have been invalid; and no release or surrender of any reserve, or portion of a reserve, to any person other than Her Majesty, shall be valid. 43 V., c.28, s.39.
41. All Indian lands, which are reserves or portions of reserves, surrendered or to be surrendered to Her Majesty, shall be deemed to be held for the same purposes as before the passing of this Act; and shall be managed, leased and sold as the Governor in Council directs, subject to the conditions of surrender and the provisions of this Act. 43 V., c.28, s.40.

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

42. Every certificate of sale or receipt for money received on the sale of Indian lands granted or made by the Superintendent General or any agent of his, so long as the sale to which such receipt or certificate relates is in force and not rescinded, shall entitle the person to whom the same is granted, or his assignee, by instrument registered under this or any former Act providing for registration in such cases, to take possession of and occupy the land therein comprised, subject to the conditions of such sale, and thereunder, unless the same has been revoked or cancelled, to maintain actions and suits against any wrongdoer or trespasser, as effectually as he could do under a patent from the Crown; and such receipt or certificate shall be *prima facie* evidence for the purpose of possession by such person, or the assignee, under an instrument registered as aforesaid, in any such action or suit; but the same shall have no force against a license to cut timber existing at the time of the making or granting thereof. 43 V., c.28, s.42.
43. The Superintendent General shall keep a book for registering, as the option of the persons interested, the particulars of any assignment made, as well by the original purchaser or lessee of Indian lands, or his heirs or legal representatives, as by any subsequent assignee of any such lands, or the heirs or legal representatives of such assignee:
  0. Upon any such assignment being produced to the Superintendent General, and, except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the time and place of such execution, and the names, residences and occupations of the witnesses; or, as regards lands in the Province of Quebec, upon the production of such assignment, executed in notarial form, or of a notarial copy thereof, the Superintendent General shall cause the material parts of every such assignment to be registered in such book of registry, and shall cause to be indorsed on every such assignment a certificate of such registration, signed by himself, or by the Deputy Superintendent General or any such officer of the department by him authorized to sign such certificates:
  2. Sub-section two of section forty-three of the said Act is hereby repealed, and the following substituted therefor:-
    - "2. Upon any such assignment being produced to the Superintendent General, and except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the place of such execution, and the names, residences and occupations of the witnesses,- or, as regards lands in the Province of Quebec, upon the production of such assignment, executed in notarial form, or of a notarial copy thereof,- the Superintendent General shall cause the material parts of every such assignment to be registered in such book or registry, and shall cause to be indorsed on every such assignment a certificate of such registration, signed by himself, or by the Deputy Superintendent General, or any other officer of the department by him authorized to sign such certificates:
    0. Every such assignment so registered shall be valid against any assignment previously executed, which is subsequently registered or is unregistered; and no such registration shall be made until all the conditions of the sale, grant or location are complied with or dispensed with by the Superintendent General, and every assignment registered, as aforesaid, shall be unconditional in its terms. 43 V., c.28, s.43.

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

"4. Whenever the proper municipal officer having, by the law of the Province in which the land affected is situate, authority to make or execute deeds or conveyance of lands sold for taxes, makes or executes any deed or conveyance purporting to convey any land, or portion of land, the fee of which is vested in the Crown or any person in trust for or for the use of any Indian or non-treaty Indian or band or irregular band of Indians or non-treaty Indians, but which has been surrendered under the provisions of this Act, or purporting to grant or convey the interest of any locatee or purchaser from the Crown, and such deed or conveyance recites or purports to be based upon a sale of such land or such interest for taxes. The Superintendent general may act upon and treat such deed or conveyance as a valid transfer of all the right and interest of the original locatee or purchaser from the Crown, and of every person claiming under him, in or to such land to the grantee named in such deed or conveyance:

"5. So soon as the Superintendent General has signified his approval of such deed or conveyance by endorsement thereon; the grantee shall be substituted in all respects, in relation to the land so conveyed, for the original locatee or purchaser from the Crown, but in such deed or conveyance shall be deemed to confer upon the grantee any greater right or interest in the land than that possessed by the original locatee or purchaser from the Crown:

"6. The Superintendent General may cause a patent to be issued to the grantee named in such deed or conveyance on the completion of the original conditions of the location or sale, unless such deed or conveyance is declared invalid by a court of competent jurisdiction in a suit or action instituted by some person interested in such land within two years of the date of such sale for taxes, and unless within such delay notice of such contestation has been given to the Superintendent General:

"7. Every such deed or conveyance shall be registered in the office of the Superintendent General within two years from the date of the sale for taxes; and unless the same is so registered, it shall not be deemed to have preserved its priority, as against a purchaser in good faith from the original locatee or purchaser from the Crown, in virtue of an assignment registered in like manner previously to the date of the registration of the deed or conveyance based upon a sale for taxes as aforesaid."

42. If any subscribing witness to any such assignment is dead, or is absent from Canada, the Superintendent General may register such assignment upon the production of an affidavit proving the death or absence of such witness, and his handwriting, of the handwriting of the person making such assignment. 43 V., c.28, s.44.

43. Every patent for Indian lands shall be prepared in the Department of Indian Affairs, and shall be signed by the Superintendent General of Indian Affairs, or his deputy, or by some other person thereunto specially authorized by order of the Governor General in Council, and when so signed, shall be registered by an officer specially appointed for that purpose by the Registrar General, and then transmitted to the Secretary of State of Canada, by whom, or by the Under Secretary of State, the same shall be countersigned, and the Great Seal of Canada thereto caused to be affixed: Provided, that every such patent for land shall be signed by the Governor or by the Deputy Governor appointed under this Act for that purpose:

2. On any application for a patent by the heir, assignee or devisee of the original purchaser from the Crown. The Superintendent General may receive proof, in such manner as he directs and requires, in support of any claim for a patent, when the original purchaser is dead, and upon being satisfied that the claim as been equitably and justly established, may allow the same, and cause a patent to issue accordingly: but nothing in this section shall limit the right of a person claiming a patent to land in the Province of Ontario to make application at any time to the Commissioner, under the "*Act respecting the Heir, Devisee and Assignee Commission*," being chapter twenty-five of the Revised Statutes of Ontario (1877) or the corresponding provision in any subsequent revision of the said Statutes. 43 V., c.28, s.45;-49 V., c.7, s.2.

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

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

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

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

42. Whenever any rent payable to the Crown on any lease of Indian lands is in arrear, the Superintendent General, or any agent or officer appointed under this Act and authorized by the Superintendent General to act in such cases, may issue a warrant, directed to any person or persons by him named therein, in the form of a distress warrant, as in ordinary cases of landlord and tenant, or as in the case of distress and warrant of a justice of the peace for non-payment of a pecuniary penalty; and the same proceedings may be had thereon, for the collection of such arrears, as in either of the said last-mentioned cases; or an action of debt, as in ordinary cases of rent in arrear, may be brought therefor in the name of the Superintendent General; but demand of rent shall not be necessary on any case. 43 V., c.28, s.48.

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

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

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

52. Whenever, by reason of false survey or error in the books or plans in the department, or in the late Indian branch of the Department of the Interior, any grant, sale or appropriation of land is found deficient, or any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Superintendent General may order the purchase money of for much land as is deficient, with the interest therein from the time of the application therefor,- or, if the land has passes from the original purchaser, the purchase money which the claimant, if he was ignorant of a deficiency at the time of his purchase, has paid for so much of the land as is



deficient, with interest thereon from the time of the application therefor,- to be paid to him on land or money, as the Superintendent General directs; but no such claim shall be entertained unless application is made within five years from the date of the patent, and unless the deficiency is equal to one-tenth of the whole quantity described as contained in the particular lot or parcel of land granted. 43 V., c.28, s.52.

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

2. Sub-section one of section fifty-three of the said Act is hereby amended by substituting for the words "office of the Registrar General of Canada," in the ninth line thereof, the words "Department of Indian Affairs."
0. The practice in court, in such cases, shall be regulated by orders, from time to time, made by the said courts respectively. 43 V., c.28, s.56.

#### TIMBER LANDS.

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

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

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

2. Section 56 of the said Act, is hereby repealed and the following is substituted therefor:-

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

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

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

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

3. Section 66 of the said Act is hereby repealed and the following is substituted therefor:-

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

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

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

#### MANAGEMENT OF INDIAN MONEYS.

69. All moneys or securities of any kind applicable to the support or benefit of Indians, or any band of Indians, and all moneys accrued or hereafter to accrue from the sale of any Indian lands or of any timber on any reserves or Indian lands, shall, subject to the provisions of this Act, be applicable to the same purposes and be dealt with in the same manner as they might have been applied to or dealt with but for the passing of this Act. 43 V., c.28, s.69.

70. The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom, the moneys arising from sales of Indian lands, and from the property held or to be held in trust for the

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

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

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

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

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

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

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

Indians."

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

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

3. 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."

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

"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 on the band, any Indian who is proved, to the satisfaction of the superintendent general. Guilty of deserting his family, or of conduct justifying his wife or family in separating from him, or is separated from his family by imprisonment; and the superintendent general may apply the same towards the support of the wife or family of such Indian."

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

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

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

2. 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 the real property of the band, any woman who deserts her husband or family and lives immorally with another man, and the Superintendent General may apply the same to the support of the family so deserted."

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

ELECTION OF CHIEFS.

75. Whenever the Governor in Council deems it advisable, for the good government of a band, to introduce the system of election of chiefs, he may provide that the chiefs of any band of Indians shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall, in such case, be elected for a term of three years, but may be deposed by the Governor in Council for dishonesty, intemperance, immorality or incompetency; and they may be in the proportion of one head chief and two second chiefs or councillors for every two hundred Indians:
0. Subsection one of section seventy-five of The Indian Act is hereby amended by inserting after the word "deposed" in the seventh line thereof the following words "and declared ineligible for re-election for three years."
  0. No band shall have more than six head chiefs and twelve second chiefs, but any band, composed of thirty Indians, may have on chief:
    1. Provided that life chiefs, now living, shall continue to hold the rank of chief until death or resignation, or until their removal, by the Governor in Council, for dishonesty, intemperance, immorality or incompetency; but in the event of the Governor in Council providing that the chiefs of a band shall be elected, the life chiefs shall not exercise the powers of chiefs, unless elected, under the provision aforesaid, to the exercise of such powers:
    2. An election may be set aside by the Governor in Council on the report of the Superintendent General, if it is proved by two witnesses before the Indian agent for the locality or such other person as is deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election; and every Indian who is proved guilty of such fraud irregularity, or connivance thereat, may be declared ineligible for re-election for six years, if the Governor in Council, on the report of the Superintendent General, so directs. 43 V., c.28, s.72;-47 V., c.27, s.9.
  0. Section seventy-five of *The Indian Act* is hereby repealed and the following substituted therefor:-
 

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

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

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

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

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

"75. Whenever the Governor in Council deems it advisable, for the good government of a band, to introduce the

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

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

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

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

#### REGULATIONS TO BE MADE BY CHIEFS.

76. The chief or chiefs of any band in council may frame, subject to confirmation by the Governor in Council, rules and regulations in respect of the subjects following, that is to say:-

- (a.) As to what religious denomination the teacher of the school established on the reserve shall belong to: Provided always, that he shall be of the same denomination as the majority of the band; and that the Protestant or Catholic minority may likewise have a separate school, with the approval of and under regulations made by the Governor in Council;
- (b.) The care of the public health;
- (c.) The observance of order and decorum at assemblies of the Indians in general council, or on other occasions;
- (d.) The repression of intemperance and profligacy;
- (e.) The prevention of trespass by cattle, and the protection of sheep, horses, mules and cattle;
- f. The construction and maintenance of water-courses, roads, bridges, ditches and fences;
- g. The construction and repair of school houses, council houses and other Indian public buildings, and the attendance at school of children between the ages of six and fifteen years;
- h. The establishment of pounds and the appointment of pound-keepers;
- i. The locating of the land in their reserves, and the establishment of a register of such locations;
- j. The repression of noxious weeds;
- k. The imposition of punishment by fine, penalty or imprisonment, or both, for violation of any of such rules or regulations; but the fine or penalty shall in no case exceed thirty dollars, and the imprisonment shall in no case exceed thirty days; and the proceedings for the imposition of such punishment shall be taken under the "*Act respecting summary proceedings before Justices of the Peace.*" 43 V., c.28, s.74;-47 V., c.27, s.10.

## EXEMPTION FROM TAXATION.

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

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

1. All land vested in the Crown or in any person, in trust for or for the use of any Indian or non-treaty Indian, or any band or irregular band of Indians or non-treaty Indians, shall be exempt from taxation. 43V., c.28, ss.75 and 76;- 47 V., c.27, s.11.

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

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

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

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

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

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

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

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

0. Sub-section three of section eighty-one of the said Act is hereby amended by adding the following words at the end thereof: "and the burden of proof, concerning such written consent of the Superintendent General or his agent, shall lie on the accused."
2. If any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians, are or is unlawfully in the possession of any person, within the true intent and meaning of this section, any person acting under the authority of the Superintendent General may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same, and he shall deal therewith as the Superintendent General directs. 43 V., c.28, s.80.

1. The said section eight-one is hereby further amended by adding the following sub-section thereto:-

"5. Animals given to Indians under treaty stipulations, and the progeny thereof, and farming implements, tools and any other articles given to Indians under treaty stipulations, shall be held to be presents within the meaning of this section."

#### ENFRANCHISEMENT.

82. The eleven sections next following, shall not apply to any band of Indians in the Province of British Columbia, the Province of Manitoba, the North-West Territories or the District of Keewatin, except in so far as the said sections are, by proclamation of the Governor in Council, from time to time, extended to any band of Indians in any of the said Provinces, Territories or District. 43 V., c.28, s.107.

83. Whenever any male Indian or unmarried Indian woman, of the full age of twenty-one years, makes application to the Superintendent General to be enfranchised, the Superintendent General shall instruct the agent of the band of which the applicant is a member, to call upon the latter to furnish a certificate, under oath, before a judge of any court of justice, by the priest, clergyman or minister of the religious denomination to which the applicant belongs, or by a stipendiary magistrate or two justices of the peace, to the effect that to the best of the knowledge and belief of the deponent or deponents, the applicant for enfranchisement is, and has been for at least five years previously, a person of good moral character, temperate in his or her habits, and of sufficient intelligence to be qualified to hold land in fee simple, and otherwise to exercise all the rights and privileges of an enfranchised person. 43 V., c.27, s.16, *part*.

84. Upon receipt of such a certificate, the agent shall with the least possible delay, submit the same to a council of the band of which the applicant is a member; and he shall then inform the Indians assembled at such council, that thirty days will be given within which affidavits made before a judge or a stipendiary magistrate will be received, containing reasons, if any there are, of a personal character affecting the applicant, why such enfranchisement should not be granted to the applicant. 47 V., c.27, s.16, *part*.

85. At the expiration of the thirty days aforesaid, the agent shall forward to the Superintendent General all affidavits which have been filed with him in the case, as well as one made by himself before a judge or a stipendiary magistrate, containing his reasons for or against the enfranchisement of the applicant; and if the Superintendent General, after examining the evidence, decides in favor of the applicant, he may grant him or her a location ticket as a probationary Indian for the land occupied by him or her, or for such proportion thereof as appears to the Superintendent General fair and proper. 47 V., c.27, s.16, *part*.

86. Every Indian who is admitted to the degree of doctor of medicine, or to any other degree, by any University of learning, or who is admitted in any Province of Canada, to practise law, either as an advocate, a barrister, solicitor or attorney, or a notary public, or who enters holy orders, or who is licensed by any denomination of Christians as a minister of the gospel, may, upon petition to the Superintendent General, *ipso facto* become and be enfranchised under this Act, and he shall then be entitled to all the rights and privileges to which any other member of the band to which he belongs would be entitled if he was enfranchised under the provisions of this Act; and the Superintendent General may give him a suitable allotment of land from the lands belonging to the band of which he is



a member ; but is he is not the recognized holder of a location on the reserve, by ticket or otherwise, he shall first obtain the consent of the band and the approval of the Superintendent General to such allotment. 47 V., c.27, s.16, *part.*

.87. After the expiration of three years, or such longer period as the Superintendent General deems necessary in the event of the conduct of such Indian not being satisfactory, the Governor in Council may, on the report of the Superintendent General, order the issue of letters patent, granting to such Indian the land in fee simple, which has, with this object in view, been allotted to him by location ticket, but without power to sell, lease or otherwise alienate the land, except with the sanction of the Governor in Council; and provisos to such effect shall be inserted in the letters patent conveying the land to the said Indian, and in such cases compliance with the provisions of sections thirty-eight and thirty-nine of this Act shall not be necessary. 47 V., c.27, s.17.

88. Every such Indian shall, before the issue of such letters patent, declare to the Superintendent General the name and surname by which he wishes to be enfranchised and thereafter known, and on his receiving such letters patent, in such name and surname, he shall be held to be also enfranchised, and he shall thereafter be known by such name or surname; and if such Indian is a married man, his wife or minor unmarried children shall also be held to be enfranchised; and from the date of such letters patent the provisions of this Act and of any Act or law making any distinction between the legal rights, privileges disabilities and liabilities of Indians and those of Her Majesty's other subjects, shall cease to apply to such Indian, or to the wife or minor unmarried children of such Indian as aforesaid, so declared to be enfranchised, who shall no longer be deemed Indians within the meaning of the laws relating to Indians, except in so far as regards their right to participate in the annuities and interest moneys, and rents and councils of the band to which they belonged:

0. Any children of a probationary Indian, who, being minors and unmarried when the probationary ticket was granted to such Indian, arrive at the full age of twenty-one years before the letters patent are issued to such Indian, may, at the discretion of the Governor in Council, receive letters patent in their own names, subject to the same restrictions and reservations as are contained in the letters patent issued to their parent, for their respective shares of the land allotted under the said ticket, at the same time that letters patent are granted to their parent:
1. If any Indian child who arrives at the full age of twenty-one years, during his or her parent's probationary period, is not qualified for enfranchisement, or if any child of such parent, who was a minor at the commencement of such period, is married during such period, a quantity of land equal to the share of such child shall be deducted, in such manner as the Superintendent General directs, from the allotment made to such Indian parent on receiving his probationary ticket. 47 V., c.28, s.101;-47 V., c.27, s.18.
2. *The Indian Act* is hereby amended by adding the following section thereto, immediately after section eight-eight:-

"~~88~~A. Whenever any member of a band, for three years immediately succeeding the date on which he was granted letters patent, or for any longer period that the superintendent general deems necessary, by his exemplary good conduct and management of property proves that he is qualified to receive his share of the moneys of such band, the Governor in Council may, on the report of the superintendent general to that effect, order that the said Indian be paid his share of the capital funds at the credit of the band, or his share of the principal of the annuities of the band, estimated as yielding five per cent, out of such moneys as are provided for the purpose by Parliament:

"2. If such Indian is a married man he shall also be paid his wife's and minor unmarried children's shares of such funds and principal moneys, and if such Indian is a widow, she shall also be paid her minor unmarried children's shares:

"3. The unmarried children of such married Indians who become of age during the probationary period, for payment of such moneys, if qualified by the character for integrity, morality and sobriety which they bear, shall receive their own share of such moneys, when their parents are paid; and if not so qualified, before they receive payment of such moneys they must themselves pass through the probationary period:

"4. All such Indians, and their unmarried minor children, who are paid their shares of the principal moneys of their band, as aforesaid, shall thenceforward cease, in every respect, to be Indians of any class within the meaning of this Act, or Indians within the meaning of any other Act or Law."

89. If any probationary Indian fails in qualifying to become enfranchised, or dies before the expiration of the required probation, his claim, or the claim of his heirs, to the land for which a probationary ticket was granted, or the claim of any unqualified Indian, or of any Indian who marries during his or her parent's probationary period, to the land deducted, under the operation of the next preceding section, from his or her parent's probationary allotment, shall, in all respects, be the same as that conferred by any ordinary location ticket under this Act. 43 V., c.28, s.102.

90. The children of any widow who becomes either a probationary or enfranchised Indian shall be entitled to the same privileges as those of a male head of a family in like circumstances. 43 V.,c.28, s.103.

91. In allotting land to probationary Indians, the quantity to be allotted to the head of a family shall be in proportion to the number of such family, compared with the total quantity of land in the reserve, and the whole number of the band; but the Superintendent General may determine what quantity shall be allotted to each member for enfranchisement purposes, provided that each female of any age, and each male under fourteen years of age, shall receive at least one-half the quantity allotted to each male of fourteen years of age and over. 43 V., c.28, s.104;-47 V., c.27, s.19.

92. Every Indian who is not a member of the band, and every non-treaty Indian, with the consent of the band and the approval of the Superintendent General, has been permitted to reside upon the reserve, or to obtain a location thereon, may, on being assigned a suitable allotment of land by the Superintendent General for enfranchisement, become enfranchised on the same terms and conditions as a member of the band; and such enfranchisement shall confer upon such Indian the same legal rights and privileges, and make such Indian subject to such disabilities and liabilities as affect Her Majesty's other subjects; but such enfranchisement shall not confer upon such Indian any right to participate in the annuities, interest moneys, rents or councils of the band. 43 V., c.28, s.105;-47 V., c.27, s.20.

93. If any band, at a council summoned for the purpose according to their rules, and held in the presence of the Superintendent General, or an agent duly authorized by him to attend such council, decides to allow every member of the band who chooses, and who is found qualified, to become enfranchised, and to receive his or her share of the principal moneys of the band, and sets apart for such member a suitable allotment of land for the purpose, any applicant belonging to such band, after such decision, may be dealt with as provided in the foregoing provisions respecting enfranchisement, until his or her enfranchisement is attained; and whenever any member of the band, who, for the three years immediately succeeding the date on which he was granted letters patent, or for any longer period that he is qualified to receive his share of such moneys, the Governor in Council may, on the report of the Superintendent General to that effect, order that the said Indian be paid his share of the capital funds at the credit of the band, or his share of the principal of the annuities of the band, estimated as yielding five per cent., out of such moneys as are provided for the purpose of Parliament:

0. If such Indian is a married man he shall also be paid his wife's and minor unmarried children's share of such funds and other principal moneys, and if such Indian is a widow, she shall also be paid her minor unmarried children's share:

1. The unmarried children of such married Indians, who become of age during the probationary period, either for enfranchisement or for payment of such moneys, if qualified by the character for integrity, morality and sobriety which they bear, shall receive their own share of such moneys, when their parents are paid; and if not so qualified, before they can become enfranchised or receive payment of such moneys they must themselves pass through the probationary periods:

2. All such Indians, and their unmarried minor children, who are paid their share of the principal moneys of their band, as aforesaid, shall thenceforward cease, in every respect, to be Indians of any class within the meaning of this Act, or Indian within the meaning of any other Act or law. 43 V., c.28, s.106.

3. Section ninety-three of *The Indian Act* is hereby repealed and the following substituted therefor:-

"93. If any band, at a council summoned for the purpose according to their rules, and held in the presence of the superintendent general, or an agent duly authorized by him to attend such council, decides to allow every member of the band who chooses, and who is found qualified, to become enfranchised, and to receive his or her share of the principal moneys of the band, and sets apart for such member a suitable allotment of land for the purpose, any applicant belonging to such band, or the wife and children of any such applicant, may, after such decision, be dealt with as provided in the foregoing provisions respecting enfranchisement and the payment to enfranchises Indian of their shares of the capital funds at the credit of the band or of the estimated principal of the annuities of the band to which they are entitled."

92. Every one who sells, exchanges with, barter, supplies or gives to any Indian or non-treaty Indian, any intoxicant, or causes or procures the same to be done, or attempts the same or connives thereat, or opens or keeps, or causes to be opened or kept, on any reserve or special reserve, a tavern, house or building in which any intoxicant is sold, bartered, exchanged or given, or who is found in possession of any intoxicant in the house, tent, wigwam or place of abode of any Indian or non-treaty Indian, or of any person, or upon any other part of the reserve or special reserve, or who sells, exchanges with, barter, supplies or gives to any person, on any reserve or special reserve, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, upon the evidence of one credible witness, other than the informer or prosecutor, -or in the Province of Manitoba, the Province of British Columbia, the North-West Territories, or the District of Keewatin, upon the evidence of the informer alone, if he is a credible person, - be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labor, or to a penalty not exceeding three hundred dollars and not less than fifty dollars, with costs of prosecution, a moiety of which penalty shall belong to the informer or prosecutor, and the other moiety whereof shall belong to Her Majesty, to form part of the fund for the benefit of that body of Indians or non-treaty Indians, with respect to one or more members of which the offence was committed, or he shall be liable to both penalty and imprisonment in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. 43 V., c.28, s.90, *part*; -44 V., c.17, s.10;-45 V., c.30, s.3.

0. Section ninety-four of the said Act is hereby repealed and the following substituted therefor:-

"94. Every one, who by himself, his clerk, servant or agent, and every one who in the employment or on the premises of another directly or indirectly on any pretence or by any device sells, barter, supplies or gives to any Indian or non-treaty Indian any intoxicant, or causes or procures the same to be done or attempts the same or connives thereat, or opens or keeps, or causes to be opened or kept on any reserve or special reserves, a tavern, house or building in which any intoxicant is sold, bartered, supplied or given, or who is found in possession of any intoxicant in the house, tent, wigwam or place of abode of any Indian or non-treaty Indian or of any person, or upon any other part of the reserve or special reserve, or who sells, barter, supplies or gives to any person on any reserve or special reserve any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace or Indian agent, upon the evidence of one credible witness other than the informer or prosecutor -or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone if he is a credible person - be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labor, or to a penalty not exceeding three hundred dollars and not less than fifty dollars with costs of prosecution, or he shall be liable to both penalty and imprisonment in the discretion of the convicting judge, magistrate, stipendiary magistrate, justices of the peace or Indian agent; and a moiety of every such penalty shall belong to the informer or prosecutor, and the other moiety thereof shall belong to Her Majesty to form part of the fund for the benefit of that body of Indians or non-treaty Indians with respect to one or more members of which the offence was committed."

1. The section substituted for section ninety-four of *The Indian Act* by section four of chapter twenty-two of the Statutes of 1888 is hereby amended by adding thereto the following subsection:-

"2. In this section the expression 'Indian,' in addition to its ordinary signification as defined in section two of this Act, shall extend to and include any person, male or female, who is reputed to belong to a particular

band, or who follows the Indian mode of life, or any child of such person."

95. The commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicant has been sold, bartered, exchanged, supplied or given to any Indian or non-treaty Indian, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, upon the evidence of one credible witness, other than the informer or prosecutor,-or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone, if he is a credible person,-be liable to a penalty not exceeding three hundred dollars and not less than fifty dollars for each such offence, with costs of prosecution,-which penalty shall be applied as provided in the next preceding section; and in default of immediate payment of such penalty and costs, any person so convicted to any common gaol, house of correction, lock-up or other place of confinement by the judge, magistrate or two justices of the peace, or Indian agent, before whom the conviction has taken place, for a term not exceeding six months and not less than one month, with or without hard labor, or until such penalty and costs are paid. 43 V., c. s.90, *part*.

96. Every Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or who sells, exchanges with, barter, supplies intoxicant, shall, on summary conviction before the judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, upon the evidence of one credible witness, other than the informer or prosecutor,-or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone, if he is a credible person,-be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labor, or to a penalty not exceeding one hundred dollars and not less than fifty dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. 43 V., c.28, s.90, *part*.

97. In all cases arising under the three sections next preceding, Indians or non-treaty Indians shall be competent witnesses. 43 V., c.28, s.90, *part*.

98. No penalty shall be incurred when the intoxicant is made use of on case of sickness under the sanction of a medicinal man or under the directions of a minister of religion. 43 V., c.28, s.90, *part*.

2. Section ninety-eight of the said Act is hereby amended by adding the following words at the end thereof: "And the burden of proof that the intoxicant has been so made use of shall be on the accuses."

99. Every one who gives or supplies an intoxicant to an Indian or non-treaty Indian on an order, verbal or written, shall be liable to all the penalties to which he would have been liable if he had sold the same without such order; and every person found drunk in the house, tent, wigwam or other domicile of an Indian, or gambling therein, and every person found within an Indian village, settlement or reserve after sunset, and who refuses to leave after having been requested so to do by an Indian agent or chief, shall be liable to all the fines and penalties to which he would have been liable if he had supplied intoxicants to Indians, and under similar process. 47 V., c.27, s.13.

7. Section ninety-nine of *The Indian Act* is hereby repealed and the following substituted therefor:-

"99. Any constable or peace officer may arrest without warrant any person or Indian found gambling, or drunk, or with intoxicants in his possession, on any part of a reserve, and may detain him until he can be brought before a justice of the peace, and such person or Indian shall be liable upon summary conviction to imprisonment for a term not exceeding three months or to a penalty not exceeding fifty dollars and not less than ten dollars, with costs of prosecution, half of which penalty shall belong to the informer."

100. The keg, barrel, case, box, package or receptacle from which any intoxicant has been sold, exchanged, bartered, supplied or given, as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified,-and any intoxicant imported, manufactured or brought into and upon any reserve or special reserve, or into the house, tent, wigwam or place of abode, or on the person of any Indian or non-treaty Indian, or suspected to be upon any reserve or special reserve, may, upon a search warrant in that behalf being granted by any

judge, police magistrate,, stipendiary magistrate or justice of the peace be searched for, and if found, seized by any Indian superintendent, agent or bailiff, or other officer connected with the Indian Department, or by any constable, wheresoever found on such land or in such place or on the person of such Indian on non-treaty Indian; and on complaint before any judge, police magistrate, stipendiary magistrate, justice of the peace or Indian agent, he may, on the evidence of any credible witness that this Act has been violated in respect thereof, declare the same forfeited, and cause the same to be forthwith destroyed; and may condemn the Indian or person in whose possession the same is found to pay a penalty not exceeding one hundred dollars and not less than fifty dollars, and the costs of prosecution:

0. A moiety of such penalty shall belong to the prosecutor and the other moiety to Her Majesty, for the purposes hereinbefore mentioned; and in default of immediate payment, the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement, with or without hard labor, for any term not exceeding six months, and not less than two months, unless such penalty and costs are sooner paid. 43 V., c.28, s.91;-44 V., c.17, s.11;-45 V., c.30, s.3.
99. If it is proved by any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, that any vessel, boat, canoe or conveyance of any description, upon the sea or sea coast, or upon any river, lake or stream, is employed in carrying any intoxicant, to be supplied to Indians or non-treaty Indians, such vessel, boat, canoe or conveyance so employed may be seized and declared forfeited, as in the next preceding section mentioned, and sold, and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned. 43 V., c.28, s.92;-45 V., c.30, s.3.
100. Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which, in violation of this Act, the consideration, either wholly or in part, is an intoxicant, is forfeited to Her Majesty and may be seized, as is hereinbefore provided in respect to any receptacle of any intoxicant, and may be sold, and the proceeds thereof paid to her Majesty, for the purposes hereinbefore mentioned. 43 V., c.28, s.93.
101. No one shall introduce any intoxicant at any council or meeting if Indians held for the purpose of discussing or of assenting to a release or surrender of a reserve or portion thereof, or for the purpose of assenting to the issuing of a timber or other license; and every person who introduces, at such meeting, any every agent or officer employed by the Superintendent General, or by the Governor in Council, who introduces, allows or countenances by his presence, the use of such intoxicant among such Indians, a week before, or at, or a week after, any such council or meeting, shall incur a penalty of two hundred dollars, recoverable by action in any court of competent jurisdiction,-a moiety of which penalty shall belong to the informer. 43 V., c.28, s.38.
102. Any constable may, without process of law, arrest any Indian or non-treaty Indian whom he finds in a state of intoxication, and convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he is sober, and such Indian or non-treaty Indian shall, when sober, be brought before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent, and if convicted of being so found in a state of intoxication, shall be liable to imprisonment in any common gaol, house of correction, lock-up or other place of confinement, for a term not exceeding one month, or to a penalty not exceeding thirty dollars and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. 43 V., c.28, s.94, *part*; -45 V., c.30, ss.3 and 5, *part*.
1. 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 trial before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent.

105. If any Indian or non-treaty who has been so convicted, refuses, upon examination, to state or give information of the person, place and time from whom, where and when, he procured such intoxicant, and of from any other Indian or non-treaty Indian, then, if within his knowledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days, or to an additional penalty not exceeding fifteen dollars and not less than three dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. 43 V., c.28, s.94, *part*;-45 V., c.30, ss.3 and 5, *part*.

106. Every person who, being the keeper of any house, tent or wigwam, allows or suffers any Indian woman to be or remain in such house, tent or wigwam, knowing, or having probable cause for believing, that such Indian woman is in or remains in such house, tent or wigwam, with the intention of prostituting herself therein, is guilty of an offence against this Act, and shall, on summary conviction before any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, be liable to a penalty not exceeding one hundred dollars and not less than ten dollars, or to imprisonment in any gaol or place of confinement for a term not exceeding six months:

0. Every Indian who keeps, frequents, or is found in a disorderly house, tent or wigwam used for such a purpose as aforesaid, shall be liable to the same penalty and on similar process. 43 V., c.28, s.95;-45 V., c.30, s.3;-47 V., c.27, s.14.
1. Sub-section one of the one hundred and sixth section of the said Act is hereby repealed and the following sub-section substituted therefor:-

"106. Every person and Indian who, being the keeper of any house, tent or wigwam, allows or suffers any Indian woman to be or remain in such house, tent or wigwam, knowing, or having probable cause for believing, that such Indian woman is in or remains in such house, tent or wigwam, with the intention of prostituting herself therein, or who, being an Indian woman, prostitutes herself therein, is guilty of an offence against this Act, and shall, on summary conviction before any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, be liable to a penalty not exceeding one hundred dollars and not less than ten dollars, or to imprisonment in any gaol or place of confinement for a term not exceeding six months."

107. Every person who appears, acts or behaves as master or mistress, or as the person who has the care or management of any house, tent or wigwam, in which any Indian woman is, or remains, for the purpose of prostituting herself, therein, shall be deemed and taken to be the keeper thereof, notwithstanding, he or she is not in fact the real keeper thereof. 43 V., c.28, s.96.

108. No appeal shall lie from any conviction under the fourteen sections next preceding, except to a judge of a superior court, county, circuit or district court, or to the chairman or judge of the court of the sessions of the peace, having jurisdiction where the conviction was had; and such appeal shall be heard, tried and adjudicated upon by such judge or chairman without the intervention of a jury; and no such appeal shall be brought after the expiration of thirty days from the conviction:

0. No such conviction shall be quashed for want of form, or be removed by *certiorari* onto any superior court; and no warrant of commitment shall be held void by reason of any defect therein, if it is therein alleged that the person has been convicted, and if there is a good and valid conviction to sustain the same. 43 V., c.28, s.97;-47 V., c.27, s.15.

109. Every agent who knowingly and falsely informs, or causes to be informed, any person applying to him to purchase any land within his division and agency, that the same has already been purchased, or who refuses to permit the person so applying to purchase the same according to existing regulations, shall be liable therefor to the person so applying, in the sum of five dollars for each acre of land which the person so applying offered to purchase, recoverable by action of debt in any court of competent jurisdiction. 43 V., c.28, s.54.

110. No agent for the sale of Indian lands shall, within his division, directly or indirectly, except under an order of the Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency; and every such purchase or interest shall be void:

1. Every such agent who so offends shall forfeit his office and incur a penalty of four hundred dollars for every such offence, recoverable in an action of debt by any person who sues for the same. 43 V., c.28, s.41.

111. Every person who induces, incites or stirs up any three or more Indians, non-treaty Indians, or half-breeds apparently acting in concert-

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

(b) To do any act calculated to cause a breach of the peace,

--is guilty of a misdemeanor, and liable to imprisonment for a term not exceeding two years. 47 V., c.27, s.1.

112. Every one who incites any Indian to commit any indictable offence is guilty of felony and liable to imprisonment for any term not exceeding five years. C.S.U.C., c.128, s.104.

113. The Superintendent General may, when he considers it in the public interest so to do, prohibit, by public notice to that effect, the sale, gift, or other disposal, to any Indian in the Province of Manitoba or in any part thereof, of any fixed ammunition or ball cartridge; and every person who, after such notice, without the permission in writing of the Superintendent General, sell or gives, or in any other manner conveys to any Indian, in the section of country thus prohibited, any fixed ammunition or ball cartridge, shall incur a penalty not exceeding two hundred dollars, or shall be liable to imprisonment for a term not exceeding six months, or to both penalty and imprisonment within the limits aforesaid, at the discretion of the court before which the conviction is had:

0. Every offender against the provisions of this section may be tried in a summary manner by any stipendiary or police magistrate or by any two justices of the peace, or by an Indian agent. 45 V., c.30, s.3; -47 V., c.27, s.2.

114. Every Indian or person who engages in or assists in celebrating the Indian festival known as the "Potlach" or the Indian dance known as the "Tamanawas." Is guilty of a misdemeanor, and liable to imprisonment for a term not exceeding six months and not less than two months:

0. Every Indian or person who encourages, either directly or indirectly, an Indian to get up such a festival or dance, or to celebrate the same, or who assists in the celebration of the same, is guilty of a like offence, and shall be liable to the same punishment. 47 V., c.27, s.3.

6. Section one hundred and fourteen of *The Indian Act* is hereby repealed and the following substituted therefor:-

"**114.** Every Indian or other person who engages in, or assists in celebrating or encourages either directly or indirectly another to celebrate, any Indian festival, dance or other ceremony of which the giving away or paying or giving back of money, goods or articles of any sort forms a part, or is a feature, whether such gift of money, goods or articles takes place before, at, or after the celebration of the same, and every Indian or other person who engages or assists in any celebration or dance of which the wounding or mutilation of the dead or living body of any human being or animal forms a part or is a feature, is guilty of an indictable offence and is liable to imprisonment for a term not exceeding six months and not less than two months; but nothing in this section shall be construed to prevent the holding of any agricultural show or exhibition or the giving of prizes for exhibits thereat."

115. Any judge of a court, judge of sessions of the peace, recorder, police magistrate or stipendiary magistrate, shall have full power to do alone whatever is authorized by this Act to be done by a justice of the peace or by two justices of the peace. 44 V., c.17, s.16.

116. Any recorder, police magistrate or stipendiary magistrate, appointed for or having jurisdiction to act in any city or town shall, with the respect to offences and matters under this Act, have and exercise jurisdiction over the whole county or union of counties or judicial district in which the city or town for which he has been appointed or in which he has jurisdiction is situate. 44 V., c.17, s.7.

117 Every Indian agent shall be *ex officio* a justice of the peace for the purposes of this Act, and shall have the power and authority of two justices of the peace, with jurisdiction wheresoever any violation of the provisions of this Act occurs, or wheresoever it is considered by him most conducive to the ends of justice that any violation aforesaid shall be tried. 44 V., c.17, s.12;-45 V., c.30, s.3;-47 V., c.27, ss.22 and 23.

1. Section one hundred and seventeen of the said Act is hereby repealed, and the following substituted therefor:-

"117. Every Indian agent shall be *ex officio* a justice of the peace for the purposes of this Act, and shall have the power and authority of two justices of the peace, with jurisdiction wheresoever any violation of the provisions of this Act occurs, and in all cases of infraction, by Indians, of any of the provisions of chapter one hundred and fifty-seven of the Revised Statutes, intituled "*An Act respecting Offences against Public Morals and Public Convenience*," or wheresoever it is considered by him most conducive to the ends of justice that any violation aforesaid shall be tried."

2. The section substituted for section one hundred and seventeen of *The Indian Act* by section none of chapter twenty-nine of the Statutes of 1890, is hereby repealed and the following substituted therefor:-

"117. Every Indian agent shall, for all the purposes of this Act, or of any other Act respecting Indians, and with respect to any offence against the provisions thereof or against the provisions of section ninety-eight or section one hundred and ninety of *The Criminal Code*, 1892, and with respect to any offence by an Indian against any of the provisions of part XIII. Of the said Code, by *ex officio* a justice of the peace, and have the power and authority of two justices of the peace, anywhere within the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined by the Governor in Council, whether the Indian or Indians charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or dealt with, are or are not within his ordinary jurisdiction, charge or supervision as an Indian agent.

"2. In the North -West Territories and the provinces of Manitoba and British Columbia every Indian agent shall for all such purposes and with respect to any such offence be *ex officio* a justice of the peace and have the power and authority of two justices of the peace anywhere in the said Territories or provinces within which his agency is situated, whether or not the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined as aforesaid, extend to the place where he may have occasion to act as such justice or to exercise such power or authority, and whether the Indians charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or otherwise dealt with, are or are not within his ordinary jurisdiction, charge or supervision as Indian agent."

7. Section one hundred and seventeen of *The Indian Act* as enacted by section eight of chapter thirty-two of the Statutes of 1894, is hereby repealed, and in lieu thereof it is hereby enacted that every Indian agent shall, for all the purposes of *The Indian Act* or of any other Act respecting Indians, and with respect to any offence against the provisions thereof or against the provisions of section ninety-eight or section one hundred and ninety of *The Criminal Code*, 1892, and with respect to any offence by an Indian or non-treaty Indian against any of the provisions of parts XIII. And XV. Of the said Code, be *ex officio* a justice of the peace, and have the power and authority of two justices of the peace, anywhere within the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined by the Governor in Council, whether the Indian or non-treaty Indian charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or dealt with, is or is not within his ordinary jurisdiction, charge or supervision as an Indian agent.



"2. In the North-west Territories and the provinces of Manitoba and British Columbia every Indian agent shall for all such purposes and with respect to any such offence be *ex officio* a justice of the peace and have the power and authority of two justices of the peace anywhere in the said territories or provinces, whether or not the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined as aforesaid, extend to the place where he may have occasion to act as such justice or to exercise such power or authority, and whether the Indians charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or otherwise dealt with, are or are not within his ordinary jurisdiction, charge or supervision as Indian agent."

118. If any Indian is convicted of any crime punishable by imprisonment in a penitentiary or other place of confinement, the costs incurred in procuring such conviction, and in carrying out the various sentences recorded, may be defrayed by the Superintendent General, and paid out of any annuity or interest coming to such Indian, or to the band, as the case may be. 43 V., c.28, s.82;-47 V., c.27, s.12.

119. Whenever in this Act in which it is provided that the conviction shall take place on the evidence of one credible witness other than the informer or prosecutor, the informer or prosecutor shall, nevertheless, be allowed to give evidence. 44 V., c.17, s.13.

120. Upon any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever or by whomsoever committed, any court, judge, police or stipendiary magistrate, recorder, coroner, justice of the peace or Indian agent, may receive the evidence of any Indian or non-treaty Indian, who is destitute of the knowledge of God or of any fixed and clear belief in religion, or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian or non-treaty Indian, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as is approved by such court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent, as most binding on the conscience of such Indian or non-treaty Indian. 43 V., c.28, s.85;-45 V., c.30, s.3, *part*.

121. In the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian or non-treaty Indian, as aforesaid, shall be reduced to writing and signed by the Indian (by mark if necessary), giving the same, and verified by the signature or mark of the person acting as interpreter, if any, and by the signature of the judge, magistrate, recorder, coroner, justice of the peace, Indian agent or person before whom such evidence or information is given. 43 V., c.28, s.86;-45 V., c.30, s.3.

122. The court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent shall, before taking any such evidence, information or examination, caution every such Indian or non-treaty Indian, as aforesaid, that he will be liable to incur punishment if he does not tell the truth. 43 V., c.28, s.87;-45 V., c.30, s.3.

123. The written declaration or examination so made, taken and verified of any such Indian or non-treaty Indian, as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal proceeding, when under the like circumstances the written affidavit, examination, deposition or confession of any person might be lawfully read and received as evidence. 43 V., c.28, s.88.

124. Every solemn affirmation or declaration, in whatsoever form made or taken, by any Indian or non-treaty Indian, as aforesaid, shall be of the same force and effect as if such Indian or non-treaty Indian had taken an oath in the usual form. 43 V., c.28, s.89, *part*.

125. No prosecution, conviction or commitment under this Act shall be invalid for want of form, so long as the same is according to the true meaning of this Act. 43 V., c.28, s.98.

#### GENERAL PROVISIONS.

126. Every Indian or non-treaty Indian, resident in the Province of Manitoba, the North-West Territories or the District of Keewatin, shall be held capable of having acquired or of acquiring a homestead or pre-emption right to a quarter

section, or any portion of land in any surveyed or unsurveyed lands in the Province of Manitoba, the North-West Territories or in the District of Keewatin, or the right to share in the distribution of any lands allotted to half-breeds, subject to the following exceptions:-

- a. He shall not be disturbed in the occupation of any plot on which he has permanent improvements prior to his becoming a party to any treaty with the Crown;
- b. Nothing in this section shall prevent the Superintendent general, if found desirable, from compensating any Indian for his improvements on such a plot of land, without obtaining a formal surrender thereof from the band;
- c. Nothing in this section shall apply to any person who withdrew from any Indian treaty prior to the first day of October, in the year one thousand eight hundred and seventy-four. 43 V., c.28, s.81.

127. At the election of a chief or chiefs, or at the granting of any ordinary consent required of a band under this Act, those entitled to vote at the council or meeting there if shall be the male members of the band, of the full age of twenty-one years; and the vote of a majority of such members, at a council or meeting of the band summoned according to its rules, and held in the presence of the Superintendent General, of an agent acting under his instructions, shall be sufficient to determine such election or grant such consent. 43 V., c.28, s.73, *part*.

128. If any band has a council of chiefs or councillors, any ordinary consent required of the band may be granted by a vote of a majority of such chiefs or councillors, at a council summoned according to its rules, and held in the presence of the Superintendent General or his agent. 43 V., c.28, s.73, *part*.

129. All affidavits required under this Act, or intended to be used in reference to any claim, business or transaction in connection with Indian affairs, may be taken before the judge or clerk of any county or circuit court, or any justice of the peace, or any commissioner for taking affidavits in any court, or the Superintendent General, or the deputy of the Superintendent general, or any inspector of Indian agencies, or any Indian agent, or any surveyor duly license and sworn, appointed by the Superintendent General to inquire into, or to take evidence, or report in any matter submitted to or pending before the Superintendent General, or if made out of Canada, before the mayor or chief magistrate of, or the British consul in, any city, town or municipality, or before any notary public. 43 V., c.28, s.108, *part*.

130. Copies of any records, documents, books or papers belonging to or deposited in the department, attested under the signature of the Superintendent General, shall be evidence in all cases in which the original records, documents, books or papers would be evidence. 43 V., c.28, s.109.

131. All regulations made under this Act shall be published in the *Canada Gazette*. 44 V., c.17, s.1, *part*.

0. The said Act is hereby amended by adding the following section thereto:-

"**132.** Notwithstanding anything contained in this Act, the Governor in Council may, from time to time, direct that any fine, penalty or forfeiture or any portion thereof which would otherwise belong to the Crown for the public uses of Canada, or be paid to the Minister of Finance and Receiver General for the use of any band of Indians, or which would belong to Her Majesty to form part of the fund for any body of Indians or non-treaty Indians, or which is ordered to be disposed of in any particular manner, be paid to any Provincial, municipal or local authority."

1. Section one hundred and thirty-two, as added to The Indian Act by section five of chapter twenty-two of the Statutes of 1888, is hereby repealed and the following substituted therefor:--

"**132.** Every fine, penalty or forfeiture under this Act, except so much thereof as is payable to an informer or person suing therefor, shall belong to Her Majesty for the benefit of the band of Indians with respect to which or to one or more members of which the offence was committed, or to which the offender if an Indian belongs; but the Governor General in Council may from time to time direct that the same be paid to any provincial, municipal or local authority which wholly or in parts bears the expense of administering the law under which such fine, penalty or forfeiture is

imposed, or that the same be applied in any other manner deemed best adapted to attain the objects of such law or to secure its due administration; and may in case of doubt decide what band is entitled to the benefit of any such fine, penalty or forfeiture."

2. The said Act is hereby amended by adding the following sections thereto:-

"**133.** The Superintendent General may, from time to time, by public notice, declare that, on and after a day therein named, the laws respecting game in force in the Province of Manitoba or The Western Territories, or respecting such game as is specified in such notice, shall apply to Indians within the said Province or Territories, as the case may be, or to Indians in such parts thereof as to him seems expedient."

"**134.** No official or employee connected with the inside or outside service of the Department of Indian Affairs, and no missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians, and no school teacher on an Indian reserve, shall trade with any Indian, or sell to him, directly or indirectly, any goods or supplies, cattle or other animals:

"2. In Manitoba and the North -West Territories no person or persons shall be allowed, on an Indian reserve, to barter, directly or indirectly, with any Indian, or sell to him any goods or supplies, cattle or other animals, without the special license in writing of the Superintendent General,-which license he may at any time revoke:

"3. Every offender against the provisions of this section shall be liable to a fine equal in amount to double the sum received for the goods, supplies, cattle or other animals sold, and in addition to the costs of prosecution before a police magistrate, a stipendiary magistrate, a justice of the peace or the Indian agent for the locality where the offence occurs; and the evidence of the Indian to whom the sale was made, and the production to, or view by, the magistrate or Indian agent of the article or animal sold, shall be sufficient evidence on which to convict."

10. Subsection one of section one hundred and thirty-four added to The Indian Act by section ten of chapter twenty-nine of the Statutes of 1890, is hereby amended by inserting after the word "shall," in the fifth line thereof, the following words: "without the special license, in writing, of the Superintendent General of Indian Affairs, which license he may at any time revoke."

"**135.** Any offender sentenced by a magistrate or Indian agent, under any provision of this Act or of any amendment thereof, to the payment of a penalty or of costs, or of both, shall, in default of payment, be liable to imprisonment notwithstanding that such provision does not expressly authorize such imprisonment to be imposed in the event of non-payment of the penalty; but the term of such imprisonment shall not exceed that to which the offender may be sentenced for he offence."

0. The said Act is hereby further amended by adding the following section thereto:-

"**136.** Where shooting privileges over a reserve or part of a reserve, or fishing privileges on any marsh, pond, river, stream or creek, upon or running through a reserve, have, with the consent of the Indians of the band, been leased or granted to any person, it shall not be lawful for any person not under such lease or grant entitled so to do, or for any Indian other than an Indian of the band, to hunt, shoot, kill or destroy any game animals or birds, or to fish for, take, catch or kill any fish to which such exclusive privilege extends, upon the reserve or part of a reserve, or in any marsh, pond, river, stream or creek covered by such lease or grant; and any person or Indian acting in contravention of this section shall, in addition to any other penalty or liability thereby incurred, be liable, on summary conviction, for every such offence to a penalty not exceeding ten dollars and not less than five dollars, and, in default of payment, to imprisonment for any term not exceeding one month."

11. *The Indian Act* is hereby amended by adding the following sections thereto:-

"**137.** The Governor in Council may make regulations, either general or affecting the Indians of any province or of any named band, to secure the compulsory attendance of children at school.

"2. Such regulations, in addition to any other provisions deemed expedient, may provide for the arrest and conveyance to school, and detention there, of truant children and of children who are prevented by their parents or guardians from attending; and such regulations may provide for the punishment, upon summary conviction, by fine or imprisonment, or both, of parents and guardians, or persons having the charge of children, who, fail, refuse or neglect such children to attend school."

"138. The Governor in Council may establish an industrial school or a boarding school for Indians, or may declare any existing Indian school to be such industrial school or boarding school for the purposes of this section.

"2. The Governor in Council may make regulations, which shall have the force of law, for the committal by justices or Indian agents of children of Indian blood under the age of sixteen years, to such industrial school or boarding school, there to be kept, cared for and educated for a period not extending beyond the time at which such children shall reach the age of eighteen years.

"3. Such regulations may provide, in such manner as to the Governor in Council seems best, for the application of the annuities and interest moneys of children committed to such industrial school or boarding school, to the maintenance of such schools respectively, or to the maintenance of the children themselves."

"139. The Governor in Council may, with the consent of a band, authorize and direct the expenditure of any capital moneys standing at the credit of such band, in the purchase of land as a reserve for the band or as an addition to its reserve, or in the purchase of cattle for the band, or in the construction of permanent improvements upon the reserve of the band, or such works thereon or in connection therewith as, in his opinion, will be of permanent value to the band, or will, when completed, properly represent capital."

8. *The Indian Act* is hereby amended by adding the following sections thereto:-

"140. When by a majority vote of a band, or the council of a band, an Indian of one band is admitted into membership in another band, and his admission thereinto is assented to by the superintendent general, such Indian shall cease to have any interest in the lands or moneys of the band of which he was formerly a member, and shall be entitled to share in the lands and moneys of the band to which he is so admitted; but the superintendent general may cause to be deducted from the capital of the band of which such Indian was formerly a member his per capita share of such capital and place the same to the credit of the capital of the band into membership in which he had been admitted in the manner aforesaid.

"141. The Governor in Council may reduce the purchase money due or to become due on sales of Indian lands, or reduce or remit the interest on such purchase money, or reduce the rent at which Indian lands have been leased, when he considers the same to be excessive; and all such reductions heretofore made are hereby confirmed.

"2. A return setting forth all the reductions and remissions made under this section during the preceding fiscal year shall be submitted to both Houses of Parliament on or before the twentieth day of July in each year, if Parliament be then sitting, and otherwise within twenty days after the opening of the then ensuing session of Parliament."

## CHAPTER 44.

The Indian Advancement Act.

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

INTERPRETATION.

1. In this Act, unless the context otherwise requires, the expressions used in this Act shall have the same meaning as the same expressions have in "*The Indian Act*," but the expression "reserve" in this Act, includes two or more reserves, and the expression "band" includes two or more bands united for the purposes of this Act by the Order in Council applying it. 47 V., c.28, s.2.

#### APPLICATION OF ACT.

2. This Act may be made applicable, as hereinafter provided, to any band of Indians in any of the Provinces, or in the North-West Territories of Canada, or in the District of Keewatin, except in so far as it is herein otherwise provided:
3. The provisions of "*The Indian Act*" shall continue to apply to every band to which this Act is, from time to time, declared to apply, in so far only as they are not inconsistent with this Act: Provided always, that if it thereafter appears to the Governor in Council that this Act cannot be worked satisfactorily by any band to which it has been declared to apply, the Governor in Council may declare that after a day named in the Order in Council, this Act shall no longer apply to such band, and such band shall thereafter be subject only to "*The Indian Act*," except that by-laws, rules and regulations theretofore made under this Act, and not inconsistent with the seventy-sixth section of "*The Indian Act*," shall continue to force until they are repealed by the Governor in Council. 47 V., c.28, ss.1 and 13.

#### GENREAL PROVISIONS.

4. Whenever any band of Indians is declared by the Governor in Council to be considered fit to have this Act applied to them, this Act shall so apply, from the time appointed in such Order in Council. 47 V., c.28, s.3.
5. Every reserve to which this Act is to apply shall, by the Order in Council applying it, be divided into sections, the number of which shall not exceed six or be less than two, and each section shall have therein a number of male Indian of full age, equal, as nearly as is found convenient, to such proportion of the male Indians of full age resident on the reserve, as one section of the reserve bears to all the sections:
  0. The sections shall be distinguished by numbers from one upwards, and the reserve shall be designated in the Order on Council as "*The Indian Reserve*," inserting such name as is thought proper, and the sections shall be designated by the numbers assigned to them respectively. 47 V., c.28, s.4.
  0. On a day and at a place, and between the hours prescribed in the Order in Council, the male Indians of the full age of twenty-one years, resident on the reserve, hereinafter termed electors, shall meet for the purpose of electing the members of the council of the reserve."
  0. One or more members, as provided in such Order in Council to represent each section thereof, shall be elected by the electors resident in such section, and the Indian or Indians, as the case may be, having the votes of the greatest number of electors for each section, shall be the councillor or councillors, as the case may be, therefor, provided he or they are respectively possessed of, and living in, a house in the reserve."
  1. The agent for the reserve shall preside at the election, or in his absence some person appointed by him as his deputy, with the consent of the Superintendent General, or some person appointed by the Superintendent General may preside at the said election, and shall take and record the votes of the electors, and may,- subject to appeal to the Superintendent General by or on behalf of any Indian or Indians who deems himself or themselves aggrieved by the action of such agent or deputy, or of such agent or person appointed as aforesaid,-admit or reject the claim of any Indian to be an elector, and may determine who are the councillors for the several sections, and shall report the same to the Superintendent General. 47 V., c.28, s.5.
  2. In any case of an equality of votes at any such election the agent or person presiding thereat shall have the casting vote.

3. On a day and at a place, and between the hours prescribed by the Superintendent General, if the day fixed for the same is within eight days from the date at which the councillors were elected, the said councillors shall meet and elect one of their number to act as chief councillor and the councillor so elected shall be the chief councillor. 47 V., c.28, s.6.
4. The councillors shall remain in office until others are elected in their stead, and an election for that purpose shall be held in like manner, at the same place and between the like hours on the like day, in each succeeding year, if it is not a Sunday or holiday, in which case it shall be held the next day thereafter which is not a Sunday or a holiday:
  0. If there is a failure to elect on the day appointed for the election, the Superintendent General shall appoint another day on which it shall be held. 47 V., c.28, s.7.
  0. In the event of a vacancy in the council, by the death or inability to act of any councillor, more than three months before the time for next election, an election to fill such vacancy shall be held by the agent or his deputy, after such notice to the electors concerned as the Superintendent General directs, at which only the electors of the section represented by the councillor to be replaced shall vote, and to such election the provisions respecting other elections shall apply, so far as they are applicable:
  0. If the councillor to be replaced is the chief councillor, than an election of a chief councillor shall be held in the manner already provided, but the day fixed for such election shall be at least one week after the date when the new councillor be elected:
    1. During the time of any vacancy the remaining councillors shall constitute the council, and they may, in the event of a vacancy in the office, appoint a chief from among themselves for the time being. 47 V., c.28, s.8.
  0. The council shall meet the despatch of business, at such place on the reserve and at such times as the agent for the reserve appoints, but which shall not exceed twelve times or be less than four times in the year for which it is elected, and due notice of the time and place of each meeting shall be given to each councillor by the agent:
    2. At such meeting the agent for the reserve, or his deputy appointed for the purpose, with the consent of the Superintendent General, shall preside and record the proceedings, and may control and regulate all matters of procedure and form, adjourn the meeting to a time named, or *sine die*, and report and certify all by-laws and other acts and proceedings of the council to the Superintendent General, to which certificate full faith and credence shall be given in all courts and places whatsoever:
    3. He shall address the council and explain and advise them upon their powers and duties, and any matter requiring their consideration, but he shall have no vote on any question to be decided by the council:
    4. Each councillor present shall have a vote on every question to be decided by the council, and such question shall be decided by the majority of votes, the chief councillor voting as a councillor and having also a casting vote, in case the votes would otherwise be equal:
    5. Four councillors shall be a quorum for the despatch of any business. 47 V., c.28 s.9.
  0. The council may make by-laws, rules and regulations, which, if approved and confirmed by the Superintendent General, shall have force as law within and with respect to the reserve, and the Indians residing thereon, upon all or any of the following subjects, that is to say;-
    - a. The religious denomination to which the teacher or teachers of the school or schools established on the reserve shall belong, as being that of the majority of the Indians resident on the reserve; but the Protestant or Roman Catholic minority of the reserve may also have a separate school or schools, with the approval of and under regulations made by the Governor in Council;
    - b. The care of the public health;
    - c. The observance of order and decorum at elections of councillors, meetings of the council, and assemblies

of Indians on other occasions, or generally, on the reserve, by Indians on other occasions, or generally, on the reserve, by the appointment of constables and erection of lock-up houses, or by the adoption of other legitimate means:

- d. The repression of intemperance and profligacy;
- e. The sub-division of the land in the reserve, and the distribution of the same amongst the members of the band; also, the setting apart, for common use, of woodland and land for other purposes;
- f. The protection of and the prevention of trespass by cattle, sheep, horses, mules and other domesticated animals; and the establishment of pounds, the appointment of poundkeepers and the regulation of their duties, fees and charges;
- g. The construction and repair of school houses, council houses and other buildings for the use of the Indians on the reserve, and the attendance at school of children between the ages of six and fifteen years;
- h. The construction, maintenance and improvement of roads and bridges, and the contributions, in money or labor, and other duties of residents on the reserve, in respect thereof; and the appointment of road masters and fence viewers, and their powers and duties;
- i. The construction and maintenance of water courses, ditches and fences, and the obligations of vicinage, the destruction and repression of noxious weeds and the preservation of the wood on the various holdings, or elsewhere, in the reserve;
- j. The removal and punishment of persons trespassing upon the reserve, or frequenting it for improper purposes;
- k. The raising of money for any or all of the purposes for which the council may make by-laws, as aforesaid, by assessment and taxation on the lands of Indians enfranchised, or in possession of lands by location ticket in the reserve, the valuation for assessment being made yearly, in such manner and at such times as are appointed by the by-law in that behalf, and being subject to revision and correction by the agent for the reserve, and in force only after it has been submitted to him and corrected, if, and as he thinks justice requires, and approved by him,-the tax to be imposed for the year in which the by-law is made, and not to exceed one-half of one per cent. on the assessed value of the land on which it is to be paid; and if such tax is not paid at the time prescribed by the by-law, the amount thereof, with the addition of one-half of one per cent. thereon, may be paid by the Superintendent General to the treasurer out of the share of the Indian in default in any moneys of the band; or if such share is insufficient to pay the same, the defaulter shall, for violation of the by-law imposing the tax, be liable to a penalty equal to the deficiency caused by such default: Provided always, that any Indian deeming himself aggrieved by the decision of the agent, made as hereinbefore provided, may appeal to the Superintendent General, whose decision in the matter shall be final;
- l. The appropriation and payment to the local agent, as treasurer by the Superintendent general, of so much of the moneys of the band as are required for defraying expenses necessary for carrying out the by-laws made by the council, including those incurred for assistance absolutely necessary for enabling the council or the agent to perform the duties assigned to them;
- m. The imposition of punishment by penalty or by imprisonment, or by both, for any violation of or disobedience to any by-law, rule or regulation made under this Act, committed by any Indian of the reserve; but such penalty shall, in no case, except for non-payment off taxes, exceed thirty dollars, nor the imprisonment thirty days; the proceedings for the imposition of such punishment may be taken before one justice of the peace, under the "*Act respecting summary proceedings before Justices of the Peace;*" and the amount of any such penalty shall be paid over to the treasurer of the band to which the Indian incurring it belongs, for the use of such band;
- n. The amendment, repeal or re-enactment of any such by-law, by a subsequent by-law, made and approved as hereinbefore provided. 47 V., c. 28, s.10.

0. Every member of a council elected under the provisions of this Act, who is proved to be a habitual drunkard or to be living in immorality, or to have accepted a bribe, or to have been guilty of dishonesty or of malfeasance of office of any kind, shall, on proof of the fact to the satisfaction of the Superintendent General, be disqualified from acting as a member of the council, and shall, on being notified, cease forthwith so to act; and the vacancy occasioned thereby shall be filled in the manner hereinbefore provided. 47 V., c.28, s.11.
1. A copy of any by-law, rule or regulation under this Act, approved by the Superintendent General, and purporting to be certified by the agent for the band to which it relates to be a true copy thereof, shall be evidence of such by-law, rule or regulation, and of such approval, without proof of the signature of such agent; and no such by-law, rule or regulation shall be invalidated by any defect of form, if it is substantially consistent with the intent and meaning of this Act. 47 V., c.28, s.12.