

CAP. VI.

An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act 31st Victoria, Chapter 42.

[Assented to 22nd June, 1869.]

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

What shall be deemed lawful possession of lands by Indians.

1. In Townships or other tracts of land set apart or reserved for Indians in Canada, and subdivided by survey into lots, no Indian or person claiming to be of Indian blood, or intermarried with an Indian family, shall be deemed to be lawfully in possession of any land in such Townships or tracts, unless he or she has been or shall be located for the same by the order of the Superintendent General of Indian affairs ; and any such person or persons, assuming possession of any lands of that description, shall be dealt with as illegally in possession, and be liable to be summarily ejected therefrom, unless that within six months from the passing of this Act, a location title be granted to such person or persons by the said Superintendent General of Indian affairs or such officer or person as he may thereunto depute and authorize ; but the conferring of any such location title shall not have the effect of rendering the land covered thereby transferable or subject to seizure under legal process.

Proceedings to eject parties not lawfully in possession.

2. Any person liable to be summarily ejected, under the next preceding section, may be removed from the land of which he may have assumed possession, in the manner provided by the eighteenth section of the Act passed in the thirty-first year of Her Majesty's reign, chapter forty-two, with respect to persons other than Indians or those intermarried with Indians settling on the lands therein referred to without license of the Secretary of State ; and the said section and the nineteenth, twentieth and twenty-first sections of the said Act, are hereby extended to and shall apply to persons liable to be summarily ejected under this Act, as fully in all respects as to persons liable to be removed from lands under the said Act.

Penalty on persons selling intoxicating liquors to Indians.

3. Any person who shall sell, barter, exchange or give to any Indian man, woman, or child, any kind of spirituous or other intoxicating liquors, or cause or procure the same to be done, or open and keep or cause to be opened and kept, on any land set apart or reserved for Indians a tavern, house or building where spirituous or intoxicating liquors are sold or disposed of, shall, upon conviction in the manner provided by section twelve of the said Act thirty-first Victoria, chapter forty-two, be subject to the fine therein mentioned ; and in default of payment such fine, or of any fine imposed by the above mentioned twelfth section of the said Act, any person so offending may be committed to prison by the Justice of the Peace before whom the conviction shall take place, for a period not more than three months, or until such fine be paid ; and the commander of any steamer or other vessel, or boat, from on board or on board of which, any spirituous or other intoxicating liquor shall have been, or may be sold or disposed of to any Indian man, woman, or child, shall be liable to a similar penalty.

Imprisonment in default of payment.

Division of annuity money, &c.

4. In the division among the members of any tribe, band, or body of Indians, of any annuity money, interest money or rents, no person of less than one fourth Indian blood, born after the passing of this Act, shall be deemed entitled to share in any annuity, interest or rents, after a certificate to that effect is given by the Chief or Chiefs of the band or tribe in Council, and sanctioned by the Superintendent General of Indian affairs.

Indians convicted of crime excluded.

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

How costs to be paid.

Proviso added to 31 V., c.4, s.15.

6. The fifteenth section of the thirty-first Victoria, Chapter forty-two, is amended by adding to it the following proviso :

Indian women marrying other than Indians, not to be Indians within this Act.

“Provided always that any Indian woman marrying any other than an Indian, shall cease to be an Indian within the meaning of this Act, nor shall the children issue of such marriage be considered as Indians within the meaning of this Act ; Provided also, that any Indian woman marrying an Indian of any other tribe, band or body shall cease to be a member of the tribe, band or body to which she formerly belonged, and become a member of the tribe, band or body of which her husband is a member, and the children, issue of this marriage, shall belong to their father's tribe only.”

Power of Superintendent General in cases of desertion.

7. The Superintendent General of Indian affairs shall have power to stop the payment of the annuity and interest money of any person of Indian blood who may be proved to the satisfaction of the Superintendent General of Indian affairs to have been guilty of deserting his wife or child, and the said Superintendent may apply the same towards the support of any woman or child so deserted.

Aid to sick or destitute persons.

8. The Superintendent General of Indian Affairs in cases where sick or disabled, or aged and destitute persons are not provided for by the tribe, band or body of Indians of which they are members, may furnish sufficient aid from the funds of each tribe, band or body, for the relief of such sick, disabled, aged or destitute persons.

Property of Indians to descend to their children, for their lives only.

9. Upon the death of any Indian holding under location title any lot or parcel of land, the right and interest therein of such deceased Indian shall, together with his goods and chattels, devolve upon his children, on condition of their providing for the maintenance of their mother, if living ; and such children shall have a life estate only in such land which shall not be transferable or subject to seizure under legal process, but should such Indian die without issue, such lot or parcel of land and goods and chattels shall be vested in the Crown for the benefit of the tribe, band or body of Indians, after providing for the support of the widow (if any) of such deceased Indian.

Election of chiefs.

10. The Governor may order that the Chiefs of any tribe, band or body of Indians shall be elected by the male members of each Indian Settlement of the full age of twenty-one years at such time and place, and in such manner, as the Superintendent General of Indian Affairs may direct, and they shall in such case be elected for a period of three years, unless deposed by the Governor for dishonesty, intemperance, or immorality, and they shall be in the proportion of one Chief and two Second Chiefs for every two hundred people ; but any such band composed of thirty people may have one Chief ; Provided always that all life Chiefs now living shall continue as such until death or resignation, or until their removal by the Governor for dishonesty, intemperance or immorality.

Proviso as to life chiefs.

Duties of chiefs with respect to roads, &c.

11. The Chief or Chiefs of any tribe, band or body of Indians shall be bound to cause the roads, bridges, ditches and fences within their Reserve to be put and maintained in proper order, in accordance with the instructions received from time to time from the Superintendent General of Indian Affairs ; and whenever in the opinion of the Superintendent General of Indian Affairs the same are not so put or maintained in order, he may cause the work to be performed at the cost of the said tribe, band or body of Indians, or of the particular Indian in default, as the case may be either out of their annual allowances, or otherwise.

Chiefs to frame rules for certain purposes.

12. The Chief or Chiefs of any Tribe in Council may frame, subject to confirmation by the Governor in Council, rules and regulations for the following subjects, viz :

1. The care of the public health.
2. The observance of order and decorum at assemblies of the people in General Council, or on other occasions.
3. The repression of intemperance and profligacy.
4. The prevention of trespass by cattle.
5. The maintenance of roads, bridges, ditches and fences.
6. The construction of and maintaining in repair of school houses, council houses and other Indian public buildings.
7. The establishment of pounds and the appointment of pound-keepers.

Life estates in lands may be granted in certain cases.

13. The Governor General in Council may on the report of the Superintendent General of Indian Affairs order the issue of Letters Patent granting to any Indian who from the degree of civilization to which he has attained, and the character for integrity and sobriety which he bears, appears to be a safe and suitable person for becoming a proprietor of land, a life estate in the land which has been or may be allotted to him within the Reserve belonging to the tribe band or body of which he is a member ; and in such case such Indian shall have power to dispose of the same by will, to any of his children, and if he dies intestate as to any such lands, the same shall descend to his children according to the laws of that portion of the Dominion of Canada in which such lands are situate, and the said children to whom such land is so devised or descends shall have the fee simple thereof.

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

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

Provision for widows and unmarried daughters.

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

Duties of Indians with respect to enfranchisement.

16. Every such Indian shall, before the issue of the letters patent mentioned in the thirteenth section of this Act, declare to the Superintendent General of Indian Affairs, the name and surname by which he wishes to be enfranchised and thereafter known, and on his receiving such letters patent, in such name and surname, he shall be held to be also enfranchised, and he shall thereafter be known by such name and surname, and his wife and minor unmarried children, shall be held to be enfranchised ; and from the date of such letters patent, the provisions of any Act or law making any distinction between the legal rights and liabilities of Indians and those of Her Majesty's other subjects shall cease to apply to any Indian, his wife or minor children as aforesaid, so declared to be enfranchised, who shall no longer be deemed Indians within the meaning of the laws relating to Indians, except in so far as their right to participate in the annuities and interest money and rents, of the tribe, band, or body of Indians to which they belonged is concerned ; except that the twelfth, thirteenth, and fourteenth sections of the Act thirty-first Victoria, chapter forty-two, and the eleventh section of this Act, shall apply to such Indian, his wife and children.

Effect of enfranchisement.

Allotment of locations.

17. In the allotting of locations, and in the issue of Letters Patent to Indians for land, the quantity of land located or to be located or passed into Patent, shall, except in special cases to be reported upon to the Governor in Council, bear (as nearly as may be) the same proportion to the total quantity of land in the Reserve, as the number of persons to whom such lands are located or patented bears to the total number of heads of families of the tribe, band or body of Indians and male members thereof not being heads of families, but being above the age of fourteen years, in such reserve.

Appointment of tutor to minor children of enfranchised Indians.

18. If any Indian enfranchised under this Act dies leaving any child under the age of twenty-one years, the Superintendent General of Indian Affairs shall appoint some person to be the tutor or guardian as the case may be of such child as to property and rights until it attains the age of twenty-one years ; and the widow of such Indian, being also the mother of any such child, shall receive its share of the proceeds of the estate of such Indian during the minority of the child, and shall be entitled to reside on the land left by such Indian, so long as in the opinion of the Superintendent General she lives respectably.

Indians falsely declaring themselves enfranchised.

19. Any Indian falsely representing himself as enfranchised under this Act when he is not so, shall be liable, on conviction before any one Justice of the Peace, to imprisonment for any period not exceeding three months.

Lands of enfranchised Indians exempt from seizure.

20. Such lands in any Indian Reserve as may be conveyed to any enfranchised Indian by Letters Patent, shall not, as long as the life estate of such Indian continues, be subject to seizure under legal process, or be mortgaged, hypothecated, sold, exchanged, transferred, leased, or otherwise disposed of.

Legal remedies of Indians.

21. Indians not enfranchised shall have the right to sue for debt due to them, or for any wrong inflicted upon them, or to compel the performance of obligations made with them.

Duty of Under Secretary of State.

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

Con. Stat. Can.,
cap. 9 repealed.

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

31 Vic. c. 32.

24. This Act shall be construed as one Act with the Act thirty-first Victoria, chapter forty-two.