

(iii.) THE PERIOD OF THE CONSTITUTION OF UPPER CANADA EXTENDING FROM 1792 TO 1840

During this period several Acts were passed regulating the dealings with Indians, but none in prevention of the purchase of lands.

(iv.) THE PERIOD EXTENDING FROM THE UNION OF THE PROVINCES, FROM 1840 TO 1865.

In 1850 the Act introduced by Mr. Baldwin, 13 & 14 Vic. chap. 74—rendering *agreements with Indians, for lands, invalid*, and making it a misdemeanour to treat with them, and various other regulations, for which see Act itself.

This Act is, of itself, evidence of the prior non-existence of any Rule of Law against purchasing or leasing lands from Indians.

Chapter IX of the Consolidated Statutes of Canada embodies the various enactments with reference to the Indians.

II.—As to the Judgment obtained against the McCormicks on the Information for Intrusion.

Referring to the judgment by the learned late Chief Justice Sir John Beverley Robinson, in the case—as reported in Vol. 18, of the Queen's Bench Reports, page 131—it is evident that, had the McCormick claim, to the Island, been made to appear to have been founded upon the Lease from the Indians to Thomas McKee, a half-breed, transmitting to his Son, and by him transferred to William McCormick, their father—the Government never having obtained the cession of the Island, and the McCormicks holding under a title independent and adverse—the decision of the learned Chief Justice could not have been otherwise than the reverse of what it was. And it is evident, from the remarks of his Lordship, that he felt that the case of the McCormicks had not been fairly submitted to the Court, by the special case agreed on for the purpose, and by which their case was made to depend solely upon their undisturbed possession for a period of upwards of sixty years, as barring the Crown's right to recover, thus, by completely ignoring the Indian Lease, not shewing that their "possession had been" adverse to the Crown and not permissive, and *had not been a mere continued possession taken, in the first instance, by a mere intruder not asserting title*,"—a "Squatter" in fact.

The important defect, in the statement of the case of the McCormicks, being apparent, from the very judgment of his Lordship, nothing need be added to induce the Government to perform the act of justice of waiving the advantage of the judgment thus obtained.

III. As to the disposition in which it is hoped the claim of the McCormick family will be received, and dealt with, by the Government.

The argument, had under the first head, goes to shew that the McCormicks have a good paper title to the Island, or a right to it, acquired *bonâ fide*. But, in submitting their case, the McCormicks feel they are not coming to a corporation, investigating their title as if for a loan, but to the Government, as *parens patriæ*, mindful of the just claims, and solicitous for the welfare, of all loyal and loving subjects. They conceive that, legally and rightfully, they have acquired the possession and ownership of the Island they occupy, and, in approaching the Government with their case, (even were it the fact that either the Lease, under which they hold, or the possession originally conferred by the Indians and transferred to them, was irregular or deficient in any respect,) the petitioners would feel confident that the Government of the country never would, under any pretence, attempt to deprive them of holdings undisturbed for upwards of three quarters of a century. But, on the contrary, that the Government would protect them in their property, and confirm it to them in the manner most advantageous to them.

IV. As to the ways and means by which the requests of the Petitioners may best be effectuated.

The members of the McCormick family, the Petitioners, are ready and willing to surrender to the Crown their Lease, in order that their respective titles under it may be confirmed by patents. And it is respectfully asked that the Government will take a surrender of the reversionary interest of the Indians, if the *bands, who originally owned the Island*, are still in existence. And if, upon enquiry, it should be found that those bands are extinct, then that the Government assume the reversionary interest, and, accepting the surrender of the Lease, issue patents, in the manner prayed for in the petition, to each member of the family as entitled.