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ACTS



RELATING TO

INDIAN MATTERS

IN THE

PROVINCE OF CANADA.

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Toronto:

PRINTED BY S. DERBISHIRE & G. DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.

1858.



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CHAP. XV.

An Act for the protection of the Lands of the Crown in this Province, from trespass and injury.

[Passed 11th May, 1839.]

WHEREAS the lands appropriated for the residence of certain Indian Tribes in this Province, as well as the Preamble.

unsurveyed lands, and lands of the Crown ungranted and not under location, or sold or held by virtue of any lease or license of occupation, have from time to time been taken possession of by persons having no lawful right or authority so to do : And whereas the said lands have also been from time to time unlawfully entered upon, and the timber, trees, stone and soil, removed therefrom, and other injuries have been committed thereon ; And whereas it is necessary to provide by law for the summary removal of persons unlawfully occupying the said lands, as also to protect the same from future trespass and injury : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, " An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, ' An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' and to make further provision for the Government of the said Province," and by the authority of the same, That it shall and may be lawful for the Lieutenant-Governor of the Province, from time to time, as he shall deem necessary, to appoint two or more Commissioners under the Great Seal of this Province, to receive information, and to inquire into any complaint that may be made to them, or any one of them, against any person for illegally possessing himself of any of the aforesaid lands, for the cession of which to Her Majesty no agreement hath been made with the Tribes occupying the same, and who may claim title thereto ; and also to in-

Commissioners may be appointed to inquire concerning trespasses committed upon Indian Lands, &c.

quire into any complaint that may be made to them, or any one of them, against any person for having unlawfully cut down or removed any timber, trees, stone or soil, on such lands, or for having done any other wilful and unlawful injury thereon.

Commissioners, on finding illegal possession ;

To give notice to intruder to remove within thirty days ;

On neglecting to remove, warrant of ejectment may be directed to and executed by the Sheriff.

II. And be it further enacted by the authority aforesaid, That if such Commissioners, or any one of them, shall, upon investigation of any complaint made, as aforesaid, against any person for being unlawfully in possession of any of the lands hereinbefore mentioned, find and determine that such person is unlawfully in possession of such lands, it shall be lawful for the said Commissioners, or any one of them, to give notice to and require such person to remove from the occupation of such lands, within not less than thirty days from the day of the service of such notice ; and if the person so required to remove from the occupation of such lands, shall neglect to remove from the same within the time specified in the said notice, it shall be lawful for the said Commissioners, or any one of them, to issue a warrant under their hands and seals, or the hand and seal of any one of them, directed to the Sheriff of the District wherein such lands are situate, commanding him to eject and remove the person in such warrant mentioned from the lands so unlawfully occupied by him ; which warrant the Sheriff to whom the same is directed shall have full power and authority to execute, and shall execute and carry into effect in the same manner as by law he is authorized to execute and carry into effect writs issued by Her Majesty's Courts of Law for restoring and delivering possession of lands recovered in any action of trespass in this Province.

Penalty for resuming possession after having been removed by virtue of this Act.

III. And be it further enacted by the authority aforesaid, That if any person who shall have been removed from the lands and tenements aforesaid, in manner hereinbefore mentioned, shall return and unlawfully resume the occupation thereof, or any part thereof, it shall be lawful for the said Commissioners, or any one of them, upon complaint made and satisfactory proof being adduced, that such person has returned and unlawfully resumed the occupation of the lands and tenements from which he had been removed, as aforesaid, to order and direct that he be committed to the common Gaol of the District in which such lands are situate, for a term not exceeding thirty days, and that he pay a fine to Her Majesty, Her Heirs and Successors, not exceeding twenty pounds.

Penalty not exceeding £20 for unlawfully cutting and removing trees, quarrying, &c.

IV. And be it further enacted by the authority aforesaid, That if any such Commissioners, or any one of them, shall, upon investigation of any complaint made, as aforesaid, against any person for having unlawfully cut down or removed any timber or trees, or for having quarried upon, or removed any stone or other materials from the lands aforesaid, find the person charged with such offence guilty thereof, it shall be lawful for such Commissioners, or any one of them, to order and di-

rect that he pay a fine to Her Majesty, not exceeding twenty pounds; and in default of paying the same, that he be committed to the common Gaol of the District, for a period not exceeding three months.

Imprisonment
for default of
payment.

V. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Commissioners aforesaid, or any one of them, to order and direct that all timber and trees unlawfully cut down, or any stone quarried upon the lands aforesaid, and which have not been removed from off the same, be seized and detained, and to cause the same to be seized and detained, and afterwards to sell and dispose of the same, according to such instructions as they, from time to time, shall receive from the Lieutenant Governor to that effect.

Timber, &c.,
cut but not
removed, may
be seized and
sold.

VI. And be it further enacted by the authority aforesaid, That the Commissioners, or any one of them, appointed under and by virtue of this Act, shall have full power and authority to summon and call before them any person as a witness, to give evidence upon the subject of any complaint or matter the said Commissioners by this Act are authorized to investigate, and to administer in the usual form to such witness an oath, that he will true answer make to all such questions as shall be put to him in reference to the matter under investigation; and if such witness shall be guilty of wilful false swearing in giving his evidence, as aforesaid, he shall on conviction be deemed guilty of wilful and corrupt perjury, and be liable to be punished in the same manner as persons convicted of wilful and corrupt perjury are now by law liable to be punished.

Commissioners
authorized
to summon
witnesses;

And examine
upon oath;

False swear-
ing under
this Act, per-
jury.

VII. And be it further enacted by the authority aforesaid, That all moneys and fines levied and collected under and by virtue of this Act shall, after deducting the expenses of collecting the same, be paid into the hands of the Receiver-General, and accounted for as part of the hereditary revenues of the Crown in this Province, or appropriated for the benefit of the Indian Tribes in this Province, in such manner as the Lieutenant Governor, by and with the advice and consent of the Executive Council of the Province, shall direct, as the case may require.

Appropriation
of moneys le-
vied under
this Act.

VIII. And be it further enacted by the authority aforesaid, That when any person shall be charged with any offence against the provisions of this Act, the Commissioner or Commissioners appointed to examine into the same, shall, before entering upon the investigation of such charge, summon the party accused to appear before him or them, at a place to be named in the said summons; and if he shall not appear there, upon proof of the due service of such summons, by delivering the same to him personally, the Commissioner or Commissioners may proceed to hear and determine the complaint *ex parte*.

Person ac-
cused to be
summoned
previous to
investigation
of charge;

On default of
appearance
complaint
may be deter-
mined *ex
parte*.

Commissioners empowered to issue, and Sheriffs and other officers bound to execute their warrants.

IX. And be it further enacted by the authority aforesaid, That it shall be lawful for any Commissioner or Commissioners, duly appointed and acting under the authority of this Act, to issue any warrant or warrants under their hands and seals, directed to any Sheriff, Gaoler or Peace Officer, of the District in which any proceeding shall be had before them, commanding such Sheriff, Gaoler or Peace Officer, to carry into effect any order by them made in respect to any matter within their jurisdiction; and such warrant or warrants shall be executed by the Sheriff, Gaoler or Peace Officer, to whom the same may be directed, in the same manner as warrants issued by any of Her Majesty's Justices of the Peace are executed.

Commissioners entitled to same protection as Justices of the Peace, &c.

X. And be it further enacted by the authority aforesaid, That the Commissioners appointed under and by virtue of this Act, and all others acting under their authority, shall be entitled to the same privileges and protection in respect of any action or suit that may be instituted against them for any act by them done, that by law is granted and secured to any Justice of the Peace, Sheriff, Gaoler or Peace Officer, against whom an action may be brought for any thing by him done in the execution of his office.

Appeal lies against judgment of Commissioners to the Vice-Chancellor.

XI. And be it further enacted by the authority aforesaid, That in case any person shall be dissatisfied with the judgment or decision of the said Commissioners, it shall and may be lawful for him at any time, not exceeding three months from the date of such judgment or decision, upon giving fourteen days' notice in writing of his intention to the said Commissioners, who shall thereupon transmit to the proper officer of the Court, for the use thereof, a copy of their judgment, together with the evidence taken before them the said Commissioners; to appeal therefrom to the Court of Chancery of this Province, and the Vice-Chancellor is hereby authorized and empowered to revise, alter, affirm or annul the decision of the said Commissioners, or to order such further inquiry to be made, or if he shall see fit, to direct an issue to be tried at law touching the matter in dispute, and to make such orders and directions therein for payment of costs, and other matters respecting the same, as to him shall seem just and reasonable; and the decree of the said Court of Chancery to be given on such appeal shall be binding and conclusive on the party appealing, as well as on the said Commissioners.

Decision in Chancery final.

C H A P . X I I I .

An Act to amend and make permanent an Act passed in the fifth year of His late Majesty's reign, intituled, "An Act to prevent the sale of Spirituous Liquors to Indians."

[Passed 10th February, 1840.]

WHEREAS an Act passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to prevent the sale of spirituous liquors to Indians," will shortly expire, and it is expedient to continue and amend the same: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' and to make further provision for the Government of the said Province," and by the authority of the same, That from and after the passing of this Act, it shall not be lawful for any person to sell, barter, exchange or give to any Indian man, woman or child, within this Province, any kind of spirituous liquors in any manner or way, or to cause or procure the same to be done for any purpose whatever, under the pains and penalties to be inflicted by the authority of this Act.

No kind of spirituous liquors to be sold, bartered, exchanged or given, to any Indian.

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful for any Justice of the Peace of any District wherein any offence against the provisions of this Act shall have been committed, upon the testimony of one or more credible witness or witnesses, to fine the offender for each and every offence so complained of, in a sum not exceeding twenty pounds; a moiety whereof shall be paid to the informer, and the other moiety shall be collected and applied in the same manner as fines and penalties are now collected and applied under the Act for the summary punishment of petty trespasses; to be applied for the improvement of the roads through the section of the country where the offence was committed: Provided always, that the penalty in this Act mentioned shall not be incurred by the furnishing to any Indian any spirituous liquor by a Medical man, in case of sickness, or under the direction of any Medical man.

Justice of the Peace to fine offender, not exceeding £20 for every offence.

How fines to be collected.

Penalty not incurred by furnishing spirits by medical direction.

CHAP. XLII.

An Act for the better protection of the Lands and Property of the Indians in Lower Canada.

[10th August 1850.]

Preamble.

WHEREAS it is expedient to make better provision for preventing encroachments upon and injury to the lands appropriated to the use of the several Tribes and bodies of Indians in Lower Canada, and for the defence of their rights and privileges: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor to appoint from time to time a Commissioner of Indian Lands for Lower Canada, in whom and in whose successors by the name aforesaid, all lands or property in Lower Canada which are or shall be set apart or appropriated to or for the use of any Tribe or Body of Indians, shall be and are hereby vested, in trust for such Tribe or Body, and who shall be held in law to be in the occupation and possession of any lands in Lower Canada actually occupied or possessed by any such Tribe or Body in Common, or by any Chief or Member thereof or other party for the use or benefit of such Tribe or Body, and shall be entitled to receive and recover the rents, issues and profits of such lands and property, and shall and may, in and by the name aforesaid, be subject to the provisions hereinafter made, exercise and defend all or any of the rights lawfully appertaining to the proprietor, possessor or occupant of such land or property: Provided always, that this section shall extend to any lands in Lower Canada now held by the Crown in trust for or for the benefit of any such Tribe or Body of Indians, but shall not extend to any lands now vested in any Corporation or Community legally established and capable in law of suing and being sued, or in any person or persons of European descent, although held in trust for or for the benefit of any such Tribe or Body.

Appointment
of a Commis-
sioner of In-
dian Lands.
His powers.

Proviso.

Suits by or
against Com-
missioner, how
brought.

II. And be it enacted, That all suits, actions or proceedings by or against the said Commissioner shall be brought and conducted by or against him by the name aforesaid only, and shall not abate or be discontinued by his death, removal from office or resignation, but shall be continued by or against his successor in office; and that such Commissioner shall have in each District in Lower Canada, an office which shall be his legal

domicile, and whereat any process, notice or like matter may be legally served upon him, and may appoint such deputy or deputies, and with such powers as he shall from time to time deem expedient, or as he shall be instructed by the Governor to do: Provided always that no suit or proceeding shall, during one month next after the passing of this Act, be commenced or proceeded with by or against the said Commissioner or any other party, with regard to any lands or property intended to be hereby vested in him, nor shall any prescription or limitation of time within which any proceeding or thing would otherwise require to be commenced, had or done, run or avail against the said Commissioner during the term last aforesaid. Proviso.

III. And be it enacted, That the said Commissioner shall have full power to concede or lease or charge any such land or property as aforesaid, and to receive or recover the rents, issues and profits thereof as any lawful proprietor, possessor or occupant thereof might do, but shall be subject in all things to the instructions he may from time to time receive from the Governor, and shall be personally responsible to the Crown for all his acts, and more especially for any act done contrary to such instructions, and shall account for all moneys received by him, and apply and pay over the same in such manner, at such times and to such person or officer, as shall be appointed by the Governor, and shall report from time to time on all matters relative to his office in such manner and form, and give such security, as the Governor shall direct and require: and all moneys and moveable property received by him or in his possession as Commissioner, if not duly accounted for, applied and paid over as aforesaid, or if not delivered by any person having been such Commissioner to his successor in office, may be recovered by the Crown or by such successor, in any Court having civil jurisdiction to the amount or value, from the person having been such Commissioner and his sureties, jointly and severally. Commissioner may concede, lease or charge lands, &c.

IV. Provided always and be it enacted, That nothing herein contained shall be construed to derogate from the rights of any individual Indian or other private party, as possessor or occupant of any lot or parcel of land forming part of or included within the limits of any land vested in the Commissioner aforesaid. Rights of individual Indians not affected.

V. And for the purpose of determining any right of property, possession or occupation in or to any lands belonging or appropriated to any Tribe or Body of Indians, in Lower Canada,—Be it declared and enacted—That the following classes of persons are and shall be considered as Indians belonging to the Tribe or Body of Indians interested in such lands: Who shall be considered as Indians.

First—All persons of Indian blood, reputed to belong to the particular Body or Tribe of Indians interested in such lands, and their descendants;

Secondly--All persons intermarried with any such Indians and residing amongst them, and the descendants of all such persons ;

Thirdly--All persons residing among such Indians, whose parents on either side were or are Indians of such Body or Tribe, or entitled to be considered as such ; And

Fourthly--All persons adopted in infancy by any such Indians, and residing in the Village or upon the lands of such Tribe or Body of Indians, and their descendants.

Interpretation Act to apply. VI. And be it enacted, That the Interpretation Act shall apply to this Act.

CHAP. LXXIV.

An Act for the protection of the Indians in Upper Canada from imposition, and the property occupied or enjoyed by them from trespass and injury.

[10th August, 1850.]

Preamble.

WHEREAS it is expedient to make provision for the protection of the Indians in Upper Canada, who, in their intercourse with the other inhabitants thereof, are exposed to be imposed upon by the designing and unprincipled, as well as to provide more summary and effectual means for the protection of such Indians in the unmolested possession and enjoyment of the lands and other property in their use or occupation : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That no purchase or contract for the sale of land in Upper Canada, which may be made of or with the Indians or any of them, shall be valid unless made under the authority and with the consent of Her Majesty, Her Heirs or Successors, attested by an Instrument under the Great Seal of the Province, or under the Privy Seal of the Governor thereof for the time being.

Purchases of lands from Indians not valid without the consent of the Crown.

Such purchase without consent to be a misdemeanour.

II. And be it enacted, That if any person, without such authority and consent, shall in any manner or form, or upon any terms whatsoever, purchase or lease any lands within Upper

Canada of or from the said Indians, or any of them, or make any contract with such Indians, or any of them, for or concerning the sale of any lands therein; or shall in any manner, give, sell, demise, convey or otherwise dispose of any such lands, or any interest therein, or offer so to do, or shall enter on; or take possession of, or settle on any such lands, by pretext or colour of any right or interest in the same, in consequence of any such purchase or contract made or to be made with such Indians or any of them, unless with such authority and consent as aforesaid, every such person shall, in every such case, be deemed guilty of a misdemeanor, and shall, on conviction thereof before any Court of competent jurisdiction, forfeit and pay to Her Majesty, Her Heirs or Successors, the sum of Two Hundred Pounds, and be further punished by fine and imprisonment, at the discretion of the Court.

Penalty.

III. And be it enacted, That no person shall take any confession of Judgment or Warrant of Attorney from any Indian within Upper Canada, or by means thereof, or otherwise howsoever obtain any judgment for any debt or pretended debt, or upon any bond, bill, note, promise or other contract whatsoever, unless such Indian shall be seized in fee simple in his own sole right of real estate in Upper Canada, the title to which shall be derived directly or through others by Letters Patent from the Crown, and shall be assessed in respect of such real estate to the amount of twenty-five pounds or upwards.

Confessions of judgment, &c., not to be taken from Indians.

Exception.

IV. And be it enacted, That no taxes shall be levied or assessed upon any Indian or any person inter-married with any Indian for or in respect of any of the said Indian lands, nor shall any taxes or assessments whatsoever be levied or imposed upon any Indian or any person inter-married with any Indian so long as he, she or they shall reside on Indian lands not ceded to the Crown, or which having been so ceded may have been again set apart by the Crown for the occupations of Indians.

Taxes and assessments not to be levied on Indians.

V. And be it enacted, That notwithstanding any thing in this Act contained, Indians and persons inter-married with Indians, residing upon any such Indian lands and engaged in the pursuit of agriculture as their then principal means of support, shall be liable, if so directed by the Superintendent General, the Assistant Superintendent General, or by any Subordinate Superintendent of Indian Affairs, who may, for the time being, be charged with the subordinate superintendence of such Indians and persons inter-married with Indians as aforesaid, or by any such Commissioner or Commissioners, to perform labour on the public roads laid out or used in or through such Indian lands, such labour to be performed under the sole control of the said Superintendents or Commissioners, or of any or either of them, who shall have power to direct when, where, how and in what manner the said labour shall be applied, and to what extent the same shall be imposed upon Indians or persons

As to performance of statute labour by Indians.

inter-married with Indians, who shall be resident upon any of the said lands, and that the said Superintendents and Commissioners, and every of them, shall have the like power to enforce the performance of all such labour by imprisonment or otherwise as may now be done by any power or authority under any law, rule or regulation in force in this Province for the non-performance of Statute labour: Provided always, nevertheless, that the labour to be so required of any such Indian or person inter-married with an Indian, shall not exceed in amount or extent what shall or may be required of other inhabitants of Upper Canada, under the general laws requiring and regulating such labour and the performance thereof.

Proviso : as to amount of labour.

No spirituous liquors to be furnished to Indians.

Penalty.

How recovered and appropriated.

Proviso.

VI. And be it enacted, That it shall not be lawful for any person to sell, barter, exchange or give to any Indian, man, woman or child, within this Province, any kind of spirituous liquors in any manner or way, or to cause or procure the same to be done for any purpose whatsoever; and that if any person shall so sell, barter, exchange or give any such spirituous liquors to any Indian, man, woman or child as aforesaid, or shall cause the same to be done, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined at the discretion of the Court, not exceeding five pounds for every such offence, and shall forfeit also the sum of one pound five shillings for every such offence, to be recovered as in an action of debt with costs in any Court of competent jurisdiction, by any one who will sue for the same, one moiety of every such last mentioned pecuniary penalty or forfeiture to go to the informer or prosecutor, and the other moiety thereof to be paid to Her Majesty, Her Heirs or Successors, or to some officer acting under Her authority, to be disposed of for the use and benefit of the Indians, as the Governor of this Province for the time being may be pleased to direct: Provided always, nevertheless, that no such penalty shall be incurred by the furnishing to any Indian, in case of sickness, any spirituous liquor, either by a medical man or under the direction of any such medical man.

Pawns not to be taken for liquor.

VII. And be enacted, That no pawn taken of any Indian for any spirituous liquor, shall be retained by the person to whom such pawn shall be delivered, but the thing so pawned may be sued for and recovered, with costs of suit, by the Indian who may have deposited the same, before any Court of competent jurisdiction.

Recital.

VIII. And whereas certain tribes of Indians in Upper Canada receive annuities and presents, which annuities, or portions thereof, are expended for and applied to the common use and benefit of the said Tribes, more especially for the encouragement of agriculture and other civilizing pursuits among them, although the articles so required or purchased out of such annuities, may be and often necessarily are, in the possession or control of some particular Indian or Indians of such Tribes,

and it is important with a view to the progress and welfare of such Tribes, that the property thus acquired or purchased should be protected from seizure, distress or sale, under or by virtue of any process whatsoever: Be it therefore enacted, That none of such presents or of any property purchased or acquired with or by means of such annuities, or any part thereof, or otherwise howsoever, and in the possession of any of the Tribes or any of the Indians of such Tribes, shall be liable to be taken, seized or distrained for any matter or cause whatsoever.

Indian presents not to be purchased from them.

IX. And be it enacted, That the Commissioners appointed under the Acts of Parliament in the next section of this Act mentioned, or either of them, and the different Superintendents of the Indian Department, either now in office or who may hereafter be appointed to either of such offices shall, by virtue of their office and appointment, be Justices of the Peace within the County, or United Counties, within which, for the time being, they or any or either of them, may be resident or employed as such Commissioners or Superintendents, without any other qualification; any law to the contrary notwithstanding.

Commissioners and Superintendents of Indians to be Justices of the Peace.

X. And whereas for the purpose of affording better protection to the Indians in the unmolested possession and enjoyment of their lands, it is expedient to give more summary and effectual powers to the Commissioners appointed or who may be appointed by virtue of the Act of the Province of Upper Canada, passed in the second year of Her Majesty's Reign, chaptered fifteen, and intituled, *An Act for the protection of the lands of the Crown in this Province from trespass and injury*, and also by virtue of the Act of this Province, passed in the twelfth year of Her Majesty's Reign, chaptered nine, and intituled, *An Act to explain and amend an Act of the Parliament of the late Province of Upper Canada, passed in the second year of Her Majesty's Reign, intituled, 'An Act for the protection of the lands of the Crown in this Province from trespass and injury, and to make further provision for that purpose,'* to enable them more efficiently to protect the said lands from trespass and injury, and to punish all persons trespassing upon or doing damage thereto: Be it therefore enacted, That it shall not be lawful for any person or persons other than Indians, and those who may be inter-married with Indians, to settle, reside upon or occupy any lands or roads or allowances for roads running through any lands belonging to or occupied by any portion or Tribe of Indians within Upper Canada, and that all leases, contracts and agreements made or to be made, purporting to have been or to be made, by any Indians, or by any person or persons inter-married with any Indian or Indians whereby any person or persons other than Indians shall be permitted to reside upon such lands, shall be absolutely void; and if any person or persons other than Indians, or those who may be inter-married with Indians as aforesaid, shall, without the license of the said Commissioners or any or either of them, (which license, however, the said

Recital.

U. C. 2 Vict. c. 15.

Canada. 12 Vict. c. 9.

None but Indians or those inter-married with them to reside on Indian Lands.

Provision for the removal of persons contravening this section.

Commissioners or any of them, may at any time revoke,) settle, reside upon or occupy any such lands, roads or allowances for roads, it shall be the duty of the Commissioners or any or either of them, on complaint made to them or any of them, and on due proof of the fact of such settlement, residence or occupation, to issue their or his warrant under their hands and seals, or his hand and seal, directed to the Sheriff of the County, or Union of Counties in which the said lands may lie, or if the said lands may not be situated within any County or Union of Counties, then such warrant shall be directed to any literate person who may be willing to act in the premises, commanding him forthwith to remove all such persons settling, residing upon or occupying such lands, with his, her or their families, from the said lands or roads or allowances for roads, and it shall be the duty of such Sheriff, or other person accordingly, to remove such person or persons, and for that purpose he shall have and possess the same powers as in the execution of criminal process: Provided always, nevertheless, that the provisions in this and the two following sections of this Act contained, shall extend and be construed to extend to such Indian lands only as the Governor of this Province for the time being shall from time to time, by Proclamation under the Great Seal thereof, think fit to declare and make subject to the same, and so long only as such Proclamation shall remain unrevoked and in full force.

Proviso: to what lands this section shall extend.

Proceedings if persons so removed return to such lands.

XI. And be it enacted, That so often as any person or persons after being or having been removed as aforesaid, shall return to settle, reside upon or occupy any of the said lands or roads or allowances for roads, the said Commissioners or any or either of them, upon their or his view, or upon proof by any witness or witnesses on oath, to be made or taken before the Commissioners or any or either of them, and upon their or his being satisfied that the said person or persons has or have returned to, settled, resided upon or occupied any of the said lands or roads or allowances for roads, then and in every such case, such Commissioners or Commissioner shall direct and send their or his warrant, under their hands and seals or his hand and seal, to the Sheriff of the County or Union of Counties within which such lands may lie, or to any literate person there, or if the said lands shall not be situated within any County or Union of Counties, then to any literate person, commanding him forthwith to arrest such person or persons, and to commit him, her or them to the Common Gaol of the said County or Union of Counties in which the said lands may lie, or to the Common Gaol of the nearest County or United Counties to the said lands, if the said lands shall not be within any County or United Counties, there to remain for such time as shall be ordered by the Commissioners or by any or either of them, not exceeding thirty days; and such Sheriff or other person shall accordingly arrest the said party or parties, and deliver him, her or them to the Gaoler or Sheriff of the said County or

Arrest of such person.

United Counties as aforesaid, who are hereby required to receive such person or persons, and the said person or persons to confine and imprison in the said Common Gaol for the term aforesaid, there to remain without bail and without being entitled to the liberties of the limit of the said Gaol; and such Commissioners or any of them shall cause the judgment or order against such person or persons to be drawn up, and no such judgment shall be liable to be removed by *Certiorari* or otherwise, or to be appealed from, but shall be deemed and taken to be final.

No *certiorari* allowed.

XII. And be it enacted, That if any person without the license in writing of the Commissioners or of any or either of them, shall hereafter trespass upon any of the said lands or roads or allowances for roads, by cutting any trees, saplings, shrubs, underwood or timber thereon, or by carrying away or removing any of the trees, saplings, shrubs, underwood or timber therefrom, or by removing any of the stone or soil of the said lands, roads or allowances for roads, each person so trespassing shall for every tree he shall cut, carry away or remove, forfeit and pay the sum of five pounds, and for cutting, carrying or removing any of the saplings, shrubs, underwood or timber, under the value of five shillings, the sum of one pound, but if over the value of five shillings, then the sum of five pounds, and for removing any of the stone or soil aforesaid, the sum of five pounds, such fine to be imposed and recovered by the said Commissioners or any or either of them, by distress and sale of the goods and chattels of the party or parties fined, or the said Commissioners may, without proceeding by distress and sale as aforesaid, upon the non-payment of the said fine, order the party or parties to be imprisoned in the Common Gaol as aforesaid, for a period not exceeding thirty days, when the fine shall not exceed five pounds, or for a period not exceeding three calendar months, when the fine shall exceed the sum of five pounds; and upon the return of any warrant for distress or sale, if the amount thereof have not been made, or if any part of it may remain unpaid, the said Commissioners or any or either of them, may commit the party or parties who may be in default upon such warrant or warrants to the Common Gaol as aforesaid, for a period not exceeding thirty days, if the sum claimed by the said Commissioners upon the said warrant do not exceed five pounds, or for a time not exceeding three calendar months, if the sum claimed do exceed five pounds; all which fines shall be paid to Her Majesty, Her Heirs or Successors, or to some officer acting under Her authority, to be disposed of for the use and benefit of the Indians, as the Governor of this Province for the time being may be pleased to direct.

Punishment of persons cutting timber on and doing damage to Indian Lands.

Penalties.

Imprisonment if the penalty cannot be levied.

Application of penalties.

XIII. And whereas great difficulty has been experienced by the said Commissioners in carrying into effect the several Acts relating to Indian lands, by reason of persons giving false names or concealing their names, and it is expedient that the Com-

Recital.

Provision where the name of any person to be proceeded against under this Act cannot be ascertained.

missioners should be enabled to proceed without difficulty in this respect: Be it therefore enacted, That in all orders, writs, warrants, summonses and proceedings whatsoever to be made, issued or taken by the Commissioners or any or either of them, under this or any other Act whatsoever, it shall only be necessary for the Commissioners or such of them as may be acting, to insert or express the name or names of the person or persons summoned, arrested, distrained upon, imprisoned or otherwise proceeded against in any of such orders, writs, warrants, summonses or proceedings, when the name or names of such person or persons shall be truly given to or known by the said Commissioners, or such of them as may be acting in that behalf, and if the name or names be not truly given to or known by the Commissioners, then the Commissioners, or such of them as shall be acting in that behalf, shall be at liberty to name or describe the person or persons by any part of the name or names of such person or persons which may be given to or known by them, or such of them as may be so acting; but if no part of the name or names be given to or known by the said Commissioners, or such of them as shall be so acting, they or such of them as shall be acting may describe the person or persons proceeded against in any manner by which he, she or they may be capable of being identified; And it is hereby declared that all such proceedings as aforesaid, containing the name or description, or purporting to give the name or description of any such person as aforesaid, according to this Act, shall *prima facie* be deemed to be sufficient; any thing to the contrary notwithstanding.

Sheriff, &c., to obey process.

XIV. And be it enacted, That all Sheriffs, Gaolers and Peace Officers, to whom any such process shall be so directed by such Commissioners, or any or either of them, are hereby required to obey the same, and all other Officers upon reasonable requisition to be aiding and assisting in the execution thereof.

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