

## CHAP. 21.

### An Act to amend certain Laws respecting Indians, and to extend certain Laws relating to matters connected with Indians to the Provinces of Manitoba and British Columbia.

[Assented to 26th May, 1874.]

Preamble.

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

31 V., c. 42, s. 12, and 32 ; 33 V., c.6, s.3 repealed, and new section substituted for the latter.

1. The twelfth section of the Act thirty-first Victoria, chapter forty-two, intituled "*An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands,*" and the third section of the Act thirty-second and thirty-third Victoria, chapter six, intituled "*An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, chapter forty-two,*" are hereby repealed, and the following shall be read in lieu of the last mentioned section :—

Provisions for preventing the supplying of intoxicating liquors to Indians.

"3. 1. Whoever sells, exchanges with, barter, supplies, or gives to any Indian man, woman or child in Canada, any kind of intoxicating liquor, or causes or procures the same to be done, or connives or attempts thereat or opens or keeps, or causes to be opened or kept on any land set apart or reserved for Indians, a tavern, house, or building where intoxicating liquor is sold, bartered, exchanged, or given, or is found in possession of intoxicating liquor in the house, tent, wigwam, or place of abode of any Indian, shall, on conviction thereof before any Justice of the Peace upon the evidence of one credible witness other than the informer or prosecutor, be liable to imprisonment for a period not exceeding two years, and be fined not more than five hundred dollars, one moiety to go to the informer or prosecutor, and the other moiety to Her Majesty, to form part of the fund for the benefit of that tribe or body of Indians with respect to one or more members of which the offence was committed ; and the commander or person in charge

Punishment for contravention, by fine and imprisonment.

If supplied from or on board any vessel.

Indians competent  
as witnesses.

Proviso.

of any steamer or other vessel, or boat, from or on board of which any intoxicating liquor shall have been sold, bartered, exchanged, supplied or given to any Indian man, woman or child, shall be liable, on conviction thereof before any Justice of the Peace, upon the evidence of one credible witness other than the informer or prosecutor, to be fined not exceeding five hundred dollars for each such offence, the moieties thereof to be applicable as hereinbefore mentioned, and in default of immediate payment of such fine any person so fined may be committed to any common gaol, house of correction, lock-up, or other place of confinement by the Justice of the Peace before whom the conviction shall take place, for a period of not more than twelve months, or until such fine shall be paid ; and in all cases arising under this section, Indians shall be competent witnesses : but no penalty shall be incurred in case of sickness where any intoxicating liquor is made use of under the sanction of any medical man or under the direction of a minister of religion."

Forfeiture of the  
package containing  
such liquors.

Seizure of liquor.

And forfeiture.

Penalty on persons  
having such  
packages, &c., in  
possession.

"2. The keg, barrel, case, box, package or receptacle whence intoxicating liquor has been sold, exchanged, bartered, supplied or given, and 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 balance of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid respectively, can be identified, and any intoxicating liquor imported or manufactured or brought into and upon any land set apart or reserved for Indians, or into the house, tent, wigwam or place of abode of any Indian, may be seized by any constable wheresoever found on such land ; and on complaint before any Judge, Stipendiary Magistrate or Justice of the Peace, he may, on the evidence of any credible witness that this Act has been contravened in respect thereof, declare the same forfeited, and cause the same to be forthwith destroyed ; and the person in whose possession they were found may be condemned to pay a penalty not exceeding one hundred dollars, nor less than fifty dollars, and the costs of prosecution ; and one-half of such penalty shall belong to the prosecutor, and the other half 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 for any time not exceeding six months unless such fine and costs are sooner paid."

Forfeiture of the vessel, boat, canoe, &c., carrying liquors to be supplied to Indians.

"3. When it shall be proved before any Judge, Stipendiary Magistrate or Justice of the Peace that any vessel, boat, canoe, or conveyance of any description upon the sea or sea-coast, or upon any river, lake or stream in Canada, is employed in carrying intoxicating liquor, to be supplied to any Indian or Indians, such vessel, boat, canoe, or conveyance so employed may be seized and declared forfeited as in the last sub-section mentioned, and sold, and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned."

Indian found drunk may be arrested.

"4. It shall be lawful for any constable, without process of law, to arrest any Indian whom he may find in a state of intoxication, and to convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he shall have become sober; and such Indian shall, when sober, be brought before any Judge, Stipendiary Magistrate, or Justice of the Peace, 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 any period not exceeding one month. And if any Indian having been so convicted as aforesaid, shall refuse, upon examination, to state or give information of the person, place and time, from whom, where and when he procured intoxicating liquor, and if from any other Indian, then, if within his knowledge, from whom, where and when such intoxicating liquor was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days."

And must, on conviction, declare how he got the liquor.

Punishment for refusal.

Interpretation clause. "Intoxicating liquor."

"5. The words 'intoxicating liquor' shall mean and include all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink of any kind whatsoever, and intoxicating liquor or fluid ; as also 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 drug or substance, and whether the same, or any of them, be liquid or solid."

Want of form not to invalidate proceedings under this Act.

"6. No prosecution, conviction or commitment under this Act shall be invalid on account of want of form so long as the same is according to the true meaning of this Act."

31 V., c.42, s.14, amended.

**2.** The following shall be taken and read as part of the fourteenth section of the thirty-first Victoria, chapter forty-two, that is to say :—

Certain sales, exchanges, &c., to be void.

"Nor shall the same be sold, bartered, exchanged or given by any tribe, band or body of Indians or any Indian of any such tribe, band or body to any person or persons other than a tribe, band or body of Indians or any Indian of any tribe ; and any such sale, barter, exchange or gift, shall be absolutely null or void, unless any such sale, barter, exchange or gift be made with the written assent of the Indian agent ; and any person who may buy or otherwise acquire any presents or property purchased as aforesaid without the written consent of the Indian agent as aforesaid shall be guilty of a misdemeanor, and be punishable by fine not exceeding two hundred dollars, or by imprisonment not exceeding six months in any place of confinement other than a Penitentiary."

Punishment of purchaser, &c.

Manner in which Indians, &c., may give evidence in criminal cases.

**3.** Upon any inquest, or upon any enquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, or by whomsoever committed, it shall be lawful for any Court, Judge, Stipendiary Magistrate, Coroner or Justice of the Peace to receive the evidence of any Indian or aboriginal native or native of mixed blood, who is destitute of the knowledge of God, and 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, aboriginal native or native of mixed blood 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 may be approved by such Court, Judge, Stipendiary Magistrate, Coroner or Justice of the Peace, as most binding in his conscience.

Further provision in the same matter.

**4.** Provided that 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, aboriginal native or native of mixed blood as aforesaid, shall be reduced to writing, and signed by a mark of the person giving the same, and verified by the signature or mark of the person acting as interpreter (if any), and of the judge, Stipendiary Magistrate, Coroner or Justice of the Peace or person before whom such information shall have been given.

Court to warn Indian of his liability to punishment for false statement.

**5.** The court, judge, Stipendiary Magistrate, or Justice of the Peace shall, before taking any such evidence, information or examination, caution every such Indian, aboriginal native or native of mixed blood as aforesaid, that he will be liable to incur punishment if he do not so as aforesaid tell the truth.

When written declarations of Indians may be used in criminal proceedings.

**6.** The written declaration or examination made, taken and verified in manner aforesaid, of any such Indian, aboriginal native or native of mixed blood as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal suit or proceedings when, under the like circumstances, the written affidavit, examination, deposition or confession of any person, might be lawfully read and received as evidence.

Effect of declaration, &c., taken by any person as aforesaid.

**7.** Every solemn affirmation or declaration in whatever form made or taken by any person as aforesaid shall be of the same force and effect, as if such person had taken an oath in the usual form, and shall, in like manner, incur the penalty of perjury in case of falsehood.

Indian defined.

**8.** An Indian is hereby defined to be a person within the definition contained in the fifteenth section of the thirty-first Victoria, chapter forty-two, as amended by the sixth section of the thirty-second and thirty-third Victoria, chapter six, and who shall participate in the annuities and interest moneys and rents of any tribe, band or body of Indians.

Certain Acts and laws to be in force in British Columbia and Manitoba.

**9.** Upon, from and after the passing of this Act, the Acts and portions of Acts hereinafter mentioned of the Parliament of Canada shall be and are hereby extended to and shall be in force in the Provinces of Manitoba and of British Columbia ; and all enactments and laws theretofore in force in the said Provinces, inconsistent with the said Acts, or making any provision in any matter provided for by the said Acts, other than such as is made by the said Acts, shall be repealed on and after the passing of this Act.

Others repealed.

The Acts and parts of Acts extended by s.9.

**10.** The Acts and portions of Acts hereinbefore mentioned and hereby extended to and to be in force in the Provinces of Manitoba and of British Columbia, are as follows:—

1. Sections six to twenty-five both inclusive, and sections twenty-eight, twenty-nine, thirty, thirty-seven, thirty eight, thirty-nine and forty-two, of the Act passed in the thirty-first year of her Majesty's reign, and intituled : *"An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands ;"*

2. Sections one to twenty-one, both inclusive, and section twenty-four of the Act passed in the thirty-second and thirty-third years of Her Majesty's reign, intituled : *"An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, chapter forty-two ;"*

3. Sections one, three, six, seven, eight, nine and sixteen, of the Act passed in the thirty-sixth year of Her Majesty's reign, and intituled : *"An Act to provide for the establishment of the Department of the Interior."*

Governor in Council may exempt Indians or Indian lands in Manitoba or British Columbia, from the operation of certain Acts, &c., and again subject them to the same.

**11.** The Governor in Council may, by proclamation from time to time, exempt from the operation of the Act passed in the thirty-first year of Her Majesty's reign, and intituled: *"An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands,"* or from the operation of an Act passed in the thirty-second and thirty-third years of Her Majesty's reign, intituled *"An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, chapter forty-two,"* or from the operation of the Act passed in the thirty-first year of Her Majesty's reign, and intituled : *"An Act to provide for the establishment of the Department of the Interior,"* or from the operation of this Act, or from the operation of any one or more of the clauses of any one or more of the said Acts, the Indians or any of them, or any tribe of them or the Indian lands or any portions of them in the Province of Manitoba, or in the Province of British Columbia, or in either of them, and may again, by proclamation, from time to time, remove such exemption.

And may extend and apply certain other Acts and enactments, generally to any Indians or Indian lands in N. W. Territories.

**12.** The Governor in Council may, by proclamation from time to time, direct the application of the Act passed in the thirty-first year of Her Majesty's reign, and intituled *"An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands ;"* and of an Act passed in the thirty-second and thirty-third years of Her Majesty's reign, intituled *"An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, chapter forty-two ;"* and an Act passed in the thirty-sixth year of Her Majesty's reign, and intituled *"An Act to provide for the establishment of the Department of the Interior ;"* or of any one or more of the clauses of any one or more of the said Acts to the Indians or any of them or any tribe of them or the Indian lands or any portions of them, or that the same be in force generally in the North West Territories.

Ordinance of R. S.  
of B. C. repealed in  
part.

**13.** The second, third, and seventh sections of the Ordinance, No. 85, of the Revised Statutes of British Columbia are hereby repealed.

Act how to be  
construed.

**14.** This Act shall be construed as one Act with the Acts thirty-first Victoria, chapter forty-two, and thirty-second and thirty-third Victoria, chapter six.