

Laws of Her Majesty's Province of Upper Canada, passed in the year 1850. Toronto: Stewart Derbshire & George Desbarats, 1850.

13 & 14 Victoria – Chapter 42

An Act for the better protection of the Lands and Property of the Indians in Lower Canada. 10th August, 1850.

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.

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.

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.

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.

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:

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.

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