

CHAP. 28.

An Act for conferring certain privileges on the more advanced Bands of the Indians of Canada, with the view of training them for the exercise of municipal powers.

[Assented to 19th April, 1884.]

Preamble.

WHEREAS it is expedient to provide means by which Indians on reserves in divers parts of the Dominion, may be trained for the future exercise of municipal privileges and powers : Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:-

Short title and application of Act.

1. This Act shall be known and may be cited as " The *Indian Advancement Act, 1884,* " and may be made applicable as hereinafter provided, to any band or bands of Indians in any of the Provinces or the North-West Territories, including the District of Keewatin, except in so far only as it is herein otherwise provided.

Interpretation.
43 V., c. 28.

2. The terms used in this Act shall have the same meaning respectively as the like terms have in " *The Indian Act, 1880*"; but the term " reserve " includes two or more reserves, and the term " band " includes two or more bands, united for the purposes of this Act by the Order in Council applyin^g it.

When this Act shall apply to any band.

3. Whenever any hand or bands of Indians shall be declared by Order of the Governor in Council to be considered fit to have this Act applied to them, it shall so apply from the time to be appointed in such Order, which shall not be earlier than the first of January, one thousand eight hundred and eighty-five.

Division of reserve into sections.

4. Any reserve to which this Act is to apply shall, by the Order applying it, be divided into sections,-the number of

which shall be not less than two nor more than six, having in each a number of male Indians of full age, equal as nearly as may be found convenient to such proportion of the male Indians of full age resident on the reserve, as one section of the reserve will bear to all the sections; each section shall be distinguished by a number from one upwards ; the reserve shall be designated in the Order as " *The Indian Reserve*, inserting such name as may be thought proper, and the sections by the numbers assigned to them respectively.

Designation of each.

5. On a day and at a place and between hours to be designated in such Order, the male Indians of the full age of twenty-one years, resident on the reserve (hereinafter termed electors) shall meet for the purpose of electing the members of the council of the reserve ; one or more members (as may be provided in such Order in Council) to represent each section thereof shall be elected by the electors resident in such section ; and the Indian or Indians (as the case may be) having the votes of the greatest number of electors for each section shall be the councillor or councillors (as the case may be) therefor, provided he or they be possessed of, and living in, a house in the reserve, and subject to the provision hereinafter made in case of ties by an equal number of votes for two or more. The agent of the Superintendent General for the reserve shall preside at the election (or in his absence some person appointed by him as his deputy, with the consent of the Superintendent General or his deputy, or some person appointed by the Superintendent General or his deputy may preside at the said election) and shall take and record the votes of the electors, and shall have full power, subject to appeal to the Superintendent General by or on behalf of any Indian or Indians deeming himself or themselves to be aggrieved by the action of such agent or deputy or of such agent or person appointed as afore-said, to admit or reject the claim of any Indian to be an elector, and to determine who are the councillors for the several sections, and shall report the same to the Superintendent General,

First election of members of the Council of a Reserve.

Who shall preside thereat, and his powers, subset to appeal.

6. On a day, and at a place, and between hours to be designated by the Superintendent General or his deputy, (provided the day fixed for the same be within eight days from the date at which the councillors were elected), the said councillors shall meet and elect one of their number to act as chief councillor; and the councillor so elected shall be the chief councillor.

First meeting of councillors.

7. The councillors shall remain in office until others are elected in their stead ; and an election for that purpose shall be held in like manner at the same place and between the like hours on the like day in each succeeding year, if it be not a Sunday or holiday, - in which case it shall be held on

Yearly elections.

Provision in case of election failing.

the next day after which shall not be a holiday. In case of the failure of any election on the day appointed for it, the Superintendent General or his deputy shall appoint another day on which it shall be held.

Provision as to filling vacancies, occurring between yearly elections.

8. In the case of vacancy in the Council by death or inability to act of any councillor, more than three months before the time for the next election, an election shall be held by the agent or his deputy, after such notice to the electors concerned as the Superintendent General or his deputy may direct, to fill such vacancy, and at which only the electors of the section represented by the councillor to be replaced shall vote,-and to such election the provisions respecting other elections shall apply, so far as they are applicable ; but if the councillor to be replaced is the chief, then an election of a chief councillor shall be held in the manner already provided, but the day fixed for such election shall be at least one week from the date when the new councillor is elected : Provided always, that during such vacancy the remaining councillors shall constitute the council and may in case of vacancy of the office appoint a chief from among themselves *pro tempore*.

Proviso.

Meetings of the Council : agent or deputy to preside, his powers and duties.

9. The council shall meet for the despatch of business, at such place on the reserve, and at such times as the agent for the reserve shall appoint, not being less than four nor more than twelve times in the year for which it is elected, and due notice of the time and place of each meeting shall be given to each councillor by the agent; at such meeting the agent for the reserve or his deputy, to be appointed for the purpose with the consent of the Superintendent General or his deputy, shall preside and record the proceedings, and shall have full power to control and regulate all matters of procedure and form, and to adjourn the meeting to a time named or *sine die*, and to report and certify all by-laws and other acts and proceedings of the council to the Superintendent General ; and full faith and credence shall be given to his certificate thereof in all courts and places whatsoever: he shall address the council and explain and advise them upon their powers and duties, and any matter requiring their consideration, but shall have no vote on any question to be decided by the council ; but each councillor present shall have a vote thereon, and it shall be decided by the majority of votes,-the chief voting as a councillor and having also a casting vote in case the votes would otherwise be equal ; four councillors shall be a quorum for the despatch of any business.

Quorum.

Power to make by-laws on certain subjects.

10. The council shall have power to make by-laws, rules and regulations, which, if approved and confirmed by the Superintendent General, shall have force as law within and

with respect to the reserve, and the Indians residing thereon, upon all or any of the following subjects, that is to say :-

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| 1. The religious denomination to which the teacher or teachers of the school or schools established on the reserve shall belong, as being that of the majority of the Indians resident on the reserve ; provided that the Roman Catholic or Protestant minority on the reserve may also have a separate school or schools with the approval of and under regulations to be made by the Governor in Council ; | Schools.

Proviso : for Catholic or Protestant minorities. |
| 2. The care of the public health ; | Health. |
| 3. The observance of order and decorum at elections of councillors, meetings of the council, and assemblies of Indians on other occasions or generally on the reserve, by appointing constables and erecting lock-ups or by the adoption of other legitimate means ; | Decorum at meetings and elsewhere. |
| 4. The repression of intemperance and profligacy ; | Moral offences. |
| 5. The sub-division of the land in the reserve, and the distribution of the same among the members of the band also the setting apart for common use, wood land and land for other purposes ; | Sub-division of lands. |
| 6. The protection of and the prevention of trespass by cattle, sheep, horses, mules and other domesticated animals ; and the establishment of pounds, the appointment of pound-keepers, and the regulation of their duties, fees and charges ; | Trespass by animals. |
| 7. The construction and repair of school houses, council houses, and other buildings for the use of the Indians on the reserve ; | Buildings. |
| 8. The construction, maintenance and improvement of roads and bridges, and the contributions in money or labor, and other duties of residents on the reserve in respect thereof ; and the appointment of road masters and fence viewers, and their powers and duties ; | Roads and bridges. |
| 9. The construction and maintenance of water courses, ditches and fences, and the obligations of vicinage, and the destruction and repression of noxious weeds ; the preservation of the wood on the various holdings or elsewhere in the reserve ; | Water courses, &c. |
| 10. The removal and punishment of persons trespassing upon the reserve, or frequenting it for improper purposes ; | Trespassers on reserves. |
| 11. The raising of money for any or all of the purposes for which the council is empowered to make by-laws as | Raising funds: assess- |

ments and collection of taxes.

aforesaid, by assessment and taxation on the lands of Indians enfranchised, or in possession of lands by location ticket in the reserve,-the valuation for assessment being made yearly in such manner and at such times as shall be appointed by the by-law in that behalf, and being subject to revision and correction by the agent, for the reserve, of the Superintendent General, and in force only after it has been submitted to him and corrected if and as he may think justice requires, and approved by him,-the tax to be imposed for the year in which the by-law is made, and not to exceed one-half of one per cent. on the assessed value of the land on which it is to be paid : and if such tax be not paid at the time prescribed by the by-law, the amount thereof with the addition of one-half of one per cent. thereon, may be paid by the Superintendent General to the treasurer out of the share of the Indian in default in any moneys of the band ; or if such share be insufficient to pay the same, the defaulter shall be subject to a fine equal to the deficiency for infraction of the by-law imposing the tax, by such default : Provided always, that any Indian deeming himself aggrieved by the decision of the agent, made as hereinbefore provided, may appeal to the Superintendent General, whose decision in the case shall be final ;

Limitation of taxes, and provision if not paid.

Proviso appeal.

Application of funds raised.

12 The appropriation and payment to the local Agent as Treasurer by the Superintendent General of so much of the moneys of the band as maybe required for defraying expenses necessary for carrying out the by-laws made by the council, including those incurred for assistance absolutely necessary for enabling the council or the agent to perform the duties assigned to them by this Act ;

Imposition of penalties and enforcement thereof.

13. The imposition of punishment by fine or penalty or by imprisonment or both, for any infraction. of or disobedience to any by-law, rule or regulation made under this Act committed by any Indian of the reserve ; the fine or penalty in no case (except only for non-payment of taxes) to exceed thirty dollars, and the imprisonment in no case to exceed thirty days,-the proceedings for the imposition of such punishment to be taken in the usual summary way before a Justice of the Peace, following the procedure under the "*Art respecting the duties of Justices of the Peace, out of Sessions, in relation to summary convictions and orders*" ; and the amount of any such fine shall be paid over to the treasurer of the band to which the Indian incurring it belongs, for the use of such band ;

32, 33 V., c. 31.

Amending by-laws.

14. The amendment, repeal or re-enactment of any such by-law, by a subsequent by-law made and approved as hereinbefore provided.

11. Any member of a council elected under the provisions of this Act who shall be proved to be a habitual drunkard or to be living in immorality, or to have accepted a bribe, or to have been guilty of dishonesty or of malfeasance of office of any kind, shall, on proof of the fact to the satisfaction of the Superintendent General, be disqualified from acting as a member of the council, and shall, on being notified, cease forthwith so to act ; and the vacancy occasioned thereby shall be filled in the manner provided by the eighth section of this Act.

Disqualification of councillors for certain offences.

12. A copy of any by-law, rule or regulation under this Act approved by the Superintendent General or his deputy, and purporting to be certified by his agent for the band to which it relates, to be a true copy thereof, shall be evidence of such by-law, rule or regulation, and of such approval, without proof of the signature of such agent, unless such signature be formally disputed ; and no such by-law, rule or regulation shall be invalidated by any defect of form. provided it be substantially consistent with the provisions and spirit of this Act.

Proof of by-laws, &c.

Not void for want of form.

13. The provisions of " *The Indian Act, 1880,*" and of any Act amending it, shall continue to apply to any band to which this Act has been declared to apply, in so far, but in so far only, as they are not inconsistent with this Act : Provided always, that if it shall thereafter appear to the Governor in Council that this Act cannot be worked satisfactorily by any band to which it has been declared to apply, he may by Order in Council, declare that, after a day named therein, it shall no longer apply to such band, and such band shall thereafter be subject to the provisions of the said " *Indian Act, 1880,*" as amended by any subsequent Act, except that by-laws, rules and regulations theretofore made under this Act and not inconsistent with the seventy-fourth section of the said Indian Act, shall continue in force under that Act, unless and until they are repealed by Order of the Governor in Council.

Act of 1880, 43 V., c. 28, how to apply.

Proviso: Governor in Council may revoke application of this Act, for cause, &c.

Proviso : as to by-laws.