

Laws of Her Majesty's Province of Upper Canada, passed in the year 1839. Toronto: Robert Stanton, 1839.

2 Victoria – Chapter 15

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 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, entitled "*An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled '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 anyone 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 inquire 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.

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 authorised 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.

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.

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 direct 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.

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.

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 authorised 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.

VII. And be it further enacted by the authority aforesaid, That all monies 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.

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.

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.

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.

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 authorised 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.