

McKinney's Indian Law § 54

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Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness
 Indian Law (Refs & Annos)
 Chapter 26. Of the Consolidated Laws
 § Article 4. The Seneca Indians

→ § 54. Prosecution of actions and disposition of recovery

The Seneca nation may prosecute by the name of "The Seneca Nation of Indians," actions and proceedings to protect their rights and interests to the Allegany, Cattaraugus and "oil spring reservations," and may maintain an action to recover the possession of any part of such reservations unlawfully withheld from them, and an action for injury to the soil of such reservations, or for cutting down or removing or converting timber or wood growing or being thereon, or an action of replevin for timber or wood removed therefrom, and for the recovery of damage for injury to the common property or rights of such Indians, or for the recovery of money, property or effects, due or to become due, or belonging, or in any way appertaining to such Indians in common, or to the Seneca nation; and in every such suit, action or proceeding in relation to lands or real estate, situated within the said reservations, the Seneca nation may allege a seisin in fee; and every recovery in such action shall be as and for, and in reference to a fee; but neither such recovery nor anything herein contained shall enlarge or in any way affect the rights, title or interest of the Seneca nation, or of such Indians in and to such reservations, as between them and the grantees or assignees of the pre-emption right of such reservations under the grants of the state of Massachusetts. And no such action shall be defeated or barred on the ground that any land in relation to which such action is brought, or from which any timber or wood, logs or other property may have been removed or taken, and which may be the subject of any such suit, was in the possession of any individual Indian, but the occupancy of any part of the said reservations by any individual Indian, shall be deemed to have been and to be the possession of the Seneca nation; nor shall any license, consent, lease, agreement or any interest whatever, made or given by any individual Indian or Indians, be received in evidence in any such action in bar, defense or mitigation of damages, and when it shall be necessary to bring any such action before a justice of the peace, the same may be brought and maintained before any such justice, residing in the county where the defendant may be found, whether the cause of action arose in such county or not. Actions or proceedings may be prosecuted by the Tonawanda nation by the name of "The Tonawanda Nation of Indians." If a bond or undertaking shall be necessary for the prosecution or defense of an action or proceeding, the attorney of either of such nations may execute a bond or undertaking in the name and in behalf of the nation, which nation shall be liable thereon. If any costs shall be recovered against either of such nations in any action prosecuted or defended by the attorney thereof, no execution shall be issued therefor, but such costs shall be paid by the treasurer of the state, out of any annuity or interest money payable by the state to such nation, upon producing to the comptroller a certificate of the attorney of such recovery, and a certified copy of the judgment awarding such costs. All sums recovered in any action brought by the attorney thereof for the benefit of either of such nations, after deducting such costs and expense as shall be certified to by the judge before whom the case was tried, shall be paid to the treasurer of the nation.

CREDIT(S)

(L.1909, c. 31; amended L.1962, c. 310, § 187, eff. Sept. 1, 1963.)

HISTORICAL AND STATUTORY NOTES

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