

Certain latitudes, longitudes, and levels to be determined and marked.

3. For the purpose of obtaining an accurate basis from which the Geographical and Topographical features of the country may be ascertained, and for the purpose of connecting together local and partial Surveys, the Director of the Geological Survey shall cause permanent marks in some public buildings, or other marks of a durable description, to be made and maintained at several convenient stations in Canada, and shall fix accurately the latitude and longitude, and the relative levels thereof, as points of reference.

Salaries and pay.

Proviso.

4. The Governor in Council may, from time to time, fix the salaries and pay of the Director and other officers and persons employed in or about the said Geological Survey: Provided that such salaries shall be subject to the approval of Parliament.

Annual Report.

5. The Director of the Geological Survey shall make and transmit yearly to the Governor, on or before the first day of May, a report, shewing generally the progress made in the Survey.

Repeal.

6. So much of the Act cited in the preamble, as is in any way inconsistent with this Act, is hereby repealed.

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## CAP. XXIII.

### An Act respecting the Public Lands of the Dominion.

[Assented to 14th April, 1872.]

Preamble.

WHEREAS it is expedient with a view to the proper and efficient administration and management of certain of the public lands of the Dominion that the same should be regulated by statute: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

#### PRELIMINARY—INTERPRETATION.

Interpretation.

1. This Act shall apply exclusively to the Lands included in Manitoba and the North-West Territories, which lands shall be styled and known as *Dominion Lands*; and this Act shall be known and may be cited as the "*Dominion Lands Act*," and the following terms and expressions therein shall be held to have the meaning hereinafter assigned them, unless such meaning be repugnant to the subject or inconsistent with the context; that is to say:

"Secretary of State."

1. The term *Secretary of State*, means the Secretary of State of Canada.

"Surveyor General."

2. The term *Surveyor-General* means the said officer, or in his absence the chief clerk performing his duties for the time being.

3. The term *Agent* or *Officer* means any person or Officer, employed in connection with the administration and management, sale or settlement of Dominion lands; and the term *Local Agent* means the Agent for Dominion lands employed as aforesaid, with respect to the lands in question; and the term *Land Office* means the office of any such Agent. “Agent,”  
“Officer.”

4. The term *Deputy Surveyor* means a Surveyor duly authorized under the provisions of this Act to survey Dominion lands. “Deputy  
Surveyor.”

5. The term *Crown Timber Agent* means the local officer appointed to collect dues and to perform such other duties as may be assigned to such officer, in respect to the timber on Dominion lands. “Crown  
Timber  
Agent.”

6. The term *Island*, as used in connection with timber, means an isolated grove or clump of timber in Prairie. “Island.”

7. The term *Belt*, as used in connection with timber, means a strip of timber along the shore of a lake, river or water course. “Belt.”

8. The term *Clause* means a section of this Act distinguished by a separate number, and the term *Sub-Clause*, means a sub-division of any clause distinguished by a separate number in smaller type. “Clause.”  
“Sub-Clause.”

9. The term *Canada Gazette* means the official Gazette of the Government, published at Ottawa. “Canada  
Gazette.”

#### DOMINION LANDS OFFICE.

2. The Department of the Secretary of State of Canada, shall be charged with the administration and management of the Dominion lands. Administration and  
management  
of Dominion  
Lands.

1. Such administration and management shall be effected through a Branch of the said Department, to be known and designated as “*The Dominion Lands Office*.” Office.

2. Copies of any records, documents, plans, books, or papers, belonging to or deposited in the said office, attested under the signature of the Secretary of State or of the Surveyor General, shall be competent evidence in all cases in which the original records, documents, books, plans, or papers, could be evidence. Copies of  
Documents.

3. No person employed in or under the Dominion Lands Office shall purchase any of such lands, except under authority of an Order in Council. Employees  
not to pur-  
chase.

#### SYSTEM OF SURVEY.

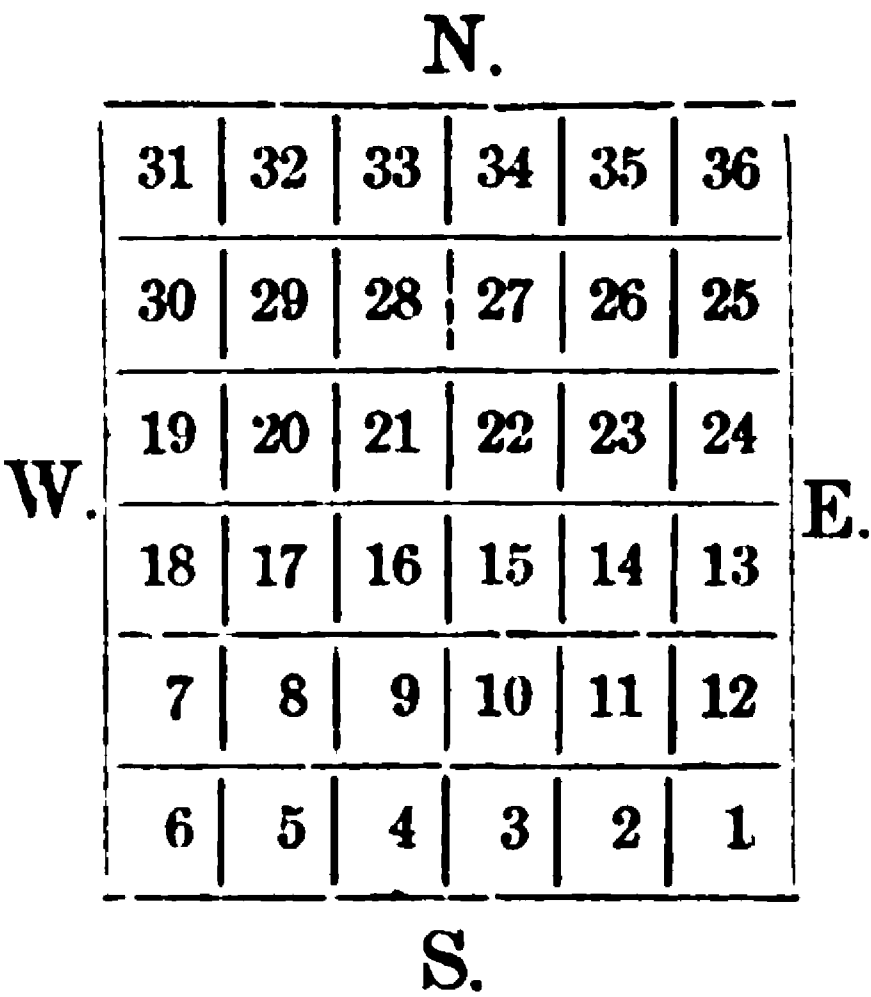
3. Subject always to the provisions hereinafter made with respect to special cases,— System of  
Survey.

1. The Dominion lands shall be laid off in quadrilateral Townships, containing thirty-six sections of one mile square in each, (except in the case of those sections rendered irregular by the convergence or divergence of meridians as hereinafter mentioned) together Townships to  
contain thirty-  
six square  
miles, exclu-  
sive of road  
allowances.

together with road allowances of one chain and fifty links in width, between all townships and sections.

Sections.

2. The sections shall be bounded and numbered as shewn by the following diagram :



Townships to measure on each side 489 chains.  
Proviso ; as to reduction of width of road allowances, in certain places

3. The township therefore will, subject to deficiency or surplus from converging or diverging meridians, as the case may be, measure on each side, from centre to centre of the road allowances bounding the same, four hundred and eighty-nine chains ; Provided that the Governor in Council may hereafter, should the same be deemed expedient, reduce the width of the road allowances on township and section lines in that part of the territory lying north of the line between townships eighteen and nineteen, and east of the tenth range east of the principal meridian, and west of the fourteenth range west of the said meridian.

Lines bounding townships.

4. The lines bounding townships on the east and west sides shall in all cases be true meridians, and those on the north and south sides shall be chords intersecting circles of latitude passing through the angles of the townships.

Townships shall be numbered.

5. The townships shall be numbered in regular order northerly from the international boundary or forty-ninth parallel of latitude, and shall lie in ranges numbered, in Manitoba, east and west from a certain meridian line run in the year 1869, styled the "Principal Meridian," drawn northerly from the said forty-ninth parallel at a point ten miles or thereabouts westerly from Pembina.

Other governing or guide meridians.

6. In the territories east and west of Manitoba such other governing or guide meridians may be adopted and confirmed by the Governor in Council as may from time to time become expedient.

Townships to be 489 chains wide on the base lines.

7. The townships shall be laid out the precise width of four hundred and eighty-nine chains, as aforesaid, on the base lines hereinafter mentioned, and the meridians between townships shall be drawn from such bases, north or south to the depth of two townships, that is to say, to the correction lines hereinafter mentioned.

8. The said forty-ninth parallel or international boundary shall be the first base line, or that for townships one and two. The second base line shall be between townships four and five, the third between townships eight and nine, the fourth between townships twelve and thirteen, the fifth between townships sixteen and seventeen, and so on northerly in regular succession.

Base lines for townships.

9. The correction lines, or those upon which the "jog" resulting from want of parallelism of meridians shall be allowed, will be as follows, that is to say:—On the line between townships two and three, on that between six and seven, on that between ten and eleven, and so on. In other words, they will be those township lines running east and west which are equi-distant from the bases, at the depth of two townships.

Correction lines, what township lines to be.

10. Each section shall be divided into quarter sections of one hundred and sixty acres, more or less, subject to the provisions hereinafter made.

Division of sections.

11. In the survey of any and every township, the deficiency or surplus, as the case may be, resulting from convergence or divergence of meridians shall be allowed in the range of quarter sections adjoining the west boundary of the township, and the north and south error in closing on the correction lines from the north or south shall be allowed in the ranges of quarter sections adjoining, and north or south respectively of the said correction lines.

Allowances for deficiency or surplus in survey of townships.

12. The dimensions and area of the irregular quarter sections resulting from the provision in the next preceding clause, whether the same be deficient or in excess, shall, in all cases, be returned by the surveyor at their actual measurements and contents.

Dimensions and area of irregular quarter sections, how to be returned.

13. Preliminary to the subdivision into townships and sections of any given portion of country proposed to be laid out for settlement, the same shall be laid out into blocks of four townships each, by projecting the base and correction lines, and east and west meridian boundaries of each block:

Country to be laid out into blocks of four townships each in the first instance, and how.

1. On these lines, at the time of the survey, all township, section and quarter section corners shall be marked, which corners shall govern, respectively, in the subsequent subdivision of the block.

Corners.

2. Only a single row of posts or monuments to indicate the corners of townships, or sections, (except as hereinafter provided), shall be placed on any survey line. These posts or monuments as an invariable rule (with the exception above referred to) shall be placed in the west limit of the road allowances, on north and south lines, and in the south limit of road allowances, on east and west lines; and in all cases shall fix and govern the position of the boundary corner between the two adjoining townships, sections, or quarter sections on the opposite side of the road allowance.

Posts and monuments.

3. Provided that in the case of the township, section and quarter section corners on correction lines, posts or monuments shall in

Proviso as to correction lines.

all



all cases be planted and marked independently for the townships on either side ; those for the townships north of the line, in the north limit of the road allowance ; and those for the townships south, in the south limit.

Surveys to be performed by contract.

**14.** The surveys of the Dominion lands, according to the system above described, shall be carried out and shall be performed by contract at a certain rate per mile or per acre, fixed from time to time by the Governor in Council.

Legal subdivisions of townships.

**15.** Legal subdivisions as applicable to the survey, sale and granting of the Dominion lands, shall be as follows : and it shall be sufficient that such legal subdivisions be severally, as the case may require, designated and described by such names or numbers and areas for letters patent, that is to say :

1. A section or 640 acres ;  
A half section or 320 acres ;  
A quarter section or 160 acres ;  
A half quarter section or 80 acres.

Quarter quarter sections.

2. To facilitate the descriptions for Letters Patent of less than a half quarter section, the quarter sections composing every section in accordance with the boundaries of the same as planted or placed in the original survey, shall be supposed to be divided into quarter quarter sections, or forty acres, and such quarter quarter sections shall be numbered as shewn in the following diagram :

	N.				
	13	14	15	16	
	12	11	10	9	
W.	5	6	7	8	E.
	4	3	2	1	
	S.				

Areas to be more or less.

3. The area of any legal subdivision as above set forth, in Letters Patent, shall be held to be more or less, and shall in each case be represented by the exact quantity as given to such subdivision in the original survey :

Proviso : as to the laying out and description of lands in certain localities.

**16.** Provided that nothing in this Act shall be construed to prevent the lands upon the Red and Assineboine Rivers surrendered by the Indians to the late Earl of Selkirk from being laid out in such manner as may be necessary in order to carry out section thirty-two of the Act thirty-third Victoria, chapter three or to prevent fractional sections or lands bordering on any river, lake, or other water course or public road, from being divided ; or such lands from being laid out in lots of any certain frontage and depth, in such manner as may appear desirable ; or to prevent the subdivision of sections or other legal subdivisions into wood lots as hereinafter provided ; or from describing

describing the said lands upon the Red and Assineboine Rivers, or such subdivisions of fractional sections, or other lots, or wood lots, for patent, by numbers according to a plan of record, or by metes and bounds, or by both, as may seem expedient.

## DISPOSAL OF THE DOMINION LANDS.

### LANDS RESERVED BY THE HUDSON'S BAY COMPANY.

**17.** Whereas by article five of the terms and conditions in the deed of surrender from the Hudson's Bay Company to the Crown, the said Company is entitled to one-twentieth of the lands surveyed into townships in a certain portion of the territory surrendered, described and designated as the "Fertile Belt:" Preamble

And whereas by the terms of the said deed, the right to claim the said one-twentieth is extended over the period of fifty years, and it is provided that the lands comprising the same shall be determined by lot; and whereas the said Company and the Government of the Dominion have mutually agreed that with a view to an equitable distribution throughout the territory described, of the said one-twentieth of the lands, and in order further to simplify the setting apart thereof, certain sections or parts of sections, alike in numbers and position in each township throughout the said territory, shall, as the townships are surveyed, be set apart and designated to meet and cover such one-twentieth: Preamble.

And whereas it is found by computation that the said one-twentieth will be exactly met, by allotting in every fifth township two whole sections of six hundred and forty acres each, and in all other townships one section and three quarters of a section each, therefore— Preamble

In every fifth township in the said territory; that is to say: in those townships numbered 5, 10, 15, 20, 25, 30, 35, 40, 45, 50, and so on in regular succession northerly from the international boundary, the whole of sections Nos. 8 and 26, and in each and every of the other townships the whole of section No. 8, and the south half and north-west quarter of section 26 (except in the cases hereinafter provided for) shall be known and designated as the lands of the said Company. Certain sections and parts of sections in certain townships to be known as Hudson's Bay Company's lands.

**18.** Provided, that the next preceding clause shall not apply to fractional townships or those broken by lakes, but only to whole townships, and that in the cases above mentioned the Company's one-twentieth shall be set apart by lot, by the Secretary of State and the said Company, or some person duly authorized by them respectively. In certain townships the Company's one-twentieth to be set apart by lot.

**19.** Provided further, that on the survey of a township being effected, should the sections so allotted, or any of them, or any portion of them, be found to have been *bonâ fide* settled on under the authority of any Order in Council, or of this Act, then if the Company forego their right to the sections settled upon as aforesaid, Company may select land in lieu of allotted land found to be settled upon under lawful authority.

aforesaid, or any one or more of such sections, they shall have the right to select a quantity of land equal to that so settled on, and in lieu thereof, from any lands then unoccupied.

Company's  
lands to form  
no part of  
timber limita.

**20.** Provided also, as regards the sections and parts of sections as mentioned in clause seventeen, that where the same may be situate in any township withdrawn from settlement and sale, and held as timber lands under the provisions hereinafter contained, the same shall form no part of the timber limit or limits included in such townships, but shall be held to be the property of the Company.

Title to lands  
to pass to Com-  
pany without  
Patent in cer-  
tain cases, and  
under patents  
in other cases.

**21.** As townships are surveyed and the respective surveys thereof confirmed, or as townships or parts of townships are set apart and reserved from sale as timber lands, the Governor of the said Company shall be duly notified thereof by the Surveyor General, and thereupon this Act shall operate to pass the title in fee simple in the sections or three-quarter parts of sections to which the Company will be entitled under clause seventeen, as aforesaid, and to vest the same in the said Company, without requiring a patent to issue for such lands; and as regards the lands set apart by lot, and those selected to satisfy the one-twentieth in townships other than the above, as provided in clauses eighteen and nineteen, returns thereof shall be made in due course by the Local Agent or Agents to the Dominion Lands Office, and patents shall issue for the same accordingly.

#### EDUCATIONAL ENDOWMENT.

Sections 11 and  
29 in every  
surveyed  
township set  
apart as an  
educational  
endowment.

**22.** And whereas it is expedient to make provision in aid of education in Manitoba, and the North-West Territories, therefore sections eleven and twenty-nine in each and every surveyed township throughout the extent of the Dominion lands, shall be and are hereby set apart as an endowment for purposes of education.

Such sections  
not to be sub-  
ject to right  
of purchase  
by private  
entry or  
pre-emption  
or homestead  
right.

1. The sections so dedicated shall be thereafter dealt with in such manner as may be prescribed by law, and the same are hereby withdrawn from the operation of the clauses in this Act relating to purchase by private entry, and to homestead right, and it is hereby declared that no such right of purchase by private entry or homestead right shall be recognized in connection with the said sections or any part or parts thereof:

Proviso:  
if such sec-  
tions are  
found settled  
on and im-  
proved.

2. Provided, that on a township being surveyed, should such sections, or either of them, or any part of either, be found to have been settled on and improved, then and in such case the occupant or occupants, conforming to the requirements of this Act shall be confirmed in such possession, and the Secretary of State shall select a quantity equal to that found to have been so settled on from the unclaimed lands in such township, and shall withdraw the land so selected from sale and settlement, and shall set apart and publish the same as school lands, by notice in the *Canada Gazette*.



## MILITARY BOUNTY LAND CLAIMS.

**23.** In all cases in which land has heretofore been or shall hereafter be given by the Dominion for military services, warrants shall be granted in favor of the parties entitled to such land by the Minister of Militia and Defence, and such warrants shall be recorded in the Dominion Lands Office in books to be kept for the purpose, and shall be located as hereinafter provided, and patents for the lands so located shall be issued accordingly.

Warrants to be granted for lands given for military services.

1. Such warrants may be located by the owners thereof, in any of the Dominion lands open for sale, or may be received in payment for a homestead claim for the same number of acres, or in payment in part or in full, as the case may be, for the purchase at public or private sale of Dominion lands, at the value shewn upon their face, estimating the number of acres in the warrant at the price mentioned therein.

Such warrants may be located in lands open for sale, or given in payment for lands.

2. In accepting warrants as so much purchase money, any deficiency shall be payable in cash. But should any payment by warrant or by amount in warrants, be in excess, the Government will not return any such excess.

As to warrants accepted as purchase money.

3. In locating a warrant, should the same be for any aliquot part of a section, it must be located in a legal subdivision of corresponding extent; for instance, a warrant calling for one hundred and sixty acres must be located in a certain quarter section intact.

As to locating warrants.

**24.** Assignments of Military Bounty land warrants duly made and attested before any person entitled by law to take affidavits shall be recognized as conveying the beneficial interest therein, but no assignment of the interest of the original owner (except in the case of Red River soldiers' warrants as hereinafter mentioned) will be held as transferring such interest, unless the assignment be endorsed on the back of the warrant; and in subsequent assignments the warrant, unless the same has been lost, (as hereinafter mentioned) must be attached to and form part of the claimant's or locatee's papers.

Assignments of Military Bounty Land Warrants.

**25.** In all cases where an officer or soldier entitled to Military Bounty land dies before the issue of the warrant, or between the issue of the warrant and the location thereof, the warrant or the patent, or both, as the case may be, shall issue in favor of the legal representatives of such deceased officer or soldier, according to the law of the Province or Territory where the lands in question lie, who shall be ascertained in such manner and by such Court, Commissioners or other tribunal, as the Legislature of such Province shall prescribe by any Act passed for that purpose, and shall be certified to the Governor under such Act,—or if the lands be in any territory in which there is then no Legislature, then in such manner and by such Commissioners as the Governor in Council may from time to time direct,—and any Order in Council in that behalf may vest in any Commissioners under its power to summon witnesses and examine them

Warrant or Patent to issue in favor of legal representatives of deceased officer or soldier.



them on oath and to compel the production of documents, and generally may vest in them all such powers and impose upon all other persons all such obligations, as the Governor in Council may deem necessary in order to ascertain and certify to the Governor the person or persons to whom the Patent ought to issue,—and on any such certificate under this clause the Patent shall issue in accordance therewith.

New warrant may issue in lieu of warrant lost or destroyed.

**26.** Whenever any warrant for Military Bounty land issued in pursuance of this Act, is lost or destroyed, whether the same may or may not have been sold and assigned by the original owner, the Minister of Militia and Defence, (such loss or destruction having been proved to his satisfaction,) may, and he is hereby required to cause a new warrant of like tenor to be issued in lieu thereof, in favor of the person to whom the warrant belonged at the time of its loss or destruction, if he be still living, or of his legal representatives as aforesaid, if he be no longer living, which new warrant may be assigned, located, and patented, and shall be of like value in every respect, with the original warrant, and in any and all such cases of re-issue, the original warrant, in whosoever hands it may be, shall be null and void.

Free grant of land by Order in Council of 25th April, 1871, confirmed.

**27.** And whereas by order of the Governor in Council, dated the 25th April, 1871, it is declared that,—

The officers and soldiers of the 1st or Ontario and the 2nd or Quebec Battalion of Rifles, then stationed in Manitoba, whether in the service or dépôt companies, and not having been dismissed therefrom, should be entitled to a free grant of land without actual residence, of one quarter section,—such grant is hereby confirmed, and the Minister of Militia and Defence is hereby authorized and required to issue the necessary warrants therefor accordingly :

Assignments of interest in such free grants recognized.

**28.** And whereas effect could not be given to the above mentioned Order in Council, until the lands in Manitoba had been surveyed, and in the mean time many of the said men so entitled as above have assigned their interest in such free grants,—such assignments duly made and attested, and having the certificate of discharge in the case of non-commissioned officers or private soldiers attached thereto, and filed in the Dominion Lands Office before the issue of the warrant, shall be held to transfer in each case the interest of the man so entitled in the warrant when issued, which latter, in every such case, shall be attached, after registry, to the assignment on file, and held for delivery to the party entitled thereto, or for location.

#### ORDINARY PURCHASE AND SALE OF LANDS.

Surveyed Dominion lands open for purchase at \$1 per acre,

**29.** Unappropriated Dominion lands, the surveys of which may have been duly made and confirmed, shall, except as otherwise hereinafter provided, be open for purchase at the rate of one dollar

dollar per acre ; but no such purchase of more than a section, or six hundred and forty acres, shall be made by the same person ; Proviso. provided that whenever so ordered by the Secretary of State, such unoccupied lands as may be deemed by him expedient from time to time shall be put up at public sale (of which sale due and sufficient notice shall be given) at the upset price of one dollar per acre, and sold to the highest bidder.

#### PAYMENTS FOR LANDS.

**30.** Payments for lands, purchased in the ordinary manner, shall be made in cash, except in the case of payment in military bounty warrants as hereinbefore provided. Payments for lands to be in cash, as a rule.

#### TOWN PLOTS, &c.

**31.** The Secretary of State shall have power, from time to time, to set apart and withdraw from purchase and from the homestead clauses of this Act, any tract or tracts of land which it may be considered by him expedient to lay out into Town or Village Plots, and to cause the same to be surveyed and laid out, and the lots so laid out to be sold, either by private sale and for such price as he may see fit, or at public auction. Secretary of State may reserve tracts of land for Town or Village Plots.

**32.** The Governor in Council may also set apart and appropriate such Dominion lands as he may deem expedient, for the sites of market places, gaols, court houses, places of public worship, burying grounds, schools, benevolent institutions, squares and for other like public purposes, and at any time before the issue of letters patent therefor, may alter or revoke such appropriation, as he deems expedient, and he may make free grants for the purposes aforesaid of the lands so appropriated, the trusts and uses to which they are to be subject being expressed in the letters patent. Governor in Council may set apart lands for other public purposes.

#### HOMESTEAD RIGHTS OR FREE GRANT LANDS.

**33.** Any person who is the head of a family, or has attained the age of twenty-one years, shall be entitled to be entered for one quarter section or a less quantity of unappropriated Dominion lands, for the purpose of securing a homestead right in respect thereof. (Form A.) Steps to be taken for the purpose of securing a homestead right in respect of land, and provisions respecting the same.

1. Provided that the limitation of quantity in this clause, shall not prevent the granting of a wood lot to the same person, under the provisions hereinafter made with respect to timber in surveyed Townships. Proviso, as to extent.

2. When two or more persons have settled on and seek to obtain a title to the same land, the homestead right shall be in him who made the first settlement. More than one settler.

If both have improved.

3. Provided, that in cases where both parties may have made valuable improvements, the Secretary of State may order a division of such land, in legal subdivisions, in such manner as may preserve to the said parties, as far as practicable, their several improvements, and further, may direct that what the land of each of such parties, as so divided, may be deficient of a quarter section, shall be severally made up to them in legal subdivisions from unoccupied quarter sections adjoining.

Interfering claims.

4. Questions as to the homestead right arising between different settlers shall be investigated by the Local Agent of the division in which the land is situated, whose report and recommendation, together with the evidence taken, shall be referred to the Secretary of State for decision.

Time for application

5. Every person claiming a homestead right from actual settlement must file his application for such claim, describing the land settled, with the Local Agent within whose district such land may be, within thirty days next after the date of such settlement, if in surveyed lands; but if in unsurveyed lands the claimant must file such application within three months after such land shall have been surveyed; and in either case proof of settlement and improvement shall be made to the Local Agent at the time of filing such application.

Occupants of contiguous lands.

6. Persons owning and occupying Dominion lands may be entered for other land lying contiguous to their lands, but the whole extent of land, including that previously owned and occupied, must not exceed one hundred and sixty acres, and must be in legal sub-divisions.

Affidavit to be made.

7. A person applying for leave to be entered for lands with a view of securing a homestead right therein, shall make affidavit before the Local Agent (Form B) that he is over twenty-one years of age, that he has not previously obtained a homestead under the provisions of this Act, that to the best of his knowledge and belief there is no person residing on the land in question, or entitled to enter the same as a homestead, and that the application is made for his exclusive use and benefit, and for the purpose of actual settlement.

Entry.

8. Upon making this affidavit, and filing it with the Local Agent, and on payment to him of an office fee of ten dollars for which he shall receive a receipt from the Agent, he shall be permitted to enter the land specified in the application.

Entry of contiguous lands.

9. In entries of contiguous lands, the settler must describe in his affidavit the tract he owns and is settled upon as his original farm. Actual residence on the contiguous land entered is not required but *bond fide* improvement and cultivation of it must be thereafter shewn for the period required by the provisions of this Act.

No patent for three years.

10. No patent shall be granted for the land until the expiration of three years from the time of entering into possession of it except as hereinafter provided.

Issue of patent.

11. At the expiration of three years the settler or his widow, her heirs or devisees, or, if the settler leaves no widow, his heirs or devisees, upon proof, to the satisfaction of the Local Agent that



that he, or his widow or his or her representatives as aforesaid, or some of them, have resided upon or cultivated the land for the three years next after the filing of the affidavit for entry, the settler or such claimant shall be entitled to a patent for the land, provided such claimant is then a subject of Her Majesty by birth or naturalization.

12. When both parents die, without having devised the land, and leaving a child or children under age, it shall be lawful for the executors (if any) of the last surviving parent, or the guardian or guardians of such child or children, with the approval of a Judge of a Superior Court of the Province or Territory in which the lands lie, to sell the lands for the benefit of the infant or infants, but for no other purpose; and the purchaser, in such case, shall acquire the homestead right by such purchase, and on carrying out the unperformed conditions of such right, shall receive a patent for the land, upon payment of the office fees.

When parents die without devising.

13. The title to lands shall remain in the Crown until the issue of the patent therefor, and such lands shall not be liable to be taken in execution before the issue of the patent.

Title before patent.

14. In case it is proved to the satisfaction of the Local Agent that the settler has voluntarily relinquished his claim, or has been absent from the land entered by him, for more than six months in any one year, then the right to such land shall be forfeited; and the settler so relinquishing or abandoning his claim shall not be permitted to make more than a second entry.

Settler abandoning his claim.

15. Any person who has availed himself of the foregoing provisions may, before the expiration of the three years, obtain a patent for the land entered upon by him, including the wood lot, if any, forming an addition to the grant thereof, as hereinafter provided, on paying the Government price thereof at the date of entry, and making proof of settlement and cultivation for not less than twelve months from the date of entry.

Patent before three years on payment of price, &c.

16. Proof of actual settlement and cultivation shall be made by affidavit of the claimant before the Local Agent, corroborated on oath by two credible witnesses.

Proof of improvement.

17. All assignments and transfers of homestead rights before the issue of the patent shall be null and void, but shall be deemed evidence of abandonment of the right; and the person so assigning or transferring shall not be permitted to make a second entry.

Assignments void.

18. The above provisions relating to homesteads shall only apply to agricultural lands, and shall not be held to apply to lands set apart as timber lands, or to those lands on which coal or minerals are at the time of entry known to exist.

Provisions to apply only to homesteads.

#### GRAZING LANDS.

34. Leases of unoccupied Dominion lands may be granted for grazing purposes to any person or persons whomsoever being *bona fide* settlers in the vicinity of the land sought to be leased, at such rent and for such term as the Secretary of State shall deem expedient; but every such lease of grazing land shall, among other things, contain a condition making such land liable for settlement

Unoccupied Dominion lands may be leased to neighboring settlers for grazing purposes. Conditions.



or for sale as hereinbefore provided by this Act, at any time during the term of such lease, without compensation, save by a proportionate deduction of rent, and a further condition by which the Secretary of State may, on giving the lessee six months notice, cancel the lease at any time during the term.

#### HAY LANDS.

Unoccupied Dominion lands may be leased to neighboring settlers for the purpose of cutting hay thereon, but not to the hindrance of the sale or settlement thereof.

**35.** Leases of unoccupied Dominion lands, not exceeding a half quarter section, or eighty acres, to any one person, may be granted for the purpose of cutting hay thereon, to any person or persons whomsoever being *bond fide* settlers in the vicinity of such hay land, for such term and at such rent as the Secretary of State may deem expedient ; but such lease shall not operate to prevent at any time during the term thereof the sale or settlement of the lands described therein under the provisions of this Act, the lessee being paid in such case by the purchaser or settler, for fencing or other improvements made on such land, such sum as shall be fixed by the Local Agent, and allowed to remove any hay he may have made.

#### MINING LANDS.

Mines or minerals not to be reserved in patents of lands.

**36.** No reservation of gold, silver, iron, copper, or other mines or minerals shall be inserted in any patent from the Crown granting any portion of the Dominion lands.

Any person may explore and purchase mining lands.

**37.** Any person or persons may explore for mines or minerals on any of the Dominion lands, surveyed or unsurveyed, and not then marked or staked out and claimed or occupied, and may, subject to the provisions hereinafter contained, purchase the same.

Mining lands in surveyed townships to be sold in legal subdivisions. Those in unsurveyed territory, without the limits of the Fertile Belt, to be sold in blocks, to be called mining locations. Description of such blocks.

**38.** Mining lands, if in surveyed townships, may be acquired under the provisions herein contained, and shall be sold in legal subdivisions. When situate in unsurveyed territory and without the limits of the Fertile Belt, such lands shall be sold in blocks to be called mining locations ; and every such mining location, except as hereinafter provided, shall be bounded by lines due north and south and due east and west, astronomically ; and each such location shall correspond with one of the following dimensions, namely, eighty chains in length by forty in width, containing three hundred and twenty acres,—or forty chains square, containing one hundred and sixty acres,—or forty chains in length by twenty in width, containing eighty acres.

Proviso.

1. Provided further that in case of certain lands proving to be rich in minerals, the Secretary of State shall have the power to withdraw such lands from sale, and in lieu thereof institute a system of lease.

Rent.

2. The rent payable to the Crown under any such lease shall be a royalty, not to exceed two and a half per cent, on the net profits of working.

3. Provided further, that when there are two or more applicants for the same tract, and a prior right in either or any of the applicants is not established to the satisfaction of the Secretary of State, the same may be tendered for by the claimants on stated terms of lease, and sold to the highest bidder.

Proviso :  
when no prior  
right exists.

4. Provided also that in territory supposed to contain minerals the Secretary of State may in his discretion reserve from sale, alternate locations, or quarter sections, or other legal subdivisions with the view of subsequently offering the same either for sale or lease at public competition.

Further pro-  
vision.

39. Mining locations in unsurveyed territory shall be surveyed by a Deputy Surveyor, and shall be connected with some known point in previous surveys, or with some other known point or boundary (so that the tract may be laid down on the maps of the territory in the Dominion Lands Office) at the cost of the applicants, who shall be required to furnish, with their application, the Surveyor's plan, field notes and description thereof.

Mining  
locations to be  
surveyed by  
Deputy  
Surveyors.

40. No distinction in price shall be made between lands supposed to contain mines or minerals and farming lands, but both classes shall be sold at the uniform price of one dollar per acre ; provided that clause twenty-nine of this Act as regards offering lands at public sale shall apply to coal and mineral lands also, when the same are in surveyed townships.

Lands sup-  
posed to con-  
tain minerals,  
to be sold at  
the same price  
as farming  
lands.

41. It shall also be lawful for the Secretary of State to exempt from the preceding provisions of this Act, such of the Dominion lands upon or adjoining the banks of rivers or other waters as may be supposed to contain valuable " Bar," " Bench," or " Dry " " Diggings " for gold or other precious metals ; and the Governor in Council shall regulate, from time to time, as the same may become necessary and expedient, the nature and size of the claims containing such diggings, and shall fix the terms and conditions upon which the same shall be held and worked, and the royalty payable in respect thereof, and shall appoint and prescribe the duties of such officers as may be necessary to carry out such regulations.

Secretary of  
State may  
exempt certain  
lands from the  
preceding  
provisions.  
Duty of  
Governor in  
Council with  
respect to lands  
so excepted.

#### INDIAN TITLE.

42. None of the provisions of this Act respecting the settlement of Agricultural lands, or the lease of Timber lands, or the purchase and sale of Mineral lands, shall be held to apply to territory the Indian title to which shall not at the time have been extinguished.

As to lands  
still under  
Indian title.

#### COAL LANDS.

43. Coal lands designated by the Government as such are hereby withdrawn from the operation of this Act as regards the rights

Coal lands may  
not be taken  
for home-  
steads.

rights of squatters to homesteads on the Dominion lands in advance of the Surveys.

Steps to be taken by persons desiring to carry on coal mining in unsurveyed territory.

44. Any person or persons desiring to carry on coal mining in unsurveyed territory, shall be protected in the possession of the lands on which such mining may be carried on,—provided, that before entering on the working of such mines, such person or persons make written application to the Local Agent to purchase such land : such application must be accompanied by a description by a Deputy Surveyor setting forth generally the situation and the dimensions of such land, and shall also be accompanied by payment of the price thereof, estimating the number of acres (which shall not exceed six hundred and forty) at the rate of one dollar per acre. Such application shall be filed by the Agent receiving the same—and on the survey of the Township containing the land applied for being effected, the claimant or claimants shall be entitled to a patent for such number of acres, in legal subdivisions, including and covering the mine worked, as shall correspond to the application and to the extent of land paid for.

Proviso : for continuous working.

Provided that such mine shall have been continuously worked during the interim between the application and the survey ; but if the same should at any time during such interim cease to be worked for twelve consecutive months, unless the lands in question be no longer valuable for mining purposes, then the claim of the parties to the land shall lapse, and the mine shall be forfeited to the Crown, together with any and all purchase money which may have been paid to the Government on account thereof.

Coal lands may be exempted from sale and settlement. Provisions of Act.

45. The Secretary of State, with the view of preventing undue monopoly in coal lands, may in his discretion, on a township being surveyed, exempt from the sale and settlement provisions of this Act the sections or other legal subdivisions of land which may be said to contain coal, except those on which mining may have been carried on under the next preceding clause ; and the same shall be subsequently sold or otherwise dealt with in such manner as may be deemed expedient by the Governor in Council.

## TIMBER AND TIMBER LANDS.

### TIMBER IN TOWNSHIPS SURVEYED FOR SETTLEMENT.

Timber forming islands or belts in townships thrown open for settlement, to be disposed of so as to benefit the greatest possible number of settlers and prevent petty monopoly, and how.

46. And whereas it is expedient that the timber forming Islands or Belts in townships thrown open for settlement, should be so disposed of as to benefit the greatest possible number of settlers and to prevent petty monopoly, it is therefore enacted as follows :—

1. In the subdivision of townships which may consist partly of prairie and partly of timber land, such of the sections or subdivisions of sections containing Islands, Belts, or other tracts of timber, shall be subdivided into such number of wood lots of not less than ten, and not more than twenty acres in each lot, as will afford.



afford, so far as the extent of wood land in the township may permit, one such wood lot to each quarter section prairie farm in such township.

2. Provided, that neither the sections and parts of sections in each township vested in the Hudson's Bay Company by this Act nor those sections set apart herein for schools, shall be subject in any way to the operation of the next preceding sub-clause.

3. The division of such wood lots shall be by squared posts, numbered from one upwards, marked with a marking iron, and planted in the section lines bounding the timber tract so laid out ; and each wood lot shall front on a section road allowance.

4. Provided, that in case an Island or Belt of timber be found in the survey of any township to lie in a quarter section or several quarter sections, but in such manner that no single quarter section shall have more of such timber than twenty-five acres, such timber shall be taken to be appurtenant to such quarter section or quarter sections, and shall not be further divided into wood lots.

5. The Local Agent, as settlers shall apply for homestead rights in the township, and in the same order as such applications shall be made, shall apportion to each quarter section so applied for, one of the adjacent wood lots, and such wood lot shall appertain to and form an addition to such grant, and shall be entered on the Local Agent's books and be returned by him as in connection therewith ; and the wood lot set apart with any homestead quarter section shall be a free gift in connection with such homestead, and in addition thereto, and on such homestead claimant fulfilling all the requirements of this Act in that behalf, the patent for such quarter section shall also include such wood lot.

6. Provided, that any homestead claimant, who, previous to the issue of the patent shall sell any of the timber on his claim or on the wood lot appertaining to his claim, to saw mill proprietors or to any other than settlers for their own private use, shall be guilty of a trespass, and may be prosecuted therefor before a Justice of the Peace, and upon conviction thereof, shall be subject to a fine or imprisonment, or both ; and further, such person shall forfeit his claim absolutely.

#### OTHER TIMBER AND TIMBER LIMITS.

47. Any tract of land covered by forest timber may be set apart as timber lands, and reserved from sale and settlement. Reservation of timber lands.

48. Except where it may be thought expedient by the Secretary of State to divide a township into two or more timber limits, the several townships composing any such tract shall each form a limit. Each township to form a timber limit.

49. In the enactments and provisions under the present heading, *Timber and Timber Lands*, the word "timber" includes all lumber, and all products of timber hereinafter mentioned, or of any other kind whatever, including firewood or bark. What "timber" includes under this heading.



Right of  
cutting  
timber  
to be sold to  
highest bidder.

**50.** The right of cutting timber on such limits shall be put up at a bonus per square mile, varying according to the situation and value of the limit, and sold to the highest bidder by competition, either by tender or at public auction.

Purchaser to  
have a lease for  
21 years.

**51.** The purchaser shall receive a lease granting the right of cutting timber on the land for twenty-one years, and containing the following conditions, with such others as shall have been embodied in the notice of sale, that is to say:—

Conditions of  
lease.  
Mills.

1. The lessee to erect a saw mill or mills in connection with such limit and lease, and subject to any special conditions which may be agreed upon and stated in the lease, such mill or mills to be of capacity to cut at the rate of a thousand feet, board measure, in twenty-four hours, for every two and a half square miles of limits in the lease, or shall establish such other manufactory of wood goods as may be agreed upon as the equivalent of such mill or mills, and the lessee to work the limit, in the manner and to the extent provided in the lease, within two years from the date thereof, and during each succeeding year of the term.

To take all  
timber.

2. To take from every tree he cuts down all the timber fit for use, and manufacture the same into sawn lumber or some other such saleable product as may be provided in the lease or by any Regulations made under this Act.

To prevent  
destruction.

3. To prevent all unnecessary destruction of growing timber on the part of his men, and to exercise strict and constant supervision to prevent the origin or spread of fires.

Monthly  
returns.

4. To make returns to the Government monthly, or at such other periods as may be required by the Secretary of State, or by Regulations under this Act, sworn to by him or by his agent or employee cognizant of the facts, declaring the quantities sold or disposed of as aforesaid, of all sawn lumber, timber, railway car stuff, ship timbers and knees, shingles, laths, cordwood or bark, or any other product of timber from the limit, in whatever form the same may be, sold or otherwise disposed of by him during such month or other period, and the price or value thereof.

Rent.

5. To pay, in addition to the bonus, an annual ground rent of two dollars per square mile, and further a royalty of five per cent on his monthly account.

Books.

6. To keep correct books of such kind and in such form, as may be provided by his lease or by Regulation under this Act, and to submit the same for the inspection of the collector of dues whenever required, for the purpose of verifying his returns aforesaid.

Rights of  
lessee.

7. The lease shall describe the lands upon which the timber may be cut, and shall vest in the lessee during its continuance, the right to take and keep exclusive possession of the lands so described, subject to the conditions hereinbefore provided or referred to; and such lease shall vest in the holder thereof, all right of property whatsoever in all trees, timber, lumber and other products of timber, cut within the limits of the lease during the continuance thereof, whether such trees, timber and lumber or products be cut by authority of the holder of such lease or by any other person, with or without his consent; and such

such lease shall entitle the lessee to scize in replevin, revendication or otherwise, as his property, such timber where the same is found in the possession of any unauthorized person, and also to bring any action or suit at law or in equity against any party unlawfully in possession of any such timber, or of any land so leased, and to prosecute all trespassers thereon and other such offenders as aforesaid, to conviction and punishment, and to recover damages, if any : and all proceedings pending at the expiration of any such lease may be continued and completed as if the lease had not expired.

8. Such lease shall be subject to forfeiture, for infraction of any one of the conditions to which it is subject, or for any fraudulent return; and in such case the Secretary of State shall have the right, without any suit or other proceeding at law or in equity, or compensation to the lessee, to cancel the same, and to make a new lease or disposition of the limit described therein, to any other party, at any time during the term of the lease so cancelled: Provided, that the Secretary of State, if he sees fit, may refrain from forfeiting such lease for non-payment of dues, and may enforce payment of such dues in the manner hereinafter provided. Forfeiture of lease.

9. The Lessee who faithfully carries out the above conditions, shall have the refusal of the same limits, if not required for settlement, for a further term not exceeding twenty-one years, on payment of the same amount of bonus per square mile as was paid originally, and on such lessee agreeing to such conditions, and to pay such other rates, as may be determined on for such second term. Renewal of lease.

52. If, in consequence of any incorrectness in survey, or other error or cause whatsoever, a lease is found to comprise lands included in one of prior date, or any lands sold, granted, leased or lawfully set apart for any other purpose under this Act, the lease first mentioned shall be void in so far as it interferes with any such previous lease, sale, grant or setting apart. Lease of land previously leased, sold, granted or set apart to be void.

#### FURTHER OBLIGATIONS OF PARTIES OBTAINING LICENSES.

53. Any ground rent, royalty or other dues to the Crown, on timber cut within any such limit, which are not paid at the time when they become due and payable, shall bear interest at the rate of six per cent per annum, until paid, and shall be a lien on any timber cut within such limits. And whenever the ground rent on any limit, or any royalty on any timber is not paid within three months after it becomes due under the lease or regulations in that behalf, the Crown Timber Agent may, with the sanction of the Secretary of State, seize so much of the timber cut on such limits, and in the possession of the lessee or on his premises, whether sold or unsold, as will in his opinion be sufficient to secure the payment of such rent and royalty on the timber seized, and all interest and expenses of seizure and sale, and may detain the same as security for the payment thereof: Dues to the Crown to bear interest and be a lien on timber cut on limits. Such timber may be seized and sold in payment.  
and

and if such payment be not made within three months after such seizure, the Crown Timber Agent may, with such sanction as aforesaid, sell such timber by public auction, and after deducting the sum due to the Crown, the interest thereon and expenses aforesaid, he shall pay over the balance, if any, to the lessee or owner of the timber.

Timber cut under lease to be liable for dues, &c.

54. All timber cut under lease shall be liable for the payment of the Crown dues thereon, so long as and wheresoever the said timber or any part of it may be found (whether it be or be not manufactured into deals, boards or any other products); and all officers or agents employed in the collection of such dues may follow all such timber and may seize and detain the same wherever they are found until the dues thereon are paid or secured, and if payment be not made or secured within three months after such seizure, the timber may be sold by the Crown Agent, and the proceeds disposed of as provided by the next preceding clause.

Mode of enforcing payment in case of removal of timber out of Canada.

55. And in case the payment of the Crown dues on any timber has been evaded by any lessee or other party, by the removal of such timber or products out of Canada, or otherwise, the amount of dues so evaded, and any expenses incurred by such officer or the Government in enforcing payment of the said dues under this Act, may be added to the dues remaining to be collected on any other timber cut on Dominion lands by the same lessee or by his authority, and be levied and collected, or secured, on such timber, together with such last mentioned dues, in the manner provided by clause fifty-three; or the amount due to the Crown, of which payment has been evaded, may be recovered by action at law, in the name of the Secretary of State, or his resident Agent, in any Court having jurisdiction in civil cases to the amount.

Bonds or notes may be taken for dues, &c., but without prejudice to lien on timber.

56. The Secretary of State may, in his discretion, take or authorize the taking of bonds or promissory notes for any money due to the Crown, interest and costs, as aforesaid, or for double the amount of all dues, fines and penalties and costs, incurred or to be incurred, and may then release any timber upon which the same would be leviable, whether under seizure or not; but the taking of such bonds or notes shall not affect the lien and right of the Crown to enforce payment of such money on any other timber cut on the same limit, if the sums for which such bonds or notes are given are not paid when due.

#### LIABILITY OF PERSONS CUTTING WITHOUT AUTHORITY.

Penalty for cutting timber on Dominion lands without authority.

57. If any person without authority cuts, or employs or induces any other person to cut or assist in cutting, any timber of any kind, on any Dominion lands wheresoever situate, or removes or carries away, or employs or induces, or assists any other person to remove or carry away any timber of any kind, so cut from any Dominion



Dominion lands as aforesaid, he shall not acquire any right to the timber so cut, or any claim for remuneration for cutting the same, preparing the same for market, or conveying the same to or towards market; and when the timber has been removed out of the reach of the Crown Timber Officers, or it is otherwise found impossible to seize the same, he shall, in addition to the loss of his labour and disbursements, forfeit a sum not exceeding three dollars for each tree, which, or any part of which he is proved to have cut, or carried away; and such sum shall be recoverable with costs, at the suit and in the name of the Crown, in any Court having jurisdiction in civil matters to the amount of the penalty;—and in all such cases the burden of proof of his authority to cut and take the timber shall lie on the party charged, and the averment of the party seizing or prosecuting, that he is duly employed under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary.

1. Whenever satisfactory information, supported by affidavit Seizure on affidavit, &c. made before a Justice of the Peace, or before any other competent officer or person, is received by any Crown Timber Officer or Agent, that any timber has been cut without authority on Dominion lands, and describing where the same can be found,—or if any Crown Timber Officer or Agent, from other sources of information, or his own knowledge, is aware that any timber has been cut without authority on such lands, the said agent, or officer, or either of them, may seize or cause to be seized in Her Majesty's name, the timber so reported or known to be cut, wherever it is found, and place the same under proper custody, until a decision can be had in the matter by competent authority;

2. And where the timber so reported or known to have been cut without authority, has been made up with other timber into a crib, If the timber has been mixed with other timber. dram, or raft, or in any other manner has been so mixed up at any mill or elsewhere, as to render it impossible or very difficult to distinguish the timber so cut without authority, from other timber with which it is mixed up, the whole of the timber so mixed shall be held to have been cut without authority, and shall be liable to seizure and forfeiture accordingly, until satisfactorily separated by the holder.

3. In case any timber cut without authority on Dominion lands, May be released on security. or any product thereof, is seized under the provisions of this Act, by any Crown Timber Agent or Officer, he may allow such timber or product thereof to be removed and disposed of, on receiving sufficient security, by bond or otherwise, to his satisfaction for the full value thereof, or for payment of double the amount of all dues, fines, penalties and costs incurred or imposed thereon as the case may be.

#### RESISTING SEIZURE—REMOVING TIMBER SEIZED—CONDEMNATION OF SUCH TIMBER.

58. Any officer or person seizing timber in the discharge of his Officer seizing timber may call in assistance duty under this Act may, in the name of the Crown, call in any assistance



Resistance or  
obstruction, a  
felony.

assistance necessary for securing and protecting the timber so seized; and if any person under any pretence, either by assault, force or violence, or by threat of such force or violence, in any way resists or obstructs any officer or person acting in his aid, in the discharge of his duty under this Act, such person shall be guilty of felony, and being convicted thereof, shall be punishable accordingly.

Carrying  
away timber  
seized without  
permission, a  
felony.

59. If any person, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away, or causes to be taken and carried away, without permission of the officer or person who seized the same, or of some competent authority, any timber seized and detained for any lawful cause under this Act, before the same has been declared by competent authority to have been seized without due cause, such person shall be deemed to have stolen such timber, being the property of the Crown, and to be guilty of felony, and being convicted thereof, shall be punishable accordingly.

Timber seized  
as forfeited  
shall be  
deemed to be  
condemned in  
default of  
owner claim-  
ing it within  
one month.

60. All timber seized under this Act on behalf of the Crown as being forfeited, shall be deemed to be condemned, unless the person from whom it was seized, or the owner thereof, within one month from the day of the seizure, gives notice to the seizing officer, or to the Crown Timber Agent or Officer, under whose authority the seizure was made, that he claims or intends to claim the same; pending which the Officer or Agent seizing shall report the facts to the Secretary of State, who may order the sale of the said timber, by the said Officer or Agent, after a notice on the spot, or at the residence or office of the person from whom it was seized, of at least thirty days: or if, within fifteen days after the claim has been put in, the claimant shall not have instituted proceedings before a court of competent jurisdiction to contest the seizure; or if the decision of the court be against him; or should the claimant fail duly to prosecute such proceedings in the opinion of the Judge before whom such case may be tried, (and who may for that cause dismiss the suit on the expiration of three months from the date on which it was instituted, anything to the contrary hereinbefore enacted notwithstanding,) the timber may be confiscated and sold for the benefit of the Crown, by order of the Secretary of State, after a notice on the spot of at least thirty days: Provided nevertheless, that in all cases of timber being ascertained to have been cut without authority on any of the Dominion lands, or admitted to have been so cut by the holder thereof, the Secretary of State, should he see cause for doing so, may impose and receive for the Crown a fine or penalty, to be levied on such timber, in addition to all costs incurred, instead of seizing or selling the same.

Proviso.

#### GENERAL PROVISIONS.

In the absence  
of satisfactory

61. Whenever any Crown Timber Agent, or other Officer or Agent of the Secretary of State is in doubt as to whether any timber

timber has, or has not, been cut without authority, or is, or is not, liable to Crown dues on the whole or any part thereof, he may enquire of the person or persons in possession or in charge of such timber as to when and where the same was cut : and if no satisfactory explanation, on oath or otherwise, as he may require, be given to him, he may seize and detain such timber until proof be made to the satisfaction of the Secretary of State or of such Crown Timber Agent or Officer, that such timber has not been cut without authority, and is not liable, either in whole or in part, to Crown dues of any kind : and if such proof be not made, within thirty days after such seizure, such timber may be dealt with as timber cut without authority, or on which the Crown dues have not been paid, according to the circumstances of the case, and the dues thereon may be recovered as provided in the fifty-fifth clause.

explanations  
timber may be  
seized as cut  
without  
authority, or  
for dues.

62. And whenever any timber is seized for non-payment of Crown dues or for any cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this Act, and any question arises whether the said dues have been paid on such timber, or whether the said timber was cut on other than any of the Dominion lands aforesaid, the burden of proving payment, or on what land the said timber was cut, shall lie on the owner or claimant of such timber, and not on the officer who seizes the same or the party bringing such prosecution.

The burden of  
proof where  
timber was  
cut, or of pay-  
ment of dues  
to lie on the  
owner or  
claimant.

#### SLIDES, &c.

63. No sale or grant of any Dominion lands shall give or convey any right or title to any slide, dam, pier or boom, or other work, for the purpose of facilitating the descent of timber or saw-logs, previously constructed on such land, or on any stream passing through or along such land, unless it be expressly mentioned in the letters patent or other documents establishing such sale or grant, that such slide, dam, pier or boom, or other work, is intended to be thereby sold or granted.

Right to  
slides, &c., not  
to be affected  
by sales or  
grants of land,  
unless  
expressly  
mentioned.

1. The free use of slides, dams, piers, booms or other works on streams, to facilitate the descent of lumber and saw-logs, and the right of access thereto for the purpose of using the same and keeping them in repair, shall not in any way be interrupted or obstructed, by, or in virtue of, any sale or grant of Dominion lands made subsequent to the construction of such works.

Free use of  
slides not  
affected.

64. The free use, for the floating of saw-logs and other timber rafts and drams, of all streams and lakes that may be necessary for the descent of timber from Dominion lands, and the right of access to such streams and lakes, and of passing and repassing on or along the land on either side thereof, and wherever necessary for such use thereof, and over all existing or necessary portage roads past any rapids or falls, or connecting such streams or lakes, and over such roads, other than road allowances, as owing to natural obstacles may be necessary for the taking out timber or saw-logs

Free use of  
streams and  
lakes not  
affected.

saw-logs from Dominion lands, and the right of constructing slides where necessary, shall continue uninterrupted, and shall not be affected or obstructed by, or in virtue of, any sale or grant of such lands.

#### PATENTS.

Patent may be signed by a Deputy Governor.

**65.** A Deputy Governor may be appointed by the Governor General, who shall have the power in the absence or under instructions of the Governor General, to sign letters patent of Dominion lands; and the signature of such Deputy Governor to such patents, shall have the same force and virtue as if such patents were signed by the Governor General.

Patent issued in error may be cancelled.

**66.** Whenever a patent has been issued to or in the name of a wrong party or contains any clerical error, misnomer or wrong or defective description of the land thereby intended to be granted, or there is in such patent an omission of the conditions of the grant, the Secretary of State may (there being no adverse claim) direct the defective patent to be cancelled and a correct one to be issued in its stead, which corrected patent shall relate back to the date of the one so cancelled and have the same effect as if issued at the date of such cancelled patent.

Remedy in cases of sales or patents of land inconsistent with each other.

**67.** In all cases in which grants or letters patent have issued for the same land, inconsistent with each other, through error, and in all cases of sales or appropriations of the same land inconsistent with each other, the Secretary of State may order a new grant equivalent in value to the land of which any grantee or purchaser is thereby deprived, at the time the same was granted; or may, in cases of sale, cause repayment to be made of the purchase money with interest; or when the land has passed from the original purchaser, or has been improved before the discovery of the error, or when the original grant was a free grant, the Secretary of State may assign land or grant a certificate entitling the party to purchase Dominion lands of such value as to him, the said Secretary of State, may seem just and equitable under the circumstances; but no claim under this clause shall be entertained unless it is preferred within five years after discovery of the error.

Proviso.

Remedy in cases of deficiency in quantity of land sold or granted.

**68.** Whenever by reason of false survey, or error in the books or plans in the Dominion Lands Office, any grant, sale or appropriation of land is found to be deficient, the Secretary of State may order a free grant equal in value to the ascertained deficiency at the time such land was granted or sold; or in case any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Secretary of State may order the purchase money of so much land as is deficient, with interest thereon from the time of the application therefor, to be paid back to the purchaser; or if the land has passed from the original purchaser, then the purchase money which the claimant (provided he was ignorant of



of the deficiency at the time of his purchase) has paid for so much of the land as is deficient, with interest thereon, from the time of the application therefor, to be paid to him in land or in money, as he, the said Secretary of State, may direct : or, in case of a free grant, he may order a grant of other land, equal in value to the land so intended as a free grant, at the time such grant was made ; but no such claim shall be entertained unless application has been made within five years from the date of the patent, nor unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the particular lot or parcel of land granted. Proviso.

**69.** In all cases wherein patents for lands have issued through fraud, or in error, or improvidence, any Court having competent jurisdiction in cases respecting real property in the Province or place where such lands are situate, may, upon action, bill or plaint respecting such lands and upon hearing of the parties interested, or upon default of the said parties after such notice of proceeding as the said Court shall order, decree such patent to be void ; and upon the Registry of such decree in the Office of the Registrar General of the Dominion, such patent shall be void to all intents. Patents issued through fraud, or in error or improvidence may be decreed to be void.

**70.** When any settler, purchaser or other person refuses or neglects to deliver up possession of any land after forfeiture of the same under the provisions of this Act, or whenever any person is wrongfully in possession of Dominion land, and refuses to vacate or abandon possession of the same, the Secretary of State may apply to a Judge of any Court having competent jurisdiction in cases respecting real property in the Province or place in which the land lies, for an order in the form of a writ of ejectment or of *habere facias possessionem*, and the said Judge, upon proof to his satisfaction that such land was so forfeited, and should properly revert to the Crown, shall grant an order upon the settler or person or persons in possession, to deliver up the same to the Secretary of State or person by him authorized to receive such possession ; and such order shall have the same force as a writ of *habere facias possessionem*, and the Sheriff shall execute the same in like manner as he would execute the said writ in an action of ejectment or petitory action. Remedy in cases of refusal to deliver up possession of forfeited land or to vacate land wrongfully held.

**71.** The Secretary of State shall keep a book for registering, at the option of the parties interested, any assignment of rights to Dominion lands which are assignable under this Act, upon proof to his satisfaction that such assignment is in conformity with this Act ; and every assignment so registered shall be valid against any other previously made but subsequently registered, or unregistered ; but any assignment to be registered must be unconditional, and all conditions on which the right depends must have been performed, or dispensed with by the Secretary of State, before the assignment is registered. Assignments of Dominion lands to be registered.



Patent may be issued in favor of representative of party dying entitled thereto.

**72.** On any application for a patent by the heir, assignee, devisee or legal representative of a party dying entitled to such patent, the Secretary of State may receive proof of the facts in such manner as he may see fit to require, and upon being satisfied that the claim has been justly established may allow the same and cause a patent to be issued accordingly: but nothing in this clause shall limit the right of the party claiming a patent to make his application as provided for in clause twenty-five of this Act.

## SURVEYS AND SURVEYORS.

### WHO SHALL BE COMPETENT TO SURVEY THE DOMINION LANDS.

Qualifications required of Deputy Surveyors of Dominion lands.

**73.** No person shall act as a surveyor of Dominion lands unless he shall, previously to the passing of this Act, have been duly qualified by certificate, diploma or commission, to survey the Crown lands in some one of the Provinces of the Dominion, or shall have become qualified under the provisions hereinafter set forth, that is to say:—

Exceptions.

1. Except such persons as at the time of the passing of this Act hold certificates, diplomas or commissions to practice as surveyors, as hereinbefore set forth, no person shall be competent to act professionally as a surveyor of Dominion lands in Manitoba, or the North-West Territories, unless he shall undergo an examination before the Board of Examiners hereinafter mentioned, or be exempt from undergoing such examination under the provisions hereinafter contained, and receive a commission certifying that he is qualified to act as such.

Name.

2. Persons so qualified shall be styled "Deputy Surveyors of Dominion lands."

### BOARD OF EXAMINERS.

Surveyor General, with eight Colleagues, appointed by the Governor to form Board.

**74.** There shall be a Board of Examiners for the examination of candidates for such commission as Deputy Surveyors, to consist of the Surveyor General and eight other competent persons to be appointed from time to time by Order in Council: and the times and places of the meetings of the Board shall from time to time be fixed and made public by notice in the *Canada Gazette*.

Members of Board to be sworn.

1. Each member of the said Board shall take an oath of office according to form C, to be administered by a judge of any one of the Superior Courts in any Province of the Dominion, who is hereby authorized and required to administer such oath; and any three of the said members shall form a quorum.

Secretary of Board of Examiners.

2. The said Board shall from time to time appoint a fit and proper person to be Secretary thereof, who shall keep a record of its proceedings.

### ADMISSION OF DEPUTY SURVEYORS.

Qualifications for commission as Deputy Surveyor.

**75.** No person shall receive a commission from the said Board authorizing him to practice as a Deputy Surveyor of Dominion lands,

lands, until he has attained the full age of twenty-one years, and has passed a satisfactory examination before the said Board in the following subjects, that is to say: Euclid (first six books), Plane Trigonometry, Mensuration of Superficies, the keeping of Field Notes, Plotting and Map Drawing, Spherical Trigonometry, Astronomy and Geology, practical surveying operations, and the use of instruments; nor unless he shall be perfectly conversant with the system of survey as embodied in this Act, and with the manual of standing instructions and regulations published from time to time for the guidance of Deputy Surveyors employed in surveys of Dominion lands.

**76.** No person shall be entitled to be examined before such Board (except as hereinafter provided) unless he shall have previously served regularly and faithfully for and during the period of three successive years, under articles in writing, in the form D, duly executed before two witnesses, as pupil to a Land Surveyor lawfully practising during the said period as a Deputy Surveyor of Dominion lands, nor unless he shall produce a certificate from such practising Deputy Surveyor of his having so served during the said period, and shall also produce satisfactory testimony as to his character for probity and sobriety.

Conditions precedent to examination for Commission.

**77.** It shall not be necessary for any person who may, after the passing of this Act, become duly qualified by diploma, certificate or commission to survey the Crown Lands in some one of the Provinces of the Dominion, to serve under articles as aforesaid to entitle such person to examination by the said Board for a commission as a Deputy Surveyor of Dominion lands, but such person shall be entitled to such examination without any further service, at any regular meeting of the Board, and if found competent shall receive such commission: Provided, nevertheless, that in case such person should not on the first examination be found qualified, the Board may grant him a second examination after he shall have passed through such further course of theory or practice as may have been recommended by the Board; Provided further that any person who may have acquired a certificate, diploma or commission in any one of the Provinces of the Dominion where the course and examination prescribed are similar to those in clause seventy-five of this Act shall not be required to be re-examined by the Board, but shall, upon proof of the facts, and payment of the admission fee fixed by sub-clause four of clause eighty-four of this Act, receive from the Board a Commission as a Deputy Surveyor of Dominion lands.

Future Provincial Land Surveyors to be entitled to examination for Commissions as Deputy Surveyors without having served under articles to a Deputy Surveyor.

**78.** No person claiming to be examined before the said Board as having served the necessary period fixed by this Act under articles to a Deputy Surveyor shall have the right to such examination, unless he shall have transmitted to the Secretary of the Board within three months of the date of such articles, a duplicate thereof, together with a fee of two dollars for receiving and filing the

Duplicate of articles of clerkship to be transmitted to Secretary within three months after their date.

the same ; and the said Secretary shall acknowledge by post the receipt of such papers and shall carefully file and keep the same with the records of the Board.

Pupil of a Deputy Surveyor may complete his term with another.

**79.** If any Deputy Surveyor dies or leaves the Dominion or is suspended or dismissed, his pupil may complete his term under articles as aforesaid with any other Deputy Surveyor.

Assignment of Articles of Clerkship.

**80.** Any Deputy Surveyor may by an instrument in writing transfer a pupil, with his own consent, to any other Deputy Surveyor, with whom such pupil may serve the remainder of his term.

Surveyors in H. M. Dominions, other than Canada, entitled to examination after six months practice.

**81.** Any person who may have been duly admitted as a surveyor of lands in any part of Her Majesty's Dominions other than Canada, shall be entitled to an examination by the said Board, and to a commission if found qualified, on his producing a written certificate of a Deputy Surveyor that such person has within the previous two years served for six months with him continuously engaged in surveying the Dominion lands, and that he considers such person as in every way qualified to pass an examination for a commission as a Deputy Surveyor.

Graduates of Colleges and Universities to be entitled to examination after one year's service.

**82.** Any person who shall have followed a regular course of study in all the branches of education required by this Act for admission as a Deputy Surveyor through the regular sessions for at least two years, in any college or university where there may be organized a complete course of such instruction, and who has thereupon received from such college or university a certificate, diploma, or degree, vouching therefor, shall not be obliged to serve three years as aforesaid but shall be entitled to examination after one year's service under articles with a Deputy Surveyor as aforesaid.

Candidates for examination to give notice to Secretary.

**83.** Every person desiring to be examined before the said Board for a commission as a Deputy Surveyor shall give due notice thereof in writing to the Secretary at least two months previous to the meeting of the Board, enclosing with such notice the fee of two dollars.

Table of fees payable under this Act.

**84.** The following fees shall be paid under the provisions of this Act :

1. To The Secretary of the Board of Examiners by each pupil, at the time of transmitting to such Secretary the Indenture or Articles of such pupil, two dollars.

2. To the Secretary of the Board by each candidate for examination, with his notice thereof, two dollars.

3. To the Secretary of the Board by each applicant obtaining a commission, as his fee thereon, two dollars.

4. To the Secretary of the Board as an admission fee by each applicant receiving a commission, twenty dollars, but such amount shall be paid over to the Surveyor General, and be accounted for in like manner as other public moneys received by him.



**85.** Each of the members in attendance at the said Board during examinations and the Secretary shall receive five dollars for each day's sitting, and the actual travelling and living expenses incurred by such member, and consequent upon such attendance ; and the Secretary of State is hereby authorized and required to pay such sums : Provided, that no member of the Board, if at the time of the meeting, he be over one hundred miles distant from the place of meeting, shall receive any allowance for being present at such meeting, unless such member shall have been previously specially notified to attend the same by the Secretary. Allowances to Members of Board of Examiners. Proviso.

**86.** The Board may examine any candidate on oath (which oath may be administered by any one of the Examiners) as to his actual practice in the field, and with regard to his instruments. Board may examine candidate on oath.

**87.** Each person passing the Examination prescribed by this Act shall receive a commission from the Board in accordance with form E in the schedule to this Act, and each applicant after receiving such commission shall, jointly and severally with two sufficient sureties to the satisfaction of the Board, enter into a bond in the sum of one thousand dollars, to Her Majesty, Her Heirs and Successors, conditioned for the due and faithful performance of the duties of his office, and shall take and subscribe the oath of allegiance, and the following oath, before the Board of Examiners, any one of whom is hereby empowered to administer the same :—

“ I, \_\_\_\_\_, do solemnly swear (*or affirm, as the case may be*) that I will faithfully discharge the duties of a Deputy Surveyor of Dominion lands according to law, without favor, affection or partiality. So help me God.”

1. Until the above formalities shall have been gone through the said commission of Deputy Surveyor shall have no effect.

2. The said oaths of allegiance and of office shall be deposited in the Dominion Lands Office.

3. The said bond shall be deposited and kept in the manner prescribed by law with regard to the bonds given for the like purposes by other public officers of the Dominion, and shall be subject to the same provisions, and shall enure to the benefit of any party sustaining damage by breach of any condition thereof; and the commission shall be registered in the office of the Registrar General of the Dominion.

**88.** The said Board may, in their discretion, suspend or dismiss from the practice of his profession any Deputy Surveyor whom they may find guilty of gross negligence or corruption in the execution of the duties of his office ; but the Board shall not suspend or dismiss such Deputy Surveyor without having previously summoned him to appear in order to be heard in his defence, nor without having heard the evidence offered either in support of the complaint, or on behalf of the Deputy Surveyor inculpated. Board may suspend or dismiss negligent or corrupt Deputy Surveyor.

## STANDARD OF MEASURE.

Standard of the English measure of length and copies thereof to be procured by Deputy Surveyors.

**89.** The measure of length used in the surveys of Dominion lands, shall be the English measure of length, and every Deputy Surveyor shall be in possession of a subsidiary standard thereof, which subsidiary standard tested and stamped as correct by the Department of Inland Revenue, shall be furnished him by the said Department, on payment of a fee of three dollars therefor; and all Deputy Surveyors shall from time to time regulate and verify by such standard the length of their chains and other instruments for measuring.

## HOW TO RENEW LOST CORNERS AND OBLITERATED LINES.

Cases where the original mound, post or monument cannot be found, provided for.

**90.** In all cases when any Deputy Surveyor is employed to run any dividing line or limit between sections, or other legal subdivisions, or wood lots, and the mound, post or monument, erected, marked or planted in the original survey to define the corner of such section, or other legal subdivisions, or wood lot, cannot be found, he shall obtain the best evidence that the nature of the case may admit of respecting such corner mound, post or monument; but if the same cannot be satisfactorily ascertained, then he shall measure the true distance between the nearest undisputed corner mounds, posts or monuments and divide such distance into such number of sections or other legal subdivisions, or wood lots, (as the case may be) as the same contained in the original survey, giving to each a breadth proportionate to that intended in such original survey, as shewn on the plan and field notes thereof of record in the Dominion Lands Office; and if any portion of the township or section line (as the case may be) on which such corner mound, post or monument was or should have been planted in the original survey, should be obliterated and lost, then the Deputy Surveyor shall renew such township or section line (as the case may be) and shall draw and define the same on the ground, in such manner as to leave each and every of the adjoining sections or other legal subdivisions, (as the case may be) of a width and depth proportionate to that severally returned for such section or legal subdivision in the original survey, and shall erect, plant or place such intermediate mounds, posts or monuments as he may be required to erect, plant or place, in the line so ascertained, having due respect to any allowance for a road or roads, and the corner, or division, or limit so found shall be the true corner, or division, or limit of such section or other legal subdivision or wood lot.

## HOW LEGAL SUBDIVISIONS ARE TO BE SURVEYED AND LAID OUT.

Method of proceeding to be adopted by Deputy Surveyor em-

**91.** In all cases when a Deputy Surveyor is employed to lay out a given half section or quarter section, he shall effect the same by connecting the opposite original quarter section corners (should the

the same be existing, or if the same be not existing, by connecting the several points in lieu thereof found in accordance with the preceding clause) by straight lines; and in laying out other and minor legal subdivisions, in any quarter section, or any wood lot, he shall give such legal subdivision or wood lot, as the case may be, its proportionate share of the frontage and interior breadth of such quarter section, and connect the points so found, by a straight line; and the lines or limits so drawn as above on the ground, shall in the respective cases be the true lines or limits of such half-section or quarter section or other legal subdivision, or wood lot, whether the same shall or shall not correspond with the area expressed in the respective patents for such lands.

played to lay out a given half-section or quarter-section.

#### TO DRAW DIVISION LINES IN FRACTIONAL SECTIONS.

**92.** The dividing lines or limits between legal subdivisions or wood lots in fractional sections shall be drawn from the original corners (or the points representing such corners, as defined on the ground in accordance with the provisions of this Act,) in the section line intended as the front of such subdivision or wood lot, at right angles to such section line.

Dividing lines to be drawn from original corners.

#### ORIGINAL BOUNDARY LINES.

**93.** All boundary lines of townships, sections, or legal subdivisions, towns, or villages, and all boundary lines of blocks, gores and commons, all section lines and governing points, all limits of lots surveyed, and all mounds, posts or monuments, run and marked, erected, placed or planted at the angles of any townships, towns, villages, sections or other legal subdivisions, blocks, gores, commons and lots or parcels of land, under the authority of this Act or of any order of the Governor in Council, shall be the true and unalterable boundaries of such townships, towns and villages, sections or other legal subdivisions, blocks, gores, commons and lots or parcels of land respectively, whether the same upon admeasurement be, or be not found to contain the exact area or dimensions mentioned or expressed in any patent, grant or other instrument in respect of any such township, town, village, section or other legal subdivision, block, gore, common, lot or parcel of land.

Boundaries placed under the authority of this Act, or of any Order in Council to be deemed the true ones, &c.

**94.** Every township, section or other legal subdivision, town, village, block, gore, common, lot or parcel of land, shall consist of the whole width included between the several mounds, posts, monuments or boundaries respectively so erected, marked, placed or planted as aforesaid, at the several angles thereof, and no more or less, any quantity or measure expressed in the original grant or patent thereof notwithstanding.

Townships &c. to comprise all the space included within their boundaries.

**95.** Every patent, grant or instrument purporting to be for any aliquot part of any section, or other legal sub-division, block, gore, common,

As to aliquot parts of townships, &c.



common, lot or parcel of land, shall be construed to be a grant of such aliquot part of the quantity the same may contain on the ground, whether such quantity be more or less than that expressed in such patent, grant or instrument.

Road allow-  
ances in  
towns, &c., to  
be public  
highways.

**96.** In every town and village in Manitoba, or the North-West Territories, which may be surveyed and laid out under the provisions of this Act, all allowances for any road, street, lane, lot or common, laid out in the original survey of such town or village, shall be public highways and commons; and all mounds, posts or monuments, placed or planted in the original survey of such town or village, to designate or define any allowance for a road, street, lane, lot or common, shall be the true and unalterable boundaries of such road, street, lane, lot or common; and all Deputy Surveyors, employed to make surveys in such town or village, shall follow and pursue the same rules and regulations in respect of such surveys, as are by law required of them when employed to make surveys in townships.

Deputy  
Surveyors may  
examine wit-  
nesses on oath.

**97.** For better ascertaining the original corner or limits of any township, section or other legal subdivision, lot or tract of land, every Deputy Surveyor of Dominion lands acting in that capacity, may administer an oath or oaths to each and every person whom he may examine concerning any corner mound, post, monument or other boundary, or any original land mark, line, limit or angle, of any township, section or other legal subdivision, lot or tract of land which such Deputy Surveyor is employed to survey.

#### EVIDENCE BEFORE SURVEYORS.

Course to be  
adopted by  
Deputy Sur-  
veyors to  
ascertain  
boundaries  
when doubtful.

**98.** When any Deputy Surveyor is in doubt as to the true corner, boundary or limit of any township, section, lot or tract of land which he is employed to survey, and has reason to believe that any person is possessed of any important information touching such corner, boundary or limit, or of any writing, plan or document tending to establish the true position of such corner, boundary or limit, then if such person does not willingly appear before, and be examined by such Deputy Surveyor, or does not willingly produce to him such writing, plan or document, such Deputy Surveyor may apply to any Justice of the Peace for an ordinary *Subpœna* as witness, or a *Subpœna duces tecum*, as the case may require, accompanying such application by an affidavit or solemn declaration to be made before such Justice of the Peace, of the facts on which the application is founded, and such Justice may issue a *Subpœna* accordingly, commanding such person to appear before the Deputy Surveyor at a time and place to be mentioned in the *Subpœna*, and (if the case require it) to bring with him any writing, plan or document mentioned or referred to therein.

*Subpœnas* may  
be issued.

How *subpœnas*  
may be served.

**1.** Such *Subpœna* shall be served on the person named therein by delivering a copy thereof to him or by leaving the same for him with

with some grown person of his family at his residence, exhibiting to him or such grown person the original.

2. If the person commanded to appear by such *Subpœna* after being paid his reasonable expenses, or having the same tendered to him, refuses or neglects to appear before the Surveyor at the place and time appointed in the *Subpœna*, or to produce the writing, plan or document (if any) therein mentioned or referred to, or to give such evidence and information as he may possess touching the boundary or limit in question, a warrant by the Justice for the arrest of such person may be issued, and he may be punished accordingly by fine not exceeding one hundred dollars, or imprisonment not exceeding ninety days, or both, in the discretion of such Justice.

Consequence  
of disobeying  
*subpœna*.

99. All evidence taken by any Deputy Surveyor as aforesaid shall be reduced to writing and shall be read over to the person giving the same, and be signed by such person, or if he cannot write, he shall acknowledge the same as correct before two witnesses, who shall sign the same, as also the Deputy Surveyor, and such evidence shall, and any document or plan prepared and sworn to as correct before a Justice of the Peace, by any Deputy Surveyor, with reference to any survey by him performed, may be filed and kept at the Registry Office of the place in which the lands to which the same relates are situate, subject to be produced thereafter in evidence in Court.

Evidence  
taken by  
Deputy Sur-  
veyors to be  
reduced to  
writing and  
signed, &c.

100. Any Deputy Surveyor when engaged in the performance of his duties as such, may pass over, measure along, and ascertain the bearings of any township or section line, or other Government line, and for such purposes may pass over the lands of any person whomsoever, doing no actual damage to the property of such person.

When Deputy  
Surveyors may  
pass over  
private land.

#### PROTECTION TO SURVEYORS.

101. If any person in any part of the Dominion lands interrupts, molests or hinders any Deputy Surveyor, while in the discharge of his duty as a Deputy Surveyor, such person shall be guilty of a misdemeanor, and being thereof lawfully convicted in any Court of competent jurisdiction, shall be punished either by fine or imprisonment, or both, in the discretion of such Court, such imprisonment being for a period not exceeding two months, and such fine not exceeding twenty dollars, without prejudice to any civil remedy which such Deputy Surveyor or any other party may have against such offender for damages occasioned by such offence.

Penalty for  
molesting a  
Deputy Sur-  
veyor in the  
discharge of  
his duty.

102. If any person knowingly and wilfully pulls down, defaces, alters, or removes any mound, post or monument erected, planted or placed in any original survey under the provisions of this Act, or under the authority of any Order in Council, such person shall be deemed guilty of felony; and if any person knowingly and wilfully defaces, alters or removes any other mound or land mark, post or monument placed by any Deputy Surveyor to mark

Penalty for  
pulling down  
original or  
other land  
marks placed  
by Surveyor.

Proviso.

mark any limit, boundary or angle of any township, section or other legal subdivision, lot or parcel of land in Manitoba, or the North-West Territories, such person shall be deemed guilty of a misdemeanor, and being convicted thereof before any competent Court, shall be liable to be punished by fine or imprisonment, or both, at the discretion of such Court, such fine not to exceed one hundred dollars, and such imprisonment not to be for a longer period than three months, without any prejudice to any civil remedy which any party may have against such offender or offenders for damages occasioned by reason of such offence: Provided that nothing in this Act shall extend to prevent Deputy Surveyors, in their operations, from taking up posts or other boundary marks when necessary, after which they shall carefully replace them as they were before.

Deputy Surveyors to keep journals and field notes, and furnish copies to parties concerned.

**103.** Every Deputy Surveyor shall keep exact and regular journals and Field Notes of all his surveys of Dominion lands, and file them in the order of time in which the surveys shall have been performed, and shall give copies thereof to the parties concerned when so required, for which he is hereby allowed the sum of one dollar for each copy, if the number of words therein do not exceed four hundred; but if the number of words therein exceed four hundred, he is allowed ten cents additional for every hundred words over and above four hundred words.

Allowance to Deputy Surveyor for attendance as a witness.

**104.** There shall be allowed to every Deputy Surveyor summoned to attend any Court, civil or criminal, for the purpose of giving evidence in his professional capacity as a Surveyor, for each day he so attends (in addition to his reasonable travelling and living expenses), and to be taxed and paid in the manner by law provided, with regard to the payment of witnesses attending such Court, five dollars.

#### GENERAL PROVISIONS.

Governor in Council may withdraw Indian Reserves and half-breed lands from the operation of this Act, and may alter price of lands and terms of sale and settlement thereof.

**105.** The Governor in Council shall, at any time hereafter, subject to then existing rights, as defined or created under this Act, withdraw from the operation of this Act, such lands as have been reserved for Indians or may be required to satisfy the Half Breeds claims created under section 31 of the Act 33 Victoria, chapter 3, and also land to such extent as may be required for Railway purposes, and further, may, from time to time, make such Orders as he may deem necessary to carry out the provisions of this Act according to their true intent, or to meet any cases which may arise and for which no provision is made by this Act, and may, from time to time, alter or revoke the same and make others in their stead, and such Orders shall be published in the *Canada Gazette*, and in such newspapers as the Secretary of State may direct, and shall be laid before Parliament within the first ten days of the session next after the date thereof.

Before whom affidavits &c., may be taken.

**106.** All affidavits, oaths, solemn declarations or affirmations required to be taken or made under this Act may be taken before the



the Judge or Clerk of any County or Circuit Court, or any Justice of the Peace, or any Commissioner for taking affidavits, or any Dominion Lands Agent or Officer, or any person specially authorized to take such affidavits by the Secretary of State.

**107.** In any case where an affidavit or oath is required by this Act, a solemn affirmation may be administered and made instead of an oath, by any person who is by law permitted in civil cases to make a solemn affirmation instead of taking an oath. Affirmations  
in lieu of  
oaths.

#### PREVIOUS ORDERS IN COUNCIL.

**108.** All proceedings properly taken under the respective Orders in Council on the subject of the *Public Lands in the Province of Manitoba*, dated the twenty-fifth of April, one thousand eight hundred and seventy-one, and the twenty-sixth of May following the said date, are hereby confirmed, and the said respective orders, (except such of the provisions thereof as may be inconsistent with the provisions of this Act, and which are hereby revoked), shall be and remain in force. Orders in  
Council of  
25th April,  
1871, and  
26th May,  
1871, con-  
firmed.

#### SCHEDULE.

FORM A.—See Clause 33.

##### APPLICATION FOR A HOMESTEAD RIGHT.

I, \_\_\_\_\_ of \_\_\_\_\_ do hereby apply to be entered, under the provisions of the *Act respecting the Public Lands of the Dominion*, for quarter quarter sections, numbers \_\_\_\_\_ and \_\_\_\_\_ forming part of section number \_\_\_\_\_ of the Township of \_\_\_\_\_ containing \_\_\_\_\_ acres, for the purpose of securing a homestead right in respect thereof.

FORM B.—See Clause 33, Sub-clause 7.

##### AFFIDAVIT IN SUPPORT OF CLAIM FOR HOMESTEAD RIGHT.

I, A. B., do solemnly swear (or affirm as the case may be), that I am over twenty-one years of age, and that my application for leave to be entered for lands with a view of securing a homestead right therein, is made for my exclusive use and benefit, and that the entry is made for the purpose of actual settlement. So help me God.

FORM C.—See Clause 74, Sub-clause 1.

##### OATH OF MEMBERS OF BOARD OF EXAMINERS.

I, A. B., do solemnly swear (or affirm as the case may be), that I will faithfully discharge the duty of an Examiner of Candidates,

dates for Commissions as Deputy Surveyors of Dominion lands, according to law, without favor, affection or partiality. So help me God.

FORM D.—*See clause 76.*

ARTICLES OF PUPIL TO DEPUTY SURVEYOR OF DOMINION LANDS.

THESE ARTICLES OF AGREEMENT, made the                    day of  
one thousand eight hundred and                    between A. B. of  
   a Deputy Surveyor of Dominion lands (*or, as the*  
*case may be*), now practising in the capacity of a Deputy Surveyor  
of Dominion lands, of the one part, and C. D. of  
and E. F. son of the said C. D. of the other part, witness:—

That the said E. F. of his own free will, and by and with the consent and approbation of the said C. D. doth, by these presents, place and bind himself pupil to the said A. B. to serve him as such from the day of the date hereof, for and during and until the full end and term of three years from hence next ensuing, and fully to be completed and ended.

And the said C. D. doth hereby, for himself, his heirs, executors and administrators, covenant with the said A. B., his executors, administrators and assigns, that the said E. F. shall well, and faithfully, and diligently according to the best and utmost of his power serve the said A. B. as his pupil in the practice or profession of a Deputy Surveyor of Dominion lands, which he the said A. B. now followeth, and shall abide and continue with him from the day of the date hereof, for and during and unto the full end of the said term of three years.

And that he the said E. F. shall not, at any time during such term, cancel, obliterate, injure, spoil, destroy, waste, embezzle, spend or make away with any of the books, papers, writings, documents, maps, plans, drawings, fields notes, moneys, chattels or other property of the said A. B., his executors, administrators or assigns, or of any of his employers; and that, in case the said E. F. shall act contrary to the last mentioned covenant, or, if the said A. B., his executors, administrators or assigns, shall sustain or suffer any loss or damage by the misbehavior, neglect or improper conduct of the said E. F., the said C. D., his heirs, executors, or administrators, will indemnify the said A. B., his executors, administrators or assigns, and make good and reimburse him or them the amount or value thereof.

AND FURTHER, that the said E. F. shall at all times keep the secrets of the said A. B. in all matters relating to the said business and profession, and will, at all times during the said term, be just, true and faithful to the said A. B. in all matters and things, and from time to time pay all moneys which he shall receive of or belonging to or by order of the said A. B. into his hands, and make and give true and fair accounts of all his acts and doings whatsoever in the said business and profession, without fraud or delay, when and so often as he shall thereto be required; and will readily and cheerfully obey and execute his lawful and reasonable commands, and shall not depart or absent himself from the service

or employ of the said A. B. at any time during the said term without his consent first had and obtained, and shall, from time to time, and at all times during the said term, conduct himself with all due diligence, and with honesty and sobriety.

And the said E. F. doth hereby, for himself, covenant with the said A. B., his executors, administrators and assigns, that he the said E. F. will truly, honestly and diligently serve the said A. B. at all times, for and during the said term, as a faithful pupil ought to do in all things whatsoever in the manner above specified.

IN CONSIDERATION WHEREOF, and of of lawful money by the said C. D. to the said A. B., paid at or before the sealing and delivery of these presents, (the receipt whereof is hereby acknowledged) the said A. B. for himself, his heirs, executors and administrators, doth covenant with the said C. D., his heirs, executors and administrators, that the said A. B. will accept and take the said E. F. as his pupil, and that he the said A. B. will, by the best ways and means he may or can, and to the utmost of his skill and knowledge, teach and instruct, or cause to be taught and instructed, the said E. F. in the first six books of Euclid, in plane trigonometry, in mensuration of superficies, in the keeping of field notes, in plotting and map drawing, in spherical trigonometry, in astronomy and geology, in practical surveying operations and in the use of instruments, and generally in the art, practice and profession of a Deputy Surveyor of Dominion lands, which he the said A. B. now doth, and shall at all times during the said term, use and practice, and also will provide the said E. F. with all the necessary and reasonable expenses incurred in transacting or performing the business of the said A. B., and also will, at the expiration of the said term, give to the said E. F., a certificate of servitude and use his best means and endeavours, at the request, costs and charges of the said C. D. and E. F., or either of them, to cause and procure him the said E. F. to be examined before the Board of Examiners of candidates for commissions as Deputy Surveyors of Dominion lands: Provided the said E. F. shall have well, faithfully and diligently served his said intended pupilage.

And for the true performance of all and every the covenants and agreements aforesaid, according to the true intent and meaning thereof, each of them the said A. B. and C. D., doth bind himself, his heirs, executors and administrators, unto the other, his heirs, executors, administrators and assigns, in the penal sum of Five Hundred Dollars, firmly by these presents.

IN WITNESS WHEREOF the parties aforesaid have hereunto set their hands and seals, the day and year first above written.

A. B. (Seal.)

C. D. (Seal.)

E. F. (Seal.)

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF

G. H.

J. K.

FORM



FORM E.—*See Clause 87.*

## COMMISSION AS DEPUTY SURVEYOR OF DOMINION LANDS.

This is to certify to all whom it may concern that A. B., of  
 hath duly passed his examination before the Board of  
 Examiners, and hath been found duly qualified to fill the office and  
 perform the duties of Deputy Surveyor of Dominion lands, he  
 having complied with all the requirements of the law in that behalf:  
 Wherefore he the said A. B. is hereby duly admitted to the said  
 office, and commissioned for the discharge of the duties thereof, and  
 is by law authorized to practice as a Surveyor of Dominion lands  
 in Manitoba and the North-West Territories.

In Witness whereof We, the President and Secretary of the said  
 Board, have signed this Commission, at \_\_\_\_\_, on this  
 day of \_\_\_\_\_, one thousand eight hundred  
 and \_\_\_\_\_

C. D.,  
 Surveyor General.  
 E. F.,  
 Secretary.

## CAP. XXIV.

An Act to remove doubts under the Act respecting the  
 Public Works of Canada.

[Assented to 14th June, 1872.]

Preamble.  
 31 Vict., c. 12.

FOR the removal of doubts under the Act passed in the thirty-  
 first year of Her Majesty's Reign, and intituled: "*An Act*  
*respecting the Public Works of Canada*," Her Majesty, by and  
 with the advice and consent of the Senate and House of Commons  
 of Canada, declares and enacts as follows:—

Certain works  
 declared to be  
 within the  
 said Act, and  
 under control  
 of Minister of  
 Public Works.

1. Every canal, lock, dam, hydraulic work, harbour, pier, public  
 building, or other work or property of the nature of any of those  
 mentioned in the tenth section of the Act cited in the preamble to  
 this Act, acquired or to be acquired, constructed or to be construc-  
 ted, extended, enlarged, repaired or improved, at the expense of the  
 Dominion of Canada, or for the acquisition, construction, repairing,  
 extending, enlarging, or improving of which any public money has  
 been or shall be hereafter voted and appropriated by Parliament,  
 and every work required for any such purpose, is and shall be  
 a public work under the control and management of the Minister  
 of Public Works, and all the enactments and provisions of the said  
 Act and of any Act amending it, do and shall apply to every such  
 work