

W. H. Bell.

DOMINION LANDS ACTS,

CONSOLIDATED FOR OFFICE REFERENCE,

MAY, 1876.

ATA 22023/0526

4000

Robert Peel's Signal

THE DOMINION LANDS ACTS.

35 VIC., CAP. 23 : 37 VIC., CAP. 19 : AND 39 VIC., CAP. 19

CONSOLIDATED FOR OFFICE REFERENCE, MAY, 1876.



35 VICTORIA.

CHAP. 23.

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:--

Preamble.

PRELIMINARY—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 Acts*," 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:--

Interpretation.

1. The term *Minister of the Interior*, means the Minister of the Interior of Canada.

"Minister of the Interior."

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

"Surveyor-General."

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 *Dominion Land Surveyor*, means a Surveyor duly authorized under the provisions of this Act to survey Dominion lands.

"Dominion Land Surveyor."

- "Crown Timber Agent." 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.
- "Island." 6. The term *Island*, as used in connection with timber, means an isolated grove or clump of timber in Prairie.
- "Belt." 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.
- "Clause." 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.
- "Sub-clause." 9. The term *Canada Gazette* means the Official Gazette of the Government published at Ottawa.
- "Canada Gazette."

DOMINION LANDS OFFICE.

- Administration and management of Dominion lands. 2. The Department of the Interior of Canada, shall be charged with the administration and management of the Dominion lands.
- Office. 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*."
- Copies of Documents. 2. Copies of any records, documents, plans, books, or papers, belonging to or deposited in the said office, attested under the signature of the Minister of the Interior, or of the Surveyor-General, and of plans or documents in any Dominion Lands or Surveys Office in Manitoba or the North-West Territories, attested under the signature of the Agent, or Inspector of Surveys, as the case may be, in charge of such office, shall be competent evidence in all cases in which the original records, documents, books, plans, or papers, could be evidence.
- Employees not to purchase land or locate scrip. 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, or shall locate military bounty land warrants or land scrip, or act as the agent of any other person or persons in such behalf.

SYSTEM OF SURVEY.

- System of Survey. 3. Subject always to the provisions hereinafter made with respect to special cases,—
- Area of townships. Townships to contain thirty-six square miles = 23,000 acres exclusive of road allowances. 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 with road allowances of one chain and fifty links in width, between all townships and sections.

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

		N.							
		31	32	33	34	35	36		
		30	29	28	27	26	25		
		19	20	21	22	23	24		
W.		18	17	16	15	14	13	E.	
		7	8	9	10	11	12		
		6	5	4	3	2	1		
		S.							

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 of the principal meridian, and west of the fourteenth range west of the said meridian.

Townships to measure on each side 489 chains.

Proviso: as to reduction of width of road allowances, in certain places.

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.

Lines bounding townships.

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.

Townships shall be numbered, and shall lie in ranges.

"Principal Meridian."

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.

Other governing or guide meridians.

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.

Townships to be 489 chains wide on the base lines.

Base lines for townships.

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.

Correction lines, what township lines to be.

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.

Division of sections.

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

Allowances for deficiency or surplus in the survey of townships.

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.

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

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.

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

13. Preliminary to the sub-division 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.

Corners.

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 sub-division of the block.

Posts and monuments.

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:

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

Proviso as to correction lines.

14. The township sub-division 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.

Surveys to be performed by contract.

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

Legal sub-divisions of townships.

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;
A quarter quarter-section or 40 acres.

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:

Quarter quarter-section.

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

3. The area of any legal sub-division 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 sub-division in the original survey.

Areas to be more or less.

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 sub-division of sections or other legal sub-divisions into wood lots as hereinafter provided; or from describing the said lands upon the Red and Assineboine Rivers, or such sub-divisions 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.

Preamble.

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:

Certain sections and parts of sections in certain townships to be known as Hudson's Bay Company lands.

In every fifth township of the said territory; that is to say: in those townships numbered five, ten, fifteen, twenty, twenty-five, thirty, thirty-five, forty, forty-five, fifty, and so on in regular succession northerly from the international boundary, the whole of sections numbers eight and twenty-six, and in each and every of the other townships the whole of section number eight and the south half and north-west

quarter of section twenty-six (except in the cases hereinafter provided for) shall be known and designated as the lands of the said Company.

18. Provided that the Company's one-twentieth of the lands in fractional townships shall be satisfied out of one, or other, or both, as the case may be, of the sections numbers eight and twenty-six as above, in such fractional townships, the allotment thereof to be effected by the Minister of the Interior and the said Company, or some person duly authorized by them respectively.

The Company's one-twentieth in fractional townships.

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 *bona 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, 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 may select land in lieu of allotted land found to be settled upon under lawful authority.

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.

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

2. Provided further, that one-twentieth of the revenue derived from timber limits which may be granted in unsurveyed territory within the fertile belt, as hereinafter provided, shall be annually, so long as the townships comprised in the same remain unsurveyed, paid and accounted for to the Company, such one-twentieth to cease or to be diminished in proportion as the townships comprised in such limits, or any of them, may be surveyed, in which event the Company shall receive their one-twentieth interest in the lands in such townships in sections eight and twenty-six as hereinbefore enacted: Provided, nevertheless, that on such sections being surveyed as aforesaid, should the same or either of them prove to have been denuded of timber by the lessee, to the extent of one-half or more, then, in such case the Company shall not be bound to accept such section or sections so denuded, and shall have the right to select a section or sections to an equal extent in lieu thereof from any unoccupied lands in such township.

The Company to be paid one-twentieth of the revenues from timber limits in unsurveyed territory within the fertile belt.

Proviso.

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 Gover-

Title to lands to pass to Company without

patent in certain cases, and under patents in other cases,

nor of 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 subject 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 rights, 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 sections are found settled on and improved.

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 Minister of the Interior shall select a quantity equal to that found to have been so settled on from the unclaimed lands in such township, and shall withdraw 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.

Warrants to be granted for lands given for military services.

23. In all cases in which lands have 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.

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 of 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: Provided always that no greater area than twenty per cent. of the land, exclusive of School and Hudson's Bay Company lands, in any township shall be open for entry by military bounty warrants, issued after the passing of this Act.

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

Only 20 per cent. of the land in any township, to be open for entry by warrants.

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.

Assignment 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 it, power to summon witnesses and examine them on oath, and to compel the production of documents,

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

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;

Cases arising under the provisions of this section may be referred to the Court established by 5i Vic., cap. 6.

2. Provided that in the absence of any court, commissioners, or other tribunal established by the Legislature of the Province or Territory within which the lands in question lie, to determine the legal representatives of such deceased officer or soldier, the Minister of the Interior may refer any case arising under the provisions of this section to the Court authorized to be established under the Act passed in the thirty-sixth year of Her Majesty's reign, chapter six, intituled: "*An Act respecting claims to Lands in Manitoba for which no Patents have issued.*" and the provisions thereof shall be and are hereby declared to be in this respect applicable to cases arising under this section.

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 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 depot 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 meantime 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-commis-

sioned 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.

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 per acre; but no such purchase of more than a section, or six hundred and forty acres, shall be made by the same person; provided that whenever so ordered by the Minister of the Interior, such unoccupied lands as may be deemed by him expedient from time to time may be withdrawn from ordinary sale or settlement and offered 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.

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

Proviso.

PAYMENTS FOR LANDS.

30. Payments for lands, purchased in the ordinary manner, shall be made in cash, except in the case of payment by scrip or in military bounty warrants as hereinbefore provided.

Payments for lands to be in cash, as a rule.

TOWN PLOTS, &C.

31. The Minister of the Interior 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.

Minister of Interior 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.

Steps to be taken to secure a homestead right, and provisions respecting the same.

Persons entering for a homestead entitled to pre-emption, at \$1 per acre, of any adjoining quarter section unclaimed.

Such pre-emption right to cease on forfeiture of homestead.

Proviso.

More than one settler.

If both have improved.

Interfering claims.

Where lands surveyed, entry for a homestead must be made before settlement thereon. Settlers on unsurveyed lands must apply for same within

33. Any person, male or female, who is the sole head of a family, or any male who has attained the age of eighteen 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, Appendix. See page 42 hereof.)

1. The entry of a person as aforesaid for a homestead right shall entitle him to receive at the same time therewith an entry for any adjoining quarter-section then unclaimed, and such entry shall entitle such person to take and hold possession of and cultivate such quarter-section in addition to his homestead, but not to cut wood thereon for sale or barter, and, at the expiration of the period of three years, or upon the sooner obtaining a patent for the homestead under the fifteenth sub-section of this section, shall entitle him to a pre-emption of the said adjoining quarter-section at the Government price of one dollar per acre; but the right to claim such pre-emption shall cease and be forfeited, together with all improvements on the land, upon any forfeiture of the homestead right under this Act;

Provided always, that the right to a pre-emption entry as above given shall not belong to any settler brought in under the provisions of sections fourteen and fifteen of the Act 37th Victoria, Cap. 19. (See page 46.)

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.

3. Provided that, in cases where both parties may have made valuable improvements, the Minister of the Interior 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 sub-divisions from unoccupied quarter-sections adjoining.

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 Minister of the Interior for decision:

5. Every person claiming a homestead right on surveyed land must, previously to settlement on such land, be duly entered therefor with the Local Agent within whose district such land may be situate, but in case of a claim from actual settlement in then unsurveyed lands, the claimant must file such application, within three months after due notice shall have been received at the local office of such land having

been surveyed, and the survey thereof confirmed, and proof of settlement and improvement shall be made to the local agent at the time of filing such application : 3 months after completion of survey.

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 : Occupants of contiguous lands.

7. 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 *bona fide* improvement and cultivation of it must be thereafter shewn for the period required by the provisions of this Act : Affidavit to be made in entering for contiguous lands.

8. A person applying for leave to be entered for lands with a view of securing a homestead right therein, must make affidavit before the Local Agent according to the following form :— Affidavit to be made on application for a homestead entry.

“ FORM B.

“ *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 eighteen years of age ; that I have not previously obtained a homestead under the provisions of the “ *Dominion Lands Act* ;” that the land in question belongs to the class open for homestead entry ; that there is no person residing or having improvements thereon ; and that my application is made for my exclusive use and benefit and with the intention to reside upon and cultivate the said land. So help me God.” Form of affidavit in support of claim for homestead right.

9. 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.

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. No patent for three years.

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 he or his widow, or his or her representatives as aforesaid, or some of them, have (except in the case of entry upon contiguous lands as hereinbefore provided) resided upon and cultivated the land for the three years next after the filing of the affidavit for entry, or in the case of a settler on unsurveyed land, who may, upon the same being surveyed, have filed his application as provided in sub-section five, upon proof, as aforesaid, that he or his widow, or his or their representatives, as aforesaid, or some of them, have resided upon and cultivated the land for the three years next preced- Patent to issue on fulfilment of certain conditions.

ing the application for patent, shall be entitled to a patent for the land, provided such claimant is then a subject of Her Majesty by birth or naturalization :

Proviso. Provided always, that the right of the claimant to obtain a patent under the said sub-section as amended, shall be subject to the provisions of section fifteen of the Act 37th Vic., chap. 19: Provided further, that, in the case of settlements being formed of immigrants in communities (such for instance as Mennonites or Icelanders) the Minister of the Interior may vary or waive, in his discretion, the foregoing requirements as to residence and cultivation on each separate quarter-section entered as a homestead.

When parents die without devising. 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 receive a patent for the land so purchased :

Title before patent. 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 :

Settler abandoning his claim. 14. In case it is proved to the satisfaction of the Minister of the Interior 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 without leave of absence from the Minister of the Interior, then the right to such land shall be liable to forfeiture, and may be cancelled by the said Minister, and the settler so relinquishing or abandoning his claim shall not be permitted to make more than a second entry :

Patent before three years on payment of price, &c. 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, appertaining to the same 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 :

Proof of improvement. 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 :

Inspection of homesteads. 16a. The Minister of the Interior may at any time order an inspection of any homestead or homesteads in reference to which there may be reason to believe the foregoing provisions, as regards settlement and cultivation, have not been, or are not being carried out, and may, on a report of the facts, cancel the entry of such homestead or homesteads, and in the case of a cancelled homestead, with or without improvements

Cancelled homesteads.

thereon, the same shall not be considered as of right open for fresh entry, but may be held for sale of the land and of the improvements thereon in connection with a fresh homestead entry thereof at the discretion of the Minister of the Interior:

not to be considered open for fresh entry.

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.

Provided that an assignment or transfer of a homestead right before the issue of the Patent shall be valid if made for a charge created under section 15 of the Act 37th Victoria, cap. 19. (See page 46.)

Assignments valid in certain cases.

17a. Any person who may have obtained a homestead entry shall be considered, unless and until such entry may have been cancelled, as having an exclusive right to the land so entered as against any other person or persons whomsoever, and may bring and maintain actions for trespass committed on the said land or any part thereof:

Persons holding a homestead entry may eject trespassers.

18. The above provisions relating to homesteads shall only apply to agricultural lands; that is to say, they shall not be held to apply to lands set apart as timber limits, or as hay lands, or to lands valuable for stone or marble quarries, or those strictly hay lands, or to those having water power thereon which may be useful for driving machinery.

Homestead provisions applicable only to agricultural lands.

GRAZING LANDS.

34. The Governor in Council may, from time to time, grant leases of unoccupied Dominion lands for grazing purposes to any person or persons whomsoever for such term of years and at such rent in each case as may be deemed expedient; but every such lease shall, among other things, contain a condition by which, if it should thereafter be thought expedient by the Minister of the Interior to offer the land covered thereby for settlement, the said Minister may, on giving the lessee two years' notice, cancel the lease at any time during the term.

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

HAY LANDS.

35. Leases of unoccupied Dominion lands, not exceeding in any case a legal sub-division of forty acres, may be granted for the purpose of cutting hay thereon, to any person or persons whomsoever being *bona fide* settlers in the vicinity of such hay lands, for such term and at such rent fixed by public auction or otherwise as the Minister of the Interior may deem expedient; but such lease, except as may be otherwise specially agreed upon, shall not operate to prevent, at

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

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 sub-divisions. When situate in unsurveyed territory and without the limits of the Fertile Belt, such land 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 Minister of the Interior 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.

Proviso: when no prior right exists.

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 Minister of the Interior, the same may be tendered for by the claimants on stated terms of lease, and sold to the highest bidder:

Further provision.

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

39. Mining locations in unsurveyed territory shall be surveyed by a Dominion Land 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 Dominion Land 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 supposed to contain minerals, to be sold at the same price as farming lands.

41. It shall also be lawful for the Minister of the Interior to exempt from the previous 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.

Minister of the Interior may exempt certain lands from the preceding provisions.

Duty of Governor in Council with respect to lands so exempted.

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 minerals 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 right of squatters to homesteads on the Dominion lands in advance of the surveys.

Coal lands.

44. The Minister of the Interior shall have power to protect any person or persons desiring to carry on coal mining in unsurveyed territory, 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 per-

Provision as to working of coal mines.

sons make written application to the Local Agent to purchase such land; such application must be accompanied by a description by a Dominion Land 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:
as to H. B. Co.

Proviso:
as to survey.

Provided that all operations under this section shall be subject to the rights of the Hudson's Bay Company to sections eight and twenty-six as hereinbefore enacted: Provided further that the survey of the township within which such land may be situate, shall not be delayed beyond a period of five years after the date of the purchase of such land, without the consent of the Hudson's Bay Company thereto first had and obtained;

Proviso:
continuous
working
required.

Provided further that such mine shall have been continuously worked, to the satisfaction of the Minister of the Interior, 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 land-
may be ex-
empted from
sale and
settlement.
Provisions of
Act.

45. The Minister of the Interior, 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 form-
ing islands or
belts in town-
ships thrown
open for set-
tlement, to be
disposed of.

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. The Minister of the Interior may direct that, in the sub-division of townships which may consist partly of prairie and partly of timber land, such of the sections or sub-divisions of sections containing islands, belts or other tracts of timber, shall be sub-divided into such number of wood lots of not less than ten and not more than twenty acres in each lot, as will 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 :

so as to benefit the greatest possible number of settlers, and prevent petty monopoly, and low.

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, if so requested, apportion to each quarter-section so applied for, one of the adjacent wood lots ; and such wood lot shall be paid for by the applicant at the rate of one dollar per acre, and shall be entered on the Local Agent's books and be returned by him as in connection with the homestead so entered ; and on such homestead claimant fulfilling all the requirements of this Act in that behalf, but not otherwise, a patent shall issue to him for such wood lot :

Apportionment of wood lots.

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.

Timber on homestead wood lots for private use only.

(39 Vic., Cap. 19.)

18. Whereas, by the provisions of section ten of the Act 37th Vic., Cap. 19, sub-section five of section forty-six of the "Dominion Lands Act," which provided for the apportion-

Authorizing the issue of patents for free wood lots

entered under
sub-section 5
of sec. 46 of
Act of 1872.

ment of wood lots as free grants in connection with and in addition to homestead grants in certain cases, was repealed without reference to rights which might have been acquired under the same; and whereas it is expedient to protect such rights, it is hereby enacted, that any person to whom a wood lot was apportioned in connection with a homestead under the provisions of the said sub-section five of section forty-six of the Act last mentioned, having duly fulfilled the conditions of such homestead grant required by the said Act, shall receive a patent for such wood lot as a free grant, as provided in the said sub-section,—the Act 37 Vic., Cap. 19, to the contrary notwithstanding.

OTHER TIMBER AND TIMBER LIMITS.

Reservation
of timber
lands.

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

Each town-
ship to form a
timber limit.

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

What "tim-
ber" includes
under this
heading.

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 fire-wood or bark.

Right of cut-
ting 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.

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:

Mills.

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 :

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 : To prevent destruction.

4. To make returns to the Government monthly, or at such other periods as may be required by the Minister of the Interior, 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 : Monthly returns.

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 : Rent.

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. Books.

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 lease shall entitle the lessee to seize 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. Rights of lessee.

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 Minister of the Interior 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 Forfeiture of lease.

the limit described therein, to any other party, at any time during the term of the lease so cancelled: Provided, that the Minister of the Interior, 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.

Renewal 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:

Leases to cut timber.

10. Provided further that in cases where application may be made for limits on which to cut timber in unsurveyed territory, the Governor in Council may, on the recommendation of the Minister of the Interior, authorize the same to be leased for such bonus as may be deemed fair and reasonable,—such leases to be subject nevertheless to the foregoing conditions of this section, except as to that part of sub-section one, which provides for the erection of mills, which provision, in respect to limits in unsurveyed territory may, if considered expedient by the Minister of the Interior, be dispensed with.

Lease of land previously leased, sold, granted or set apart, to be void.

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 land 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.

FURTHER OBLIGATIONS OF PARTIES OBTAINING LICENSES.

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.

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 Minister of the Interior, 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; 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.

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.

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

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 Minister of the Interior, or his resident agent, in any court having jurisdiction in civil cases to the amount.

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

56. The Minister of the Interior 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.

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

LIABILITY OF PERSONS CUTTING 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,

Penalty for cutting timber on Dominion lands without authority.

or assists any other person to remove or carry away any timber of any kind, so cut from any 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 labor 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:

Seizure on affidavit, &c.

1. Whenever satisfactory information, supported by affidavit made before a Justice of the Peace, or before any other competent officer or person, is received by the 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:

If the timber has been mixed with other timber.

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, 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:

May be released on security.

3. In case any timber cut without authority on Dominion lands, 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—CON-
DEMNATION OF SUCH TIMBER.

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

Officer seizing timber may call in assistance.

Resistance or obstruction, 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.

Carrying away timber seized without permission, a felony.

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 Minister of the Interior, 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 Minister of the Interior, after a notice on the spot of at least thirty days : Provided, nevertheless, that in certain cases of timber being ascertained to have been cut without authority on any of the Dominion lands, or admitted to have been so

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

Proviso

cut by the holder thereof, the Minister of the Interior, 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, and in default of such fine or penalty and costs being paid forthwith, may sell such timber by public sale after a notice of fifteen days, and may retain the whole proceeds of such sale, or the amount of the penalty and costs only, at the discretion of the Minister of the Interior.

GENERAL PROVISIONS.

In the absence of satisfactory explanations, timber may be seized as cut without authority, or for dues.

61. Whenever any Crown Timber Agent, or other officer or agent of the Minister of the Interior, is in doubt as to whether any 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 Minister of the Interior, or of such Crown Timber Agent or officer, that such timber has not been cut without authority, and is not liable, in all 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.

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

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.

SLIDES, &C.

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

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.

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 taking out timber or 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.

Free use of streams and lakes not affected.

PATENTS.

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 may be signed by a Deputy Governor.

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 Minister of the Interior 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.

Patent issued in error may be cancelled.

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 Minister of the Interior 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

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