

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 Minister of the Interior may assign land or grant a certificate entitling the party to purchase Dominion lands of such value as to him, the said Minister of the Interior, 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 Minister of the Interior 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 Minister of the Interior 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 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 Minister of the Interior, 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.

Patents issued through fraud, or in error or improvidence may be decreed to be void.

**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 Register-General of the Dominion, such patent shall be void to all intents.

Remedy in cases of refusal to deliver up possession of forfeited land

**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 Minister of the Interior 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 Minister of the Interior, 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.

or to vacate  
land wrong-  
fully held.

71. The Minister of the Interior shall keep a book for registering, at the option of the parties interested, any assignment of rights to Dominion land 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 Minister of the Interior before the assignment is registered.

Assignments  
of rights to  
Dominion  
lands to be  
registered

72. On any application for a patent by the heir, assignee, devisee or legal representative of a party dying entitled to such patent, the Minister of the Interior 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.

Patent may  
be issued in  
favor of re-  
presentative  
of party dying  
entitled  
thereto.

## SURVEYS AND SURVEYORS.

### WHO SHALL BE COMPETENT TO SURVEY THE 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:—

Qualifications  
required of  
Dominion  
Land Sur-  
veyors.

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

Exceptions.

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 hereinafter contained, and receive a commission certifying that he is qualified to act as such.

Style.

2. Persons so qualified shall be styled "*Dominion Land Surveyors.*"

#### 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 commissions as Dominion Land Surveyors, or as articted pupils, to consist of the Surveyor General and eight other competent persons to be appointed from time to time by Order in Council, and the meetings of the Board shall commence on the second Monday in the months of May and November in each year, and may be adjourned from time to time, and the place of meeting shall be at Ottawa, or at some place in Manitoba or the North-West Territories, as the same 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.

(Form C, on page 42 hereof.)

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.

#### ARTICLED PUPILS.

(39 Vic., Cap. 19)

Qualifications required of pupils previous to being articted.

28. No person shall be admitted as an articted pupil with any Dominion Land Surveyor unless he has previously passed an examination before the Board of Examiners, or before one of the members thereof, or before some Surveyor deputed by the Board for the purpose, as to his ability to write English correctly, and also as to his knowledge of vulgar and decimal fractions, the extraction of the square and cube roots, of the first three books of Euclid, the rules of plain trigonometry, the mensuration of superficies, and use of logarithms, and has obtained a certificate of such examination and of his proficiency, from such Board.

(39 Vic., Cap. 19.)

Notice of their desire to be examined to be given to

29. Applicants for such examination, previous to being articted, shall give notice to the Secretary of the Board of their desire to present themselves for examination, where-

upon such officer shall instruct them accordingly, as to the mode in which they must proceed.

Secretary of Board.

#### ADMISSION OF DOMINION LAND SURVEYORS.

75. No person shall receive a commission from the said Board authorizing him to practice as a Dominion Land Surveyor until he has attained the full age of twenty-one years and has passed a satisfactory examination before the said Board on the following subjects, that is to say:—Euclid, first four books, and propositions first to twenty-first, of the sixth book; plane trigonometry, so far as it includes solution of triangles; the use of logarithms, mensuration of superficies, including the calculation of the area of right-lined figures by latitude and departure, and the dividing or laying off land; a knowledge of the rules for the solution of spherical triangles; and of their use in the application to surveying of the following elementary problems of practical astronomy:—

Qualifications for commission as Dominion Land Surveyor.

1. To ascertain the latitude of a place from an observation of a meridian altitude of the sun or of a star:

2. To obtain the local time from an observed altitude of the sun or a star:

3. From an observed azimuth of a circumpolar star, when at its greatest elongation from the meridian, to ascertain the direction of the latter.

He must be practically familiar with surveying operations and capable of intelligently reporting thereon, and be conversant with the keeping of field notes, their plotting and representation on plans of survey, the describing of land by metes and bounds for title, and with the adjustments and methods of use of ordinary surveying instruments, and must also be perfectly conversant with the system of survey as embodied in the "*Dominion Lands Acts*," and with the manual of standing instructions and regulations published from time to time for the guidance of Dominion Land Surveyors.

(39 *Vic*, *Cap*. 19.)

31. Candidates for examination for commissions as Dominion Land Surveyors may, at their own request, in addition to the foregoing, be examined as to the knowledge they may possess of the following subjects relating to higher surveying, qualifying them for the prosecution of extensive governing or topographic surveys or those of geographical exploration, that is to say:—

Candidates may at their own request be examined in higher surveying.

1. Algebra, including quadratic equations, series, and calculation of logarithms:

2. The analytic deduction of the formulas and series, of plane and spherical trigonometry:

3. The plane co-ordinate geometry of the point, straight line, transformation of co-ordinates, circle and ellipse:

4. Projections, the theory of those usually employed in the delineation of spheric surface :

5. Method of trigonometric surveying, of observing the angles and calculating the sides of large triangles on the earth's surface, and of obtaining the differences of latitude and longitude of points in a series of such triangles, having a regard to the effect of the figure of the earth :

6. The portion of the theory of practical astronomy relating to the determination of the geographic position of points on the earth's surface, and the directions of lines on the same, that is to say :—

Methods of determining latitude,—

a. By circum-meridian altitudes ;

b. By differences of meridional zenith distance (Talcott's method) ;

c. By transits across prime vertical :

Determination of azimuth :—

a. By extra meridional observations ;

b. By meridian transits :

Determination of time :—

a. By equal altitudes ;

b. By meridian transits :

Determination of differences of longitude :—

a. By electric telegraph ;

b. By moon culminations :

7. The theory of the instruments used in connection with the foregoing, that is to say : The sextant or reflecting circle, altitude and azimuth instrument, astronomic transit, zenith telescope, and the management of chronometers ; also of the ordinary meteorological instruments, barometers (mercury and aneroid), thermometers (ordinary and self-registering), anemometer, and rain gauges, —and on their knowledge of the use of the same ;

8. Elementary mineralogy and geology, so far as respects a knowledge of the more common characters by which the mineral bodies that enter largely into the composition of rocks are distinguished, with their general properties and conditions of occurrence ; the ores of the common metals and the classification of rocks ; and the geology of North America so far as to be able to give an intelligent outline of the leading geological features of the Dominion :

Candidates desiring such higher examination to give due notice thereof to the board.

Provided that candidates desiring the above extended examination shall inform the Board thereof, when giving the notice called for by section eighty-three of the "*Dominion Lands Act*."

(39 *Vic., Cap. 19.*)

Dominion Land Surveyors may, on giving two

32. Gentlemen who may have become qualified to act as Dominion Land Surveyors previous to the passing of this Act, may, if desirous of so doing, and having given notice

in writing to the Secretary, at least two months previous to the meeting of the Board, of such desire, be examined as to their knowledge of the higher branches of surveying, and other subjects, under the preceding section, and all candidates for such examination, whether holding commissions previously or otherwise, on passing the same, shall have the fact certified by the Board.

months' notice, be examined in higher surveying.

All successful examinations to be certified by the Board.

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 a pupil to a Land Surveyor lawfully practising during the said period as a Dominion Land Surveyor, nor unless he shall produce a certificate from such practising surveyor of his having so served during the said period, and also shall produce satisfactory testimony as to his character for probity and sobriety.

Conditions precedent to examination for commission.

(Form D, page 43 hereof.)

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 Dominion Land Surveyor, 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 the sub-clause four of this Act, receive from the Board a commission as a Dominion Land Surveyor.

Future Provincial Land Surveyors to be entitled to examination for commissions as Dominion Land Surveyors without having served under articles to a Dominion Land 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 Dominion Land 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 same; and the

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

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 Dominion Land Surveyor may complete his term with another.

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

Assignment of articles of clerkship.

**80.** Any Dominion Land Surveyor may by an instrument in writing, transfer a pupil, with his own consent, to any other Dominion Land 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 Dominion Land 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 Dominion Land 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 Dominion Land 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 Dominion Land 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 Dominion Land 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, by each pupil, on giving notice of his desire for examination preliminary to being articulated, one dollar.

2. To the Secretary of the Board, as the fee due on such examination, ten dollars, and a further sum of two dollars for certificate.

3. To the Secretary of the Board by each pupil, at the time of transmitting to such Secretary the Indentures or Articles of such pupil, two dollars.

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

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

6. To the Secretary of the Board, as an admission fee by the candidate receiving the Commission, twenty dollars,—which sum shall also cover any certificate by the Board in the case of a candidate passing the higher examination ; but such amount, as also the ten dollars required to be paid under sub-section two of this section, shall be paid to the Receiver General to the credit of Dominion Lands.

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 in the case of the examination of a pupil, previous to being articulated by a member of the Board, or by a Surveyor deputed by the Board for such purpose, such member or such Surveyor shall be paid five dollars for such examination ; and the Minister of the Interior 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, and to Surveyors deputed by Board to examine pupils.

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 :

Successful candidates to receive commissions, and give security and take oath of office.

" I, \_\_\_\_\_, do solemnly swear (or affirm as the case may be) that I will faithfully discharge the duties of a



Dominion Land Surveyor according to law, without favour, affection or partiality. So help me, God."

(Form E, page 45 hereof.)

1. Until the above formalities shall have been gone through the said commission of Dominion Land 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 inure 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.

Board may suspend or disqualify negligent or corrupt Dominion Land Surveyor.

88. The said Board may, in their discretion, suspend or dismiss from the practice of his profession any Dominion Land 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 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 Surveyor inculpated.

#### STANDARD OF MEASURE.

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

89. The measure of length used in the surveys of the Dominion Lands, shall be the English measure of length, and every Dominion Land 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 Dominion Land 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 Dominion Land Surveyor is employed to run any dividing line or limit between sections, or other legal sub-divisions, 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 sub-divisions 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 sub-divisions, 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 Dominion Land 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 sub-divisions (as the case may be) of a width and depth proportionate to that severally returned for such section or legal sub-division 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 sub-division or wood lot.

#### HOW LEGAL SUB-DIVISIONS ARE TO BE SURVEYED AND LAID OUT.

**91.** In all cases when a Dominion Land 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 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 sub-divisions, in any quarter-section, or any wood lot, he shall give such legal sub-division 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 sub-division, or wood lot, whether the same shall or shall not correspond with the area expressed in the respective patents for such lands.

Method of proceeding to be adopted by Dominion Land Surveyor employed 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 sub-divisions 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

Dividing lines to be drawn from original corners.

front of such sub-division or wood lot, at right angles to such section line.

#### ORIGINAL BOUNDARY LINES.

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

**93.** All boundary lines of townships, sections, or legal sub-divisions, 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 sub-divisions, 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 sub-divisions, 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 sub-division, block, gore, common, lot or parcel of land.

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

**94.** Every township, section or other legal sub-division, 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.

As to aliquot parts of townships, &c.

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

97. For better ascertaining the original corner or limits of any township, section or other legal sub-division, lot, or tract of land, every Dominion Land Surveyor 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 sub-division, lot or tract of land which such Dominion Land Surveyor is employed to survey.

Dominion Land Surveyors may examine witnesses on oath.

#### EVIDENCE BEFORE SURVEYORS.

98. When any Dominion Land 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 Dominion Land Surveyor, or does not willingly produce to him such writing, plan or document, such Dominion Land 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 Dominion Land 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.

Course to be adopted by Dominion Land Surveyors to ascertain boundaries when doubtful.

*Subpœnas* may be issued.

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

How *subpœnas* may be served.

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,

Consequences of disobeying *subpœnas*.

Evidence taken by Dominion Land Surveyors to be reduced to writing and signed, &c.

**99.** All evidence taken by any Dominion Land 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 Dominion Land Surveyor, and such evidence shall, and any document or plan prepared and sworn to as correct before a Justice of the Peace, by any Dominion Land 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.

When Dominion Land Surveyors may pass over private lands.

**100.** Any Dominion Land 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.

#### PROTECTION TO SURVEYORS.

Penalty for molesting a Dominion Land Surveyor in the discharge of his duty.

**101.** If any person in any part of the Dominion lands interrupts, molests or hinders any Dominion Land Surveyor, while in the discharge of his duty as a Dominion Land 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 Dominion Land Surveyor or any other party may have against such offenders for damages occasioned by such offence.

Penalty for pulling down original or other landmarks placed by Dominion Land Surveyor.

**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 Dominion Land Surveyor to mark any limit, boundary or angle of any township, section or other legal sub-division, 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, with-

out 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 Dominion Land 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.

Proviso.

**103.** Every Dominion Land 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.

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

**104.** There shall be allowed to every Dominion Land 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.

Allowance to Dominion Land Surveyor for attendance as a witness.

#### GENERAL PROVISIONS.

**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 thirty-one of the Act thirty-three Victoria, chapter three, and also land of 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 Minister of the Interior may direct, and shall be laid before Parliament within the first ten days of the session next after the date thereof.

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.

**106.** All affidavits, oaths, solemn declarations or affirmations required to be taken or made under this Act may be taken before the Judge or Clerk of any County or Circuit

Before whom affidavits, &c., may be taken.

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 Minister of the Interior.

Affirmation  
in lieu of  
oaths.

**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.

#### PREVIOUS ORDERS IN COUNCIL.

Proceedings  
under certain  
Orders in  
Council con-  
firmed.

**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 the provision therein respecting pre-emption rights, which is hereby repealed and done away with (and 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; Provided that this enactment shall in no way affect the provisions of the Act passed in the thirty-sixth year of Her Majesty's reign, Chapter thirty-eight.

Proviso.

#### FORM A.—See Clause 33.

##### APPLICATION FOR 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 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 for commissions as Dominion Land Surveyors, according to law, without favor, affection or partiality. So help me God.

## FORM D.—See Clause 76.

## ARTICLES OF PUPIL TO DOMINION LAND SURVEYOR.

THESE ARTICLES OF AGREEMENT, made the \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_ between A. B., of \_\_\_\_\_, a Dominion Land Surveyor (or, as the case may be), now practising in the capacity of a Dominion Land Surveyor, 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 Dominion Land Surveyor 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, field 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 misbehaviour, 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 Dominion Land Surveyor, which he the said A. B. now doth, and shall at all times during the said term, use and practise, 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 endeavors, at the request, cost 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 Dominion Land Surveyors; 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 E.—*See Clause 87.*

COMMISSION AS DOMINION LAND SURVEYOR.

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 Dominion Land Surveyor, 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 practise as a Dominion Land Surveyor 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.

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## 37 VICTORIA.

### CHAP. 19.

(As amended by 39 Victoria, Chap. 19.)

Provision in case of parties settling large tracts without expense to government, by bringing in settlers.

14. If any person or persons undertake to settle any of the public lands of the Dominion free of expense to the Government, in the proportion of one family to each alternate quarter-section, or not less than sixty-four families in any one township, under the Homestead provisions of the Act hereby amended, the Governor in Council may withdraw any such township from public sale and general settlement; and may, if he thinks proper, having reference to the settlement so effected and to the expense incurred by such person or persons in procuring the same, order the sale of any other and additional lands in such township to such person or persons at a reduced price, and may make all necessary conditions and agreements for carrying the same into effect.

Expenses incurred in bringing out immigrants may be made a charge on their homesteads.

15. The expenses, or any part thereof, incurred by any person or persons, for the passage money or subsistence in bringing out an immigrant, or for aid in erecting buildings on the homestead or in providing farm implements or seed for such immigrant, may, if so agreed upon by the parties, be made a charge on the homestead of such immigrant; and in case of such immigrant attempting to evade such liability by obtaining a homestead entry outside of the land withdrawn under the provisions of the next preceding section, then, and in such case, the expense incurred on behalf of such immigrant, as above, shall become a charge on the homestead so entered, which, with interest thereon, must be satisfied before a patent shall issue for the land: provided as follows:

Provision in case of attempt to evade such charge.

(a) That the sum or sums charged for the passage money and subsistence of such immigrant shall not be in excess of the actual cost of the same as proved to the satisfaction of the Minister of the Interior:

Amount limited to actual cost.

(b) That an acknowledgment by such immigrant of the debt so incurred shall have been filed in the Dominion Lands Office:

Acknowledgment must have been filed.

(c) That, in no case, shall the charge for principal moneys advanced against such homestead exceed in amount the sum of two hundred dollars:

Amount further limited.

(d) That no greater rate of interest than six per cent. per annum shall be charged on the debt so incurred by such immigrant.

Interest limited.

## ASSIGNMENTS.

16. The Surveyor-General shall keep a book for registering, at the option of parties interested, the particulars of any assignment made, as well by the original nominee, purchaser, or locatee or lessee of Dominion lands, or his heir or legal representative, as by any subsequent assignee, and upon such assignment being produced with the affidavit of due execution thereof, and of the time and place of such execution, and the names, residences and occupations of the witnesses, the said Surveyor-General shall cause the material particulars of every such assignment to be registered in such book of registry, and shall cause to be endorsed on every such assignment a certificate of such registration, and every such assignment so registered shall be valid against any one previously executed, and subsequently registered or unregistered, but all assignments to be registered must be unconditional, and all the conditions of sale, grant or location must have been complied with, or, if dispensed with, then so dispensed with by the Minister of the Interior, before such registration is made.

Surveyor-General to keep a register of assignments.

Conditions of registration.

17. If any subscribing witness to any such assignment is deceased, or cannot be found, the said Surveyor-General may register such assignment on the production of an affidavit proving the death or the absence of such witness, and the handwriting of the party making such assignment.

If any subscribing witness cannot be found.

## TOWNSHIP PLANS AND PATENT LISTS.

18. The Surveyor-General shall transmit to the Registrar of every county and registration district, and division, in Manitoba and the North-West Territories, a copy of the plan of each township or parish within such county, district or division, which has been previously surveyed, and the survey of which has been confirmed, and shall also at the same time transmit a list of all Dominion lands, within such county, district or division, for which patents may have previously issued; and further, shall, as early as possible in each year thereafter, transmit to such Registrar a copy of the map of each township in such county, district or division, surveyed in the year next preceding, together with a list of the lands in such county, district or division, patented during such year. All of such copies of plans, maps and lists of lands patented shall be certified by the Surveyor-General.

Surveyor-General to transmit certain information to registrars of counties, &c.

Certified by him.

## LAND SCRIP.

19. Whereas by the fifth sub-section of the thirty-second section of the Act passed in the thirty-third year of Her Majesty's reign, chapter three, it is provided that the rights

Certain Orders in Council authorizing the issue

of scrip for  
land rights  
confirmed.

of common and of cutting hay held and enjoyed by the settlers in the Province of Manitoba may be commuted by grants of land from the Crown ; and whereas the method of commuting the said rights by an issue of scrip redeemable only in land is most convenient and expedient ; and whereas it is also expedient to affirm the principle that rights to Dominion land may be satisfied by an issue of scrip ; therefore, the Orders of the Governor in Council, dated respectively the sixth day of September, 1873, and the seventeenth day of April, 1874, providing for the issue of scrip in commutation of the rights of common and of cutting hay in Manitoba, are hereby confirmed.

Further  
authority to  
issue scrip.

**20.** The Governor in Council may, if deemed by him expedient, satisfy any claim which may hereafter arise to grants of Dominion lands, by an issue of scrip redeemable only by its receipt in payment for such land.

#### TARIFF OF FEES.

Fees for docu-  
ments fur-  
nished from  
Surveyor-  
General's  
office.

**21.** The Governor in Council may establish a tariff of fees to be charged for all copies of maps, township plans and field notes ; also for registering assignments ; and all fees received under such tariff shall be accounted for by the Surveyor-General, and shall form part of the Revenue from Dominion Lands.

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39 VICTORIA.

CHAP. 19.

FOREST TREE CULTURE.

**20.** Any person, male or female, being a subject of Her Majesty by birth or naturalization, and having attained the age of eighteen years shall be entitled to be entered for one quarter-section or less quantity of unappropriated Dominion lands as a claim for forest tree planting.

Who may obtain claim for tree planting.

How much land.

**21.** Application for such entry shall be made in Form F. in the schedule hereto, and the person so applying shall make an affidavit before the local agent according to Form G. in the schedule hereto, and shall pay at the time of applying an office fee of ten dollars for which he or she shall receive a receipt and also a certificate of entry, and shall thereupon be entitled to enter into possession of the land.

Manner of obtaining claim for tree planting.

**22.** No patent shall issue for the land so entered until the expiration of six years from the date of entering into possession thereof; and any assignment of such land shall be null and void, unless permission to make the same shall have been previously obtained from the Minister of the Interior.

No patent to issue until six years from date of entry.

**23.** At the expiration of six years the person who obtained the entry, or, if not living, his or her legal representative or assigns shall receive a patent for the land so entered, on proof to the satisfaction of the Local Agent, as follows:—

Conditions before obtaining a patent

1. That eight acres of the land entered had been broken and prepared for tree planting within one year after entry, an equal quantity during the second year, and sixteen additional acres within the third year after such date;

2. That eight acres of the land entered had been planted with forest trees during the second year, an equal quantity during the third year, and sixteen additional acres within four years from the date of entry, the trees so planted not being less than twelve feet apart each way;

3. That the above area, that is to say, one-fifth of the land has, for the last two years of the term been planted with timber, and that the latter has been regularly and well cultivated and protected from the time of planting; provided

that in cases where the land entered is less in extent than one quarter-section or one hundred and sixty acres, then the respective areas required to be broken and planted under this and the two next preceding sub-sections shall be proportionately less in extent.

Claim liable to forfeiture, on failure in conditions.

**24.** If at any time within the period of six years as above the claimant fails to do the breaking up or planting or either as required by this Act or any part thereof, or fails to cultivate, protect, and keep in good condition such timber, then and upon such event the land entered shall be liable to forfeiture, in the discretion of the Minister of the Interior, and may be dealt with in the same manner as homesteads which may have been cancelled for non-compliance with the law as set forth in sub-section sixteen a, inserted in section thirty-three of the "*Dominion Lands Act*," respecting homesteads, by the Act of 1874.

Proviso.

**25.** Provided that no person who may have obtained pre-emption entry of a quarter-section of land in addition to his homestead entry under the provisions of sub-section one, of section thirty-three of the said "*Dominion Lands Act*," as amended by the Act of 1874, and by this Act, shall have the right to enter a third quarter-section as a tree planting claim, but such person, if resident upon his homestead, may have the option of changing the pre-emption entry of the quarter-section or of a less quantity of such quarter-section, for one under the foregoing provisions, and on fulfilling the preliminary conditions as to affidavit and fee, may receive a certificate for such quarter-section, or for such quantity thereof as may have been embraced in the application, and thereupon the land included in such change of entry shall become subject in all respects to the provisions of this Act relating to tree planting.

The entry of a quarter-section for pre-emption in connection with homestead may be substituted, in whole or in part, for one for tree planting.

Holder of entry of claim for tree planting may eject trespassers.

**26.** Any person who may have been entered for a tree planting claim under the foregoing provisions, and whose right may not have been forfeited for non-compliance with the conditions thereof, shall have the same rights of possession, and to eject trespassers from the land entered by him as are given to persons on homesteads under sub-section seventeen a, of section thirty-three of the "*Dominion Lands Act*," and the title to land entered for a tree planting claim shall remain in the Government until the issue of a patent therefor, and such land shall not be liable to be taken in execution before the issue of the patent.

#### FORM F.

#### *Application for Land for Forest Tree Culture.*

I, A. B., do hereby apply to be entered under the provisions

respecting forest tree culture of the Act passed in the thirtieth year of Her Majesty's reign intituled "*An Act to amend the Dominion Lands Acts,*" for the

of Section

in Township number

, in the  
Range

of the

Meridian, for the purpose of cultivating forest trees thereon.

#### FORM G.

##### *Affidavit in support of Claim for Forest Tree Culture.*

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 an entry of land for forest tree culture, the extent of which, added to that now applied for, will exceed in all one hundred and sixty acres ; that the land now in question is open prairie and without timber, and is unoccupied and unclaimed, and belongs to the class open for entry for tree culture (or, instead of the above, after the word "question," as the case may be. say, "consists of the quarter-section heretofore entered by me as a pre-emption right, under the provisions of sub-section one of section thirty-three of the "*Dominion Lands Act,*") and that the application is made for my exclusive use and benefit. So help me, God.



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