

Dominion Lands Act

Statutes of Canada, 35 Victoria, Chap. 23

Assented to 14 April 1872

AN ACT RESPECTING THE PUBLIC LANDS OF THE DOMINION

Whereas it is expedient with a view to the proper and efficient administration and management of certain of the public lands of the Dominion that the same should be regulated by statute:

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Preliminary—Interpretation

1. This Act shall apply exclusively to the Lands included in Manitoba and the North-West Territories, which lands shall be styled and known as *Dominion Lands*; and this Act shall be known and may be cited as the "*Dominion Lands Act*," . . .

Dominion Lands Office

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

(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*."

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

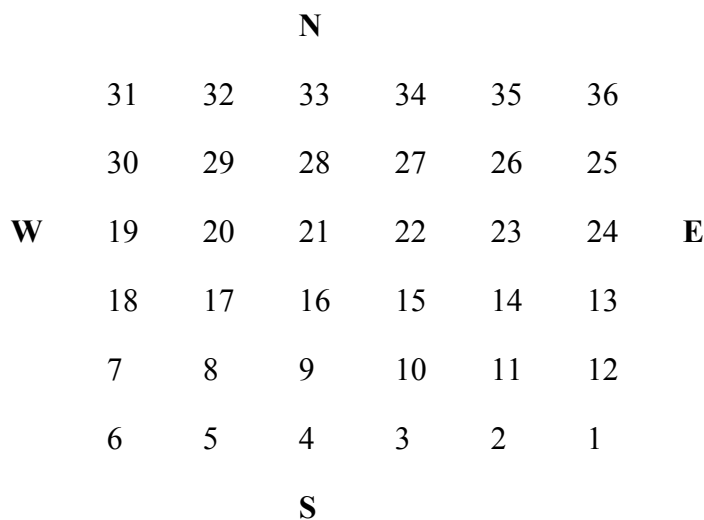
(3) No person employed in or under the Dominion Lands Office shall purchase any of such lands, except under authority of an Order in Council.

System of Survey

3. Subject always to the provisions hereinafter made with respect to special cases,

(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 shewn by the following diagram:



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

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.

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.
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
7. The townships shall be laid out the precise width of four hundred and eighty-nine chains, as aforesaid, on the base lines hereinafter mentioned, and the meridians between townships shall be drawn from such bases, north or south to the depth of two townships, that is to say, to the correction lines hereinafter mentioned.
8. The said forty-ninth parallel or international boundary shall be the first base line, or that for townships one and two. The second base line shall be between townships four and five, the third between townships eight and nine, the fourth between townships twelve and thirteen, the fifth between townships sixteen and seventeen, and so on northerly in regular succession.
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.
10. Each section shall be divided into quarter sections of one hundred and sixty acres, more or less, subject to the provisions hereinafter made.
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.

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.

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

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

(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.

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

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

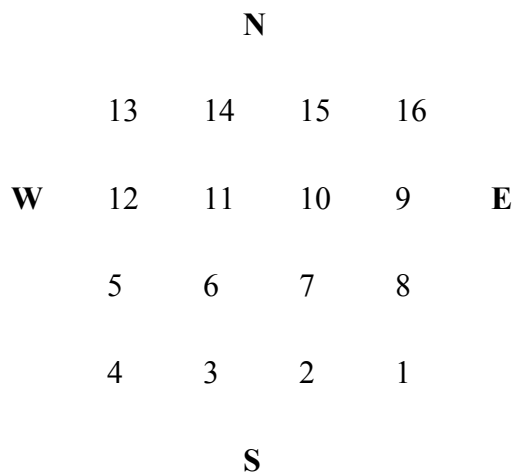
(1) A section or 640 acres;

A half section or 320 acres;

A quarter section or 160 acres;

A half quarter section or 80 acres.

(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:



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

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

any certain frontage and depth, in such manner as may appear desirable; or to prevent the subdivision of sections or other legal subdivisions into wood lots as hereinafter provided; or from describing the said lands upon the Red and Assineboine Rivers, or such subdivisions of fractional sections, or other lots, or wood lots, for patent, by numbers according to a plan of record, or by metes and bounds, or by both, as may seem expedient.

DISPOSALS OF THE DOMINION LANDS

Lands Reserved by the Hudson's Bay Company

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

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:

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—

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

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.

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

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

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 Secretary of State, such unoccupied lands as may be deemed by him expedient from time to time shall be put up at public sale (of which sale due and sufficient notice shall be given) at the upset price of one dollar per acre, and sold to the highest bidder . . .

Town Plots, &C.

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

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.

Homestead Rights or Free Grant Lands

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

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

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

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

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

(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.

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

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

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

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

(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 resided upon or cultivated the land for the three years next after the filing of the affidavit for entry, the settler or such claimant shall be entitled to a patent for the land, provided such claimant is then a subject of Her Majesty by birth or naturalization.

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

(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.

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

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

(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.

(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.

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

Grazing Lands

34. Leases of unoccupied Dominion lands may be granted for grazing purposes to any person or persons whomsoever being *bonâ fide* settlers in the vicinity of the land sought to be leased, at such rent and for such term as the Secretary of State shall deem expedient; but every such lease of grazing land shall, among other things, contain a condition making such land liable for settlement or for sale as hereinbefore provided by this Act, at any time during the term of such lease, without compensation, save by a proportionate deduction of rent, and a further condition by which the Secretary of State may, on giving the lessee six months notice, cancel the lease at any time during the term.

Hay Lands

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

Mining Lands

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.

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.

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

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

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

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

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

39. Mining locations in unsurveyed territory shall be surveyed by a Deputy Surveyor, and shall be connected with some known point in previous surveys, or with some other known point or boundary (so that the tract may be laid down on the maps of the territory in the Dominion

Lands Office) at the cost of the applicants, who shall be required to furnish, with their application, the Surveyor's plan, field notes and description thereof.

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.

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

Indian Title

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

Coal Lands

43. Coal lands designated by the Government as such are hereby withdrawn from the operation of this Act as regards the rights of squatters to homesteads on the Dominion lands in advance of the Surveys.

44. Any person or persons desiring to carry on coal mining in unsurveyed territory, shall be protected in the possession of the lands on which such mining may be carried on—provided, that before entering on the working of such mines, such person or persons make written application to the Local Agent to purchase such land; such application must be accompanied by a description by a Deputy Surveyor setting forth generally the situation and the dimensions of such land, and

shall also be accompanied by payment of the price thereof, estimating the number of acres (which shall not exceed six hundred and forty) at the rate of one dollar per acre. Such application shall be filed by the Agent receiving the same—and on the survey of the Township containing the land applied for being effected, the claimant or claimants shall be entitled to a patent for such number of acres, in legal sub-divisions, including and covering the mine worked, as shall correspond to the application and to the extent of land paid for.

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

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

TIMBER AND TIMBER LANDS

Timber in Townships Surveyed for Settlement

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

(1) In the subdivision of townships which may consist partly of prairie and partly of timber land, such of the sections or subdivisions of sections containing Islands, Belts, or other tracts of timber, shall be subdivided into such number of wood lots of not less than ten, and not more than twenty acres in each lot, as will afford, so far as the extent of wood land in the township may permit one such wood lot to each quarter section prairie farm in such township.

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

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

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

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

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

Other Timber and Timber Limits

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

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

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

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.

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:

(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.

(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.

(4) To make returns to the Government monthly, or at such other periods as may be required by the Secretary of State, or by Regulations under this Act, sworn to by him or by his agent or employee cognizant of the facts, declaring the quantities sold or disposed of as aforesaid, of all

sawn lumber, timber, railway car stuff, ship timbers and knees, shingles, laths, cordwood or bark, or any other product of timber from the limit, in whatever form the same may be sold, or otherwise disposed of by him during such month or other period, and the price or value thereof.

(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.

(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.

(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.

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

(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.

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

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:

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

(2) Persons so qualified shall be styled "Deputy Surveyors of Dominion lands,"

Board of Examiners

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

meetings of the Board shall from time to time be fixed and made public by notice in the *Canada Gazette*.

(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.

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

Admission of Deputy Surveyors

73. No person shall receive a commission from the said Board authorizing him to practice as a Deputy Surveyor of Dominion lands, until he has attained the full age of twenty-one years, and has passed a satisfactory examination before the said Board in the following subjects, that is to say: Euclid (first six books), Plane Trigonometry, Mensuration of Superficies, the keeping of Field Notes, Plotting and Map Drawing, Spherical Trigonometry, Astronomy and Geology, practical surveying operations, and the use of instruments; nor unless he shall be perfectly conversant with the system of survey as embodied in this Act, and with the manual of standing instructions and regulations published from time to time for the guidance of Deputy Surveyors employed in surveys of Dominion lands . . .

Standard of Measure

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

Protection to Surveyors

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

102. If any person knowingly and wilfully pulls down, defaces, alters, or removes any mound, post or monument erected, planted or placed in any original survey under the provisions of this Act, or under the authority of any Order in Council, such person shall be deemed guilty of felony; and if any person knowingly and wilfully defaces, alters or removes any other mound or land mark, post or monument placed by any Deputy Surveyor to mark any unit, boundary or angle of any township, section or other legal subdivision, lot or parcel of land in Manitoba, or the North-West Territories, such person shall be deemed guilty of a misdemeanor, and being convicted thereof before any competent Court, shall be liable to be punished by fine or imprisonment, or both, at the discretion of such Court, such fine not to exceed one hundred dollars, and such imprisonment not to be for a longer period than three months, without any prejudice to any civil remedy which any party may have against such offender or offenders for damages occasioned by reason of such offence: Provided that nothing in this Act shall extend to prevent Deputy Surveyors, in their operations, from taking up posts or other boundary marks when necessary, after which they shall carefully replace them as they were before.

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

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 31 of the Act 33 Victoria, chapter 3, and also land to such extent as may be required for Railway purposes, and further, may, from time to time, make such Orders as he may deem necessary to carry out the provisions of this Act according to their true intent, or to meet any cases which may arise and for which no provision is made by this Act, and may, from time to time, alter or revoke the same and make others in their stead, and such Orders shall be published in the *Canada Gazette*, and in such newspapers as the Secretary of State may direct, and shall be laid before Parliament within the first ten days of the session next after the date thereof . . .

SCHEDULE

FORM A—*See Clause 33*

Application for a Homestead Right

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

FORM B—*See Clause 33, Sub-clause 7*

Affidavit in Support of Claim for Homestead Right

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

