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No. 130.

3rd Session, 8th Parliament, 61 Victoria, 1898

BILL.

An Act further to amend the Dominion
Lands Act.

First reading, May 3rd, 1898.

Mr. SIFTON.

OTTAWA

Printed by S. E. DAWSON
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1898

An Act further to amend the Dominion Lands Act.

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

1. Sub-clause 1 of clause 34 of *The Dominion Lands Act* is hereby amended by striking out the words “or, in his absence, the senior clerk performing his duties,” in the second and third lines, and inserting in lieu thereof the words “or his senior assistant.” R.S.C., c. 54, clause 34 amended.
2. Sub-clause 4 of the said clause 34 is hereby amended by striking out the words “or, in his absence, the senior clerk performing his duties,” in the fifth line, and inserting in lieu thereof the words “or his senior assistant.” Clause 34 further amended.
3. Clause 37 of the said Act is hereby amended by adding the following sub-clause thereto :—
- “2. The Minister may withdraw from general sale and from settlement under the ordinary homestead provisions of this Act, any available Dominion lands, including both odd-numbered and even-numbered sections or parts thereof, in tracts of one or more townships or sufficient part or parts of a township or townships, for associations of settlers who desire to engage in co-operative farming, upon receiving, in the case of each association, an application from ten or more persons who are members thereof,—each of whom as well as every member of the association must be eligible, under the provisions of this Act, to obtain a homestead entry,—stating that they have formed an association for the purpose of engaging in co-operative farming ; that for such purpose one or more townships or a part or parts of a township or townships are necessary to be reserved and set aside ; that out of such lands, until they have all been entered for by members of the association, each member will be entitled to the privilege of obtaining an entry for a part of the tract so reserved, not exceeding one quarter-section, as his homestead ; and that, for the purpose of the association and for the reasons specified in sub-clause 1 of this clause, the members of the association desire to settle together in a hamlet or village within the boundaries of the lands so reserved ; and asking that in lieu of the residence and cultivation conditions which a settler has to comply with to obtain letters-patent for the land entered for by him, as a homestead, under the ordinary homestead provisions of this Act, the residence by the settler within the said hamlet or village, for a period of not less than three years within the meaning of this Act, and the cultivation of parcels of land, to be set aside for that purpose by the association, near the village or hamlet, out of the tract
- Clause 37 amended.
- Case of co-operative farming association.

so reserved for the association, and the improvement of the remainder of the tract by the association, shall be accepted as sufficient to warrant the Minister in issuing to such settler, or his legal representative, letters-patent for the land so entered for by him, as a homestead : Provided that, before any settler who has obtained entry for a homestead under this sub-clause, or his legal representative, is entitled to the issue of letters-patent therefor, the value of his residence within the said hamlet or village, and of the out-buildings and other improvements connected therewith, shall be equal at least to the value of the residence, out-buildings, and other improvements of an ordinary homesteader, and that the total value of all improvements and cultivation done to the tract by the members of the association in connection with its scheme of co-operative farming, shall be equal at least to one hundred and fifty dollars, for each member of the association at the date of the settler's application."

Clause 38 amended.

4. Sub-clause 1 of clause 38 of the said Act is hereby amended by striking out the words "or, in his absence, the senior clerk performing his duties," in the fourth and fifth lines, and inserting in lieu thereof the words "or his senior assistant."

Clause 38 further amended.

5. The sub-clause substituted for sub-clause 5 of the said clause 38, by section 3 of chapter 15 of the statutes of 1892, is hereby amended by striking out all the words after "Interior" in the twelfth line.

Clause 38 further amended.

6. Sub-clause 9 of the said clause 38, as amended by section 4 of chapter 29 of the statutes of 1897, is hereby repealed and the following is substituted therefor:—

Second homestead entry.

"9. If a settler has obtained a patent for his first homestead or a certificate for the issue of such patent countersigned in the manner prescribed by this Act, and has obtained entry for a second homestead, the requirements of this Act as to residence prior to obtaining patent may be satisfied by residence upon the first homestead.

"(a.) If the father (or the mother, if the father is deceased) of any person who is eligible to make a homestead entry under the provisions of this Act, resides upon a farm in the vicinity of the land entered for by such person as a homestead, the requirements of this Act as to residence prior to obtaining patent may be satisfied by such person residing with the father or mother; and in the event of the death of the father or mother before the person is entitled to his patent, the requirements of this Act as to residence prior to obtaining patent may be satisfied by such person continuing to reside on the property which was the residence of the father or mother, or by removing to a residence upon his own homestead."

Clause 38 further amended.

7. Paragraph (a) of sub-clause 10 of the said clause 38, as amended by section 4 of chapter 29 of the statutes of 1897, is hereby repealed and the following is substituted therefor:—

"(a.) That he has fulfilled three years' residence within the meaning of this clause."

8. Clause 109 of the said Act is hereby repealed, and the following is substituted therefor :—

New clause 109.

“109. Every person who, subsequently to the fourteenth day of April, one thousand eight hundred and seventy-two, was or becomes duly qualified by certificate, diploma or commission, to survey lands in any province of Canada, and who, in order to become so qualified, has served a term under articles to a surveyor, similar to the term prescribed by this Act, and has passed an examination in the subjects prescribed by clauses 102 and 113 of this Act, before the board of examiners of such province, shall be entitled to obtain a commission as Dominion land surveyor without further service and without being subjected to any examination other than with respect to the system of survey of Dominion lands; but it shall rest with the board of examiners to decide whether the service of such person is equivalent to that prescribed in this Act for the pupils of Dominion land surveyors, and whether the subjects of examination for the certificate, diploma or commission of a surveyor of Crown lands in such province are sufficiently similar to those set forth in the said clauses to entitle him, under the foregoing provisions, to such commission; and if such service or subjects of examination are, in the opinion of the board, not sufficiently similar to those required by this Act, the board may, in its discretion, require any candidate for admission as a Dominion land surveyor under the provisions of this clause to complete such further term of service or practice in surveying, and may examine him in such of the subjects set forth in clauses 102 and 113 of this Act, as may appear necessary.”

As to admission of provincial land surveyors.

9. Clause 138 of the said Act is hereby amended by adding the following sub-clause thereto :—

Clause 138 amended.

“3. Every person who, not being a Dominion land surveyor, knowingly and wilfully has in his custody and possession, and not for any lawful purpose in connection with a survey of Dominion lands, any such post or monument, or any post or monument intended, or apparently intended to be used for the purposes of any such survey, or to mark any such limit, boundary or angle, is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding years, or to a penalty not exceeding , or to both such fine and imprisonment.

Penalty for illegally having possession of landmark.

10. Any person who is entitled to make a homestead entry for land under the provisions of the said Act may select as his homestead one or more of the legal subdivisions of any section which comprise one-quarter section thereof; and if the area so selected and entered for is not greater than eighty acres he may be granted his entry therefor for one-half of the amount of the fee which is exacted for a homestead entry for a whole quarter-section.

Homesteader may select part of quarter-section.

Fee.

11. An exchange of any Crown lands within and now the property of the province of Manitoba, for Dominion lands of equal value, may be made between that province and the Dominion of Canada; and when such exchange has been completed the Crown lands so granted to the Dominion shall be

Exchange of Crown lands between Manitoba and Canada.

deemed to be and shall be "Dominion lands" within the meaning of the said Act, and may be administered under its provisions as if title thereto had always remained vested in Her Majesty, as represented by the Dominion.

Disposal of arid lands.

12. The Minister of the Interior may withdraw from general sale and from settlement under the homestead provisions of the said Act, any lands in the North-West Territories which he believes to be so arid as to be unsuited for proper cultivation without the aid of irrigation, and he may dispose thereof to any person for such price, upon such terms, and subject to such conditions as to the colonization or settlement thereof and as to the cultivation thereof by the aid of irrigation, as the Governor in Council fixes and determines. 5 10

Disposal of lands when sale has been cancelled.

13. Any male person, who has attained the age of eighteen years, may select any quantity of land not exceeding one quarter-section which, being of the class of land open for sale, was previously sold to a purchaser who failed to comply with the conditions of sale and whose purchase of the land has therefore been cancelled: provided that any person, or the legal representative of any person, who selects any land under these provisions shall not be entitled to a patent therefor until he has paid to the Minister of the Interior an amount equivalent to a price per acre to be fixed by the Minister, and not less than one dollar per acre, and until he has furnished the proof, required by clause 38 of the said Act, of having duly complied with the ordinary homestead conditions of the said Act as to his residence upon and cultivation of the said land. 15 20 25

Ejectment of person wrongfully in possession of Dominion lands.

14. When any person is wrongfully or without lawful authority in possession of any Dominion lands and refuses to vacate or abandon possession thereof, the Minister of the Interior, or any officer or agent of the Department of the Interior authorized by the Minister for that purpose, may, upon evidence of the facts by solemn declaration made in accordance with provisions of *The Canada Evidence Act, 1893*, apply to the judge of the county court for the county within which the lands are situated, if the lands are in the province of Manitoba, and to the judge of the judicial district in which the lands are situated, if the lands are in the North-West Territories, for a summons directed to such person calling upon him forthwith to vacate or abandon the said lands, or within after service of the said summons to show cause why an order or warrant for his removal from the said lands should not be made; and if, upon the return of the summons, it appears that he has not vacated or abandoned possession of the said lands, or if he does not show good cause to the contrary, the judge shall make an order or warrant for his summary removal from the said land, and the said order or warrant shall be executed by the sheriff, bailiff, constable or other person to whom it is delivered. 30 35 40 45

Service of summons.

15. It shall be sufficient service of the summons if a copy thereof is left with a grown up person found on the said lands, and another copy is put in some conspicuous place thereon, or, where no grown up person is found on the lands, if a copy is put up in each of two conspicuous places thereon. 50

16. The officer or person to whom any order or warrant is addressed under the foregoing provisions shall forthwith remove the person named thereon from the said lands, and in the execution of the said order or warrant shall have all the powers, rights, immunities and privileges enjoyed by a sheriff, constable or other peace officer in the execution of his duty.

Execution of
warrant.

17. Any person remaining upon Dominion lands after having been ordered to vacate them, or returning thereto after having vacated them in obedience to a summons, or after having been removed therefrom under an order or warrant as aforesaid, shall, upon summary conviction thereof before a judge, stipendiary or police magistrate or two or more justices of the peace, be liable to a fine of not less than twenty dollars and not more than one hundred dollars.

Penalty for
disobeying
summons,
etc.