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No. 115.

1st Session, 6th Parliament, 20 Victoria, 1858.

B I L L .

An Act to make better provision for the disposal and management of Public Lands.

Received and read 1st time, Tuesday, 27th April, 1858.

Second reading, Tuesday, 4th May, 1858.

Hon. Mr. SICOTTE.

S. Derbshire & G. Desbarats, Queen's Printer.

An Act to consolidate the Laws relating to Public Lands, and to make better provision for the disposal and management of Public Lands.

HER Majesty, by and with the advice and consent of the Preamble.
Legislative Council and Assembly of Canada, enacts as follows :

THE LAND DEPARTMENT---THE COMMISSIONER---THE OFFICERS.

I. All the Lands belonging to the Province, shall be under
5 the management and administration of the Public Department,
which is and shall be denominated, the Land Department. To what lands
the Act ap-
plies, &c.

II. The Chief Officer of this Department shall be called the
Commissioner of Public Lands, and his duty shall be, under
the directions of the Governor in Council, to superintend, exe- Commissioner
and his func-
tions.
10 cute and perform all such acts touching or respecting the
Public Lands of the Province, as have heretofore been or
hereafter shall be directed by law to be done; And
from and after the passing of this Act, the executive duties
now prescribed or which may hereafter be prescribed by
15 law, appertaining to the surveying and sale of the Public
Lands in the Province, or in any wise respecting such Public
Lands, and the issuing of Patents for all grants of land under the
authority of the Government, shall be subject to the supervision
and control of the Commissioner of Public Lands, under the
20 direction of the Governor in Council.

III. There shall be in the said Department an Officer to be
appointed by the Governor in Council, and to be called the Assistant
Commissioner
and his func-
tions.
Assistant Commissioner of Public Lands, to be employed
therein as the Commissioner shall deem proper. The Assistant
25 Commissioner shall, before he enters on the duties of his charge
and appointment, take an oath or affirmation, truly and faithfully
to execute the trust committed to him.

IV. The Assistant Commissioner shall be the receiver of all
moneys paid for and on account of sales of Public Lands, and To receive all
moneys: to
give security.
30 shall be bound to give security for such sum and in such manner
as shall be prescribed by the Governor in Council, for the due
performance of his duties.

V. It shall be the duty of the Assistant Commissioner to To settle all
accounts;
settle all accounts relating to the public lands: and upon the
35 settlement of any such account, to certify the balance, and

transmit the account with the vouchers and certificate, to the Auditor of Public Accounts, for examination and audit.

To keep the books and papers.

VI. The Assistant Commissioner shall have the charge and custody of all records, books and papers belonging to the said Department whenever the principal office of Commissioner shall be vacant; and the Assistant Commissioner, in case of vacancy in the office of the Commissioner of Public Lands, or of the absence, or sickness of the Commissioner, shall have and exercise all the powers and functions of the Commissioner, *ad interim*. 5 10

To act as Commissioner when that office is vacant.

Clerks of land claims and their duties.

VII. There shall be appointed in the said Department two Officers, one for Upper Canada and one for Lower Canada, who shall be called, Clerks of land claims, and whose principal duty shall be to examine and report on claims and differences relative to the purchase of any of the public lands, and who shall perform such other duties as may be assigned to them by the Commissioner of Public Lands. 15

Surveyor General and his duties.

VIII. There shall be appointed by the Commissioner, with the consent of the Governor in Council, an officer to be called the Surveyor General, whose duty it shall be to superintend the making of surveys, the returns thereof, and all matters relating thereto under the directions of the Commissioner; and he shall perform such other duties as may be assigned to him by the Commissioner of Public Lands. 20

Former powers of Surveyor General, transferred to Commissioner.

All the powers and duties which before the passing of the Act Eighth Victoria, chapter eleven, (17th March, 1845,) were assigned to or vested in the Surveyor General, shall be vested in the Commissioner of Public Lands; and the said powers and duties shall be performed by him, or by any other person whom he shall by any instrument in writing under his hand authorize to that effect. 25 30

Recorder of the Department—this duties.

IX. There shall be appointed by the Commissioner of Public Lands, with the consent of the Governor in Council, an officer, who shall be denominated the Recorder of the Land Department, whose duty it shall be in pursuance of instructions from the Commissioner, to attend to the correct engrossing and recording and transmission of patents; and he shall perform such other duties as may be assigned to him by the Commissioner of Public Lands. 35

Existing appointments continued.

X. All appointments made in the Land Department before the passing of this Act, shall be maintained and continued as if they had been made after the passing of this Act. 40

Commissioner to give information to Parliament, 5.

XI. The Commissioner shall, when required by the Governor in Council, or either House of the Legislature, give such information respecting the public lands and the management of the Land Department, as shall be so required of him. 45

- XII. The Commissioner of Public Lands, or during any vacancy of the office, the Assistant Commissioner, shall prepare and transmit on the second Monday of January in each year, to the Secretary of the Province, a report of the affairs of the Land Department. To make an annual Report.
- XIII. Such report shall be laid before the Legislature on the first day of the Annual Meeting of Parliament, and distributed to every member. When to be made.
- XIV. The Commissioner of Public Lands shall cause a list of the public lands for sale, to be made out twice a year and advertised in a manner to give general information. Advertisement of lands for sale.
- XV. Every land claim shall be determined by the Commissioner of Public Lands, under the directions of the Governor in Council. Land claims how determined.
- XVI. Copies of any records, patents, books or papers belonging to the said Department, attested under the signature of the Commissioner, or of the Assistant Commissioner, shall be competent evidence in all cases in which the original records, patents, books or papers, could be evidence. Certified copies of certain papers, &c. to be evidence.
- XVII. The Governor in Council may make such orders as may be necessary to carry out the provisions of this Act concerning the sale and settlement of public lands and the management of the Forests of the Public Domain according to their intent and meaning, or to meet any cases which may arise, and for which no provision is made by this Act; and such orders shall be published in the Official Gazette, and in such Newspapers as the Commissioner of Public Lands may direct. Governor in Council to make orders for carrying out this Act. How published.

LAND AGENTS.

- XVIII. The Commissioner of Public Lands shall have power, under the direction of the Governor in Council, to appoint agents for the sale of public lands, and for the granting of licenses to cut timber on the public lands, and such agents shall execute and perform such duties as may be assigned to them by the Commissioner. How appointed their duties.
- XIX. Every such agent shall, before entering into the performance of his duty, give good and sufficient security, as prescribed by the Governor in Council, for the due performance of his duty. Agents to give security.
- XX. It shall be the duty of the Land Agents to receive and enter on books kept for the purpose only, and on which no blank leaves or space shall be left between the different entries, the application of every person who may apply for the purchase Agents to enter applications for lands, &c.

Interfering applications.

of any of the lands in his agency, stating carefully, in each entry, the date of the application, the date of any receipt by him given, and the amount of money specified in the receipt, and the number of the lot, the concession or range, and the township in which the lot lies. If two or more persons apply at the same time for the same land, the Agent shall immediately determine by lot, in presence of the parties, which of them shall have preference. 5

To give copies of entries, and other information to Applicants.

XXI. The Land Agent shall, if required, give to the party applying, a copy of the entry and a copy of the description of the land ; and it shall be his duty to inform the party applying for any land, whether the same has already been located or purchased, and at his request to give him a copy of any entry concerning the same. 10

To give certificates to purchasers.

XXII. It shall be the duty of all Land Agents to give to every purchaser a certificate describing the land sold, the sum paid on account, the balance remaining due, the time when such balance will become due, and stating that if it be duly paid, the purchaser, or his assignee, or other legal representative, will be entitled to a patent for the said land. 15 20

To enter payments, give receipts, &c.

XXIII. The Land Agent shall, upon any subsequent payment being made, give a receipt for the same, and enter the same to the credit of the party in a book kept for that purpose ; and upon the payment being completed the Agent shall give a certificate of the same to the party, and on the production of such final certificate, the Commissioner of Public Lands is authorized to grant a patent for the land so purchased, to the said purchaser, his heirs or assigns. 25

Issue of Patents.

To note on plan lands sold, &c.

XXIV. The Land Agents shall also note on the map or plan, transmitted to them, every lot which may be sold ; and the said map or plan shall be open at all times in presence of the Agent, for the inspection of any person applying for the same. 30

To make monthly returns and payments to Commissioner.

XXV. The Land Agents and all other persons receiving moneys by virtue of any office constituted by the Land Department, shall make to the Commissioner of Public Lands monthly returns of the moneys received by them in their several offices and agencies, and pay over such moneys pursuant to his instructions, and transmit to him quarterly accounts current of their transactions. 35

Agents not to purchase.

Sales to them to be void.

XXVI. No agent for the sale of public lands, shall purchase any land which he is appointed to sell, and if any agent offends in the premises he shall forfeit his office : and every sale or purchase of any public lands made to or for the benefit of any such agent, in the case mentioned in this section, shall be adjudged to be void. 40 45

XXVII. No person appointed to an office created by this Act, or employed in the Land Department, shall directly or indirectly be concerned in the purchase of any right, title or interest in any public land, either in his own right, or by the interposition of any other person, or in the name of any other person in trust for himself, nor shall take or receive any fee or emolument for negotiating or transacting the business and duties of his office. And any person offending in the premises against the prohibitions of this Act, shall forfeit and pay *one thousand* dollars, and shall forfeit his office.

Officers of the Department not to purchase claims, &c.

Penalty.

XXVIII. It shall be the duty of the Attorney General, upon complaint made by any person of any of the offences described in the preceding section, to sue for and recover in the proper court the said penalty and forfeiture of *one thousand* dollars, from the person so accused; and the said penalty and forfeiture, if recovered, shall be paid in the following manner: half to the party having given the information, and the other half to the Receiver General.

Attorney General to sue for penalty.

Application.

XXIX. The receipts of said informer and Receiver General, shall be a sufficient voucher to the Attorney General for such payment.

Receipt for penalty.

XXX. In default of payment of the said penalty the person convicted and condemned, shall be imprisoned for a period not less than two years and not more than *five years* in the *common gaol* of the judicial district or division wherein such condemnation and conviction were rendered and pronounced.

Imprisonment in default of payment.

XXXI. If any land agent shall knowingly and falsely inform any person applying to him to locate, or purchase any land within his division and agency, that the same has already been located, assigned or purchased, or shall refuse to permit the person so applying to purchase the same, such agent shall be liable therefor to the person so applying in the sum of *five dollars* for each acre of land which the person so applying offered to locate or purchase, to be recovered by action of debt in any court of record having jurisdiction of the amount.

Penalty on Agents giving false information, &c.

DISPOSAL OF PUBLIC LANDS.

XXXII. No grant of Public Lands shall be made to any person or persons, incorporated associations, Municipal or other public bodies, except under the circumstances and for the purposes as hereinafter mentioned.

Grants to be made only according to this Act.

XXXIII. The Governor in Council may set apart and appropriate Public Lands, for the site of Market-places, Gaols, Court Houses, Houses of Correction, Places for Public Worship, Burying Grounds, Cemetery, Public Parks or Gardens, or Squares, Public Schools, Town Halls, Public Landing Places,

Free grants for certain public purposes.

Public Harbors, General Hospitals, Asylums for the Insane, Asylums for the Deaf and Dumb, and generally for other public purposes, and may by Patent grant the same subject to such trusts and uses as by Order in Council shall be directed, and may make free grants for the purposes aforesaid ; but no appropriation for any such purpose shall be held to be final and irrevocable until made by Patent ; and it shall be competent at any time previously to the completion of the Patent, to revoke such appropriation, and otherwise dispose thereof.

Not final until patent issues.

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Free grants limited.

XXXIV. No such grant for any one such public purpose shall exceed the extent of twenty acres.

Free grants for Model Farms.

XXXV. The Governor in Council may, for the purposes of Model or Industrial Farms, grant and appropriate to the Municipal Council or Agricultural Society within whose County it may be situate, any extent of disposable Public Lands not exceeding two hundred acres, and may by Letters Patent make grants in trust, subject to any such conditions as the Governor in Council may see fit to impose.

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Free grants on new roads to actual settlers.

XXXVI. The Governor in Council may make free grants, to actual settlers, of Public Lands upon or in the vicinity of any public roads opened through the new settlements, under such regulations as shall be made by Order in Council ; but no such free grant shall exceed one hundred acres.

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SALES, AND LICENSES OF OCCUPATION AND ASSIGNMENTS THEREOF.

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Price, how fixed.

XXXVII. The Governor in Council may from time to time fix the price per acre of the public lands, the terms of payment and the conditions of settlement.

Licenses of occupation and their effect.

XXXVIII. The Commissioner of Public Lands may issue, under his hand, to any person wishing to purchase and become a settler on any public land, a license of occupation ; and such settler may take possession of and occupy the land therein comprised, subject to the conditions of such license, and may maintain suits in law or equity against any wrongdoer or trespasser, as effectually as he could do under a patent,---And such license of occupation shall be *prima facie* evidence for the purpose of proving possession by the settler or his registered assignee in any such suit ;---And every such settler or his assignee, upon the fulfilment of the conditions of his license, shall be entitled to a deed in fee for the land comprised therein, which deed shall be transmitted to him free of expense.

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Patent on fulfilment of conditions.

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Receipts for purchase money to avail as location tickets.

XXXIX. All certificates or receipts granted by the Commissioner of Crown Lands, or by any duly authorized agent, for money received on the sale of any of the Public Lands, or any location ticket, shall have the same force, and

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shall enure to the benefit of the party to whom the same was granted, or to his assignee, in the same manner and to the same extent, as the instrument in the form of a license of occupation mentioned in the next preceding section.

5 XL. The Commissioner of Public Lands shall cause to be kept a book for registering all assignments of claims to any land made as well by the original nominee, purchaser or locatee, as by any subsequent assignee of any such claim;—and shall cause the material parts of every such assignment
10 to be registered in such book of registry, and the recorder shall endorse on every such assignment a certificate of such registration, stating the day and the hour that such assignment was deposited in the Land Department;—And every such assignment so registered shall be valid against any one previously executed, but subsequently registered or unregistered;—
15 And in all cases of such assignment duly registered and sufficient, the patent may issue in the name of the assignee.

Registry of assignments of claims.

Assignment first registered to prevail.

20 XI. If any subscribing witness to any such assignment is deceased, or has left the Province, the said Commissioner may register such assignment upon the production of an affidavit proving the death or absence of such witness and his handwriting.

If attesting witness be dead.

25 XII. The duties imposed upon the Commissioner of Crown Lands by the preceding section, for the registration of assignments, shall extend to the registration of assignments of claims located before or after the fourteenth day of June, one thousand eight hundred and fifty-three;—all assignments of locations in Lower Canada executed before Notaries, or before one Notary, and two witnesses, shall be sufficient and shall be registered
30 accordingly.

Provisions to extend to certain former assignments.

XLIII. Every such assignment must contain an absolute grant, not depending for its execution upon any condition to be thereafter performed.

Assignments must be unconditional.

PRE-EMPTION.

35 XLIV. Every occupant of any public land, prior to the passing of this Act, who is now in possession of and using it or shall have cultivated any part thereof in the year one thousand eight hundred and fifty-eight, shall have a right of pre-emption in the purchase of such lot of land, containing not more than two hundred acres, if between the date of the passing of this Act and
40 the putting up at public sale of such lot, he shall enter his name and claim with the Agent for the Land Agency where the lot of land may lie, and shall pay the minimum price fixed for the lands in the said Land Agency, under the conditions and regulations enacted for such Agency.

Occupants prior to this Act, to have right of pre-emption, and on what terms.

He must have cleared to a certain extent.

XLV. No claim to pre-emption in the purchase of any Public Land shall be entertained, and no claim by any individual to pre-emption in purchase shall be recognized, unless the applicant prove that he has cleared upon the land applied for, or is the owner of such improvement, to an extent of at least five acres for every one hundred acres, and that no adverse occupation or improvement exists, and that the applicant is not the lessee. 5

Settlement and clearance must be proved.

XLVI. Before any pre-emptive right shall be allowed, proof of settlement and improvement shall be made to the satisfaction of the Land Agent of the Land Agency where the lands may lie, agreeably to the rules to be prescribed by the Commissioner of Public Lands; and all questions as to the right of pre-emption arising between different settlers, shall be settled by the Land Agent of the Land Agency within which the land is situated, subject to an appeal to the Commissioner of Public Lands, whose duty it shall be to lay such conflicting claims before the Governor in Council, whose decision shall be the authority for the sale of the land. 10 15

How questions shall be settled.

Representatives entitled to pre-emption in certain cases.

XLVII. In any case where a party entitled to claim the benefit of a pre-emptive right to any land, shall have died before commencing his claim, but having filed in due time all the papers essential to the establishment of the same, or shall have died before filing any claim, it shall be competent for the executor or administrator of the estate of such party, or one of the heirs, to file the necessary papers and do every thing required by this Act, to establish or complete the claim: And the sale and grant in such cases shall be made in favor of the heirs of the deceased pre-emptor; and his patent to his heirs shall cause the title to enure to the said heirs, as if their names were specially mentioned therein. 20 25 30

No assignment of right hereafter until after patent.

XLVIII. All assignments of the right of pre-emption given by this Act or by the Acts repealed by it, executed prior to the issue of the patent after the date of the passing of this Act, shall be null and void.

PUBLIC SALES.

Upset prices to be affixed to lands not liable to settlement duties.

XLIX. With a view to facilitate the settlement of the Public Lands, all lands situate in the Townships where no occupation or settlement duties shall be demanded and exacted as condition of the purchase, whether such lands are known as Crown Land, School land, Clergy land, Water privileges, Mill sites, Town or Park lots, shall have, before being offered for sale, an upset price attached to them, to be fixed according to their value, by the Commissioner under the sanction of the Governor in Council; and in every year, on the third Wednesday of the months of June and October, at the hour of noon, all such Public Lands remaining unsold in such Townships shall be offered for sale in lots or half lots at the option of the purchaser, 35 40 45

Sales twice a year.

at public auction and sold to the highest bidder, at the place most convenient and mentioned in the advertisements, for cash, or on credit, as may have been directed, by the order in Council.

5 L. The sale shall remain open at each place for one week, and no longer, and the Land Agents shall observe such rules and regulations as may have been made by the Commissioner, for their guidance in the performance of their duties. Duration of sale.

10 LI. All lands remaining unsold at the close of either of the public sales, may be disposed of by private sale in the manner prescribed by the regulations made for the purpose. Private sale of residuc.

LII. Such public sales shall be advertised for a period of not less than two months immediately preceding. Advertisement.

15 LIII. If any person or persons shall, before or at the time of the public sale of any of the lands of the Province, by intimidation, combination, or unfair management, hinder or prevent, or attempt to hinder or prevent, any person from bidding upon or purchasing any lands so offered for sale, every such offender, his, her, or their aiders and abettors, shall for every such offence Penalty for combining to hinder sale or to buy lands cheap.
 20 be fined not exceeding *four hundred* dollars, or imprisoned for not exceeding two years, or both, in the discretion of the Court, upon a prosecuting to be instituted in any Court of competent jurisdiction at the instance of any party having his domicile in the Agency wherein such land lies or at the instance
 25 of the Commissioner of Public Works.

LIV. If any person shall, before or at the time of the public sale of any of the lands of the Province, enter into any contract, bargain or agreement, or secret understanding with any other person proposing to purchase such land, to pay or give to such Bargains for payment of profit on the purchase money to be void: Penalty.
 30 purchaser, for such lands, a sum of money or other article of property, over and above the price at which land may be or shall be bid off by such purchaser, every such contract, bargain, agreement or secret understanding, and every bond, obligation or writing, founded or growing out of the same, shall
 35 be null and void, and any person who shall pay to such purchaser any sum of money or other article of property, as aforesaid, over and above the purchase money of such land, may sue for and recover such excess from such purchaser in any Court having jurisdiction to the amount, and he may compel such
 40 purchaser to make discovery thereof. Every such suit shall be commenced within six years next after the sale of the land by the Land Department. Limitation of actions.

45 LV. The persons who have purchased lands under the regulations of the quit rent system, shall be allowed to acquire the same in Fee simple, at a valuation to be approved by the Governor in Council, under such conditions as Purchasers on quit-rent may acquire the land at a valuation.

may be determined by the Governor in Council ; and lands sold under the said quit-rent system, if not occupied and improved, may be resumed by the Crown, and be dealt with as other disposable Public Lands.

PATENTS---ERRORS IN SALES OR GRANTS.

Patents to issue from Department. LVI. All patents for public lands shall be issued from the Land Department. 5

In the name of the Crown, but signed by Commissioner. LVII. All patents issued for public lands, shall be in the name of the Crown, and shall be signed by the Commissioner of Public Lands or the Assistant Commissioner, and shall be recorded and registered in the Land Department in books kept for that purpose, and shall be countersigned by the recorder of the Land Department. 10

Not to issue until all conditions fulfilled. LVIII. No patent for public lands shall be issued unless the price at which such lands shall have been sold, have been fully paid, nor unless the conditions of the grant shall have been duly fulfilled. 15

Copies of all records, &c., relating to P. Lands in Secretary's office to be sent to Public Lands' Department, &c. LIX. All records, books and papers, which are now in the office of the Secretary of the Province, or the Registrar of the Province, relating to or concerning the public lands, shall be copied and transmitted to the Land Department authenticated by the signature of the Secretary of the Province ; and the said records, books and papers so transmitted, shall be deemed the records, books and papers of the Land Department ; and after the passing of this Act, all patents shall be recorded and registered in the books kept for the purpose in the Land Department. 20 25

Provision in case of errors in Patents, deficiency of land, &c. LX. In all cases in which grants or patents for lands shall have issued for the same land, inconsistent with each other through error or mistake, and the grantee shall be deprived of land patented to him, and in all cases of sales or appropriation of the same land to two or more persons, 30

Indemnity in such cases. and in all cases wherein by reason of false survey, or of erroneous description, the land intended to be granted shall be found wanting in the whole or in part, the Governor in Council shall order the repayment of the purchase money, if it should have been acquired by purchase from the Crown, with interest thereon from the date of payment and with twenty-five per cent additional for expenses incurred ; and in the event of the land lost having been obtained by location or free grant, then the value of the land at the period of the location or free grant, shall be repaid with interest from the latter period, and 40

Limitation of period for claims. twenty-five per cent added for expenses ; but no such claim to indemnity shall be entertained unless,—with reference to patents which were completed prior to the passing of the Act 4 & 5 Victoria, Chapter 100, (namely the 30th May, 1842,) application shall 45

have been preferred within five years from the period at which the said Act came into operation,—or, with reference to patents which have been completed since the thirtieth May, one thousand eight hundred and forty-two, claims for indemnity shall 5 have been preferred within a period of five years after the completion of such patents.

LXI. No claim for indemnity for deficiency in the land granted or sold shall be entertained, unless the deficiency is equal to one tenth of the whole quantity described to be con- 10 tained in the particular lot or parcel of land granted.

No claim for deficiency of less than one tenth.

LXII. Every person, or the representative of every person, who is, or may have been at any time prior to the passing of this Act, a purchaser of a tract of land sold by the Province, the purchase whereof is, or may be void, by reason of 15 a prior sale or grant of the same by the Province, or for want of title thereto in the Province, or from any other cause whatsoever, shall be entitled to repayment of any sum of money paid for or on account of such tract of land, on making proof to the Commissioner of Public Land, that the same was sold errone- 20 ously and without right ; and the Commissioner is authorized after having obtained an order in Council, to repay such sum of money, with interest from the date of payment so made, and with twenty-five per cent for expenses incurred.

Indemnity in case of loss by prior grant, &c.

LXIII. Whenever a Patent has been or may hereafter be 25 rroncously issued which shall contain any clerical error, misnomer or wrong description of the land thereby granted or intended to be granted, the Commissioner of Public Laads may, (there being no adverse claim,) direct the defective Patent to be cancelled and a correct one to be isseued in its stead, 30 which said corrected Patent shall relate back to the date of the date of the one so cancelled, and shall have the same legal effect as if it had been issued at the date of such cancelled Patent.

Erroneous Patent may be cancelled and new one issued: its effect.

LXIV. In all cases where patents for public lands have been 35 or may hereafter be issued, in pursuance of any law or order in Council, or sale to a person who had died, or who shall hereafter die before the date of such patent, the title to the land designated therein shall enure to, and become vested in the heirs, devisees, or assignees, of such deceased patentee, as 40 if the patent had issued to the deceased person during life ; and upon the production of satisfactory proof of the death of the original purchaser, or upon the production of a regular chain of title from the original purchaser, it shall be the duty of the Commissioner of Public Lands to cause the patent to be 45 issued to the heirs and legal representatives, or to the assignees of the original purchaser, as the case may be.

Case of Patents to persons dying before they issue, provided for.

LXV. With a view to quiet the titles to certain lands, it is enacted, that the non observance and non fulfillment of the 5 Non-observance of cer-

tain formalities not to affect title.

condition imposed in and by certain patents issued for public lands, of taking the oaths which may have been heretofore prescribed, in case of any subsequent sale, conveyance, enfeoffment or exchange, by the patentee, and of recording such oaths, within twelve months after having taken possession, in the office of the Secretary of the Province, shall not affect in any way the patent or title of any patentee, or of any subsequent purchaser or proprietor. 5

Patents not to vest more land than is mentioned in them.

LXVI. With a view of protecting the public interest, it is enacted, that no grant and sale of any of the public lands shall be deemed and considered to comprehend or to confer, or to have comprehended or to have conferred title to more than to the number of acres which the patent shall shew. 10

FORFEITURE OF CLAIMS, AND ENFORCEMENT OF FORFEITURES.

License may be revoked for breach of conditions.

LXVII. If the Governor in Council is satisfied that any locatee, purchaser, or settler, or his assignee, has been guilty of fraud, or has violated any of the conditions of his license of occupation, or has not fulfilled the conditions of the license of occupation, he may revoke such license, and resume the land therein mentioned and dispose of it as if such license had never been issued; and no claim in equity under such license shall be pleadable in any Court against a revocation under this chapter, but the settler shall be taken to be, as against the Governor in Council or the Commissioner of Public Lands, or any person claiming under the said Commissioner, a mere tenant at will: But the Governor in Council may, upon application and if he deems it right, extend a right of pre-emption to the original locatee or lessee or purchaser, his heirs and assigns, upon such terms and for such price as may seem just in the case, or, when such forfeiture has been founded on an erroneous report, he may regrant such lot to the original locatee, purchaser, his heirs or assigns, as if the lot had not been sold; and in case of such sale, another lot of the same extent and value may be granted instead. 15 20 25 30

No claim in equity.

But right of pre-emption may be allowed to original locatee, &c.

Lot may be re-sold if abandoned, or instalment unpaid, &c.

LXVIII. Whenever it is found that any lot of the Public Lands, located or leased or taken for purchase under any of the modes previously existing or hereafter to be adopted, has been abandoned by the original locatee or lessee or purchaser, or that any instalment or any portion of rent has remained unpaid for five years or upwards, the Commissioner of Public Lands, may locate and re-sell such lot as if no location, lease or sale had ever been made thereof. 35 40

Writ of possession if the occupant refuse to give up the land.

LXIX. When any settler or other person refuses to deliver up possession of any land after revocation of the License of Occupation as aforesaid, the Commissioner of Public Lands may apply to the County Judge of the County, or to a Judge of the 45

Superior Court in the District 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 held under a License of Occupation, and
 5 that such License has been revoked by the Governor in Council, shall grant an Order upon the settler or person in possession, to deliver up the same to the Commissioner of Public Lands, or his Agent; and such Order shall have the same force as a Writ of *Habere facias possessionem*, and the Sheriff shall execute the
 10 same in like manner as he would execute the said Writ in an action of Ejectment or Petitory Action.

LXX. It shall be lawful for the Court of Chancery in Upper Canada, and for the Superior Court in Lower Canada, upon action, bill or plaint on the part of the Crown respecting
 15 grants of public lands, situate within their jurisdiction after hearing of the parties interested, or upon default of the said parties after such notice as the said Courts may order, in cases wherein Patents may have issued or shall issue though fraud or improvidence, or error, to decree that the same are void: And
 20 upon the registry of such decree in the Office of the Provincial Registrar, and in the Office of the Land Department, such Patents shall be deemed void and of no effect to all intents and purposes whatever.

Patents may be declared void for fraud, &c.

Decree to be registered in Department.

BOUNTY LANDS FOR MILITARY SERVICE.

LXXI. In all cases of discharge from the Military Service, or
 25 from the Militia Service of the Province, of any officer or Soldier or of any Militiaman, when it shall appear to the Commissioner of Public Lands that a certificate of faithful service has been omitted by the neglect of the discharging officer, such omission shall not prevent the issuing of the grant and Patent as in other
 30 cases and when it shall be proved that any Officer or Soldier of the Militia or of the regular army, has lost his discharge and certificate of faithful service, the Commissioner shall cause such papers to be furnished to such Soldier as will entitle him to his location and grant--Provided, such measure be justified
 35 by the time of his enlistment, the period of service, and the report of some Officer of the corps to which he was attached.

Omission or loss of certificate of good service may be supplied, in certain cases.

Proviso.

LXXII. The provisions of the Act and orders in Council providing for satisfying claims for bounty lands for Military or Militia services, shall be and the same are hereby revived and continued in force for two years to be computed from the first of
 40 June, one thousand eight hundred and fifty-eight.

Certain Act and orders revived, and continued two years.

LXXIII. No claim for any Military or Militia land bounties shall be assignable or transferable in any manner whatever, until after a Patent shall have been granted, and all sales and
 45 assignments of such Military land bounties made prior to the issue of the Patent, shall be null and void to all intents and purposes whatsoever.

Claims not assignable after Patent.

WOODS AND FORESTS.

- Reserve tracts for timber may be set apart. LXXIV. Whereas it is of the highest importance that means should be adopted for preserving and ensuring a permanent supply of fuel and timber necessary for the various requirements and interests of the Country,—it is enacted, that the Governor in Council may set apart out of the public lands, tracts of land not exceeding acres at any one place, and may direct that such tracts be surveyed and the limits thereof fixed. 5
- Name. LXXV. The said tracts shall be known and designated as the “ Forests of the Public Domain.”
- How to be managed. LXXVI. The woods and forests of the public domain shall be subjected to a system of management to be regulated by orders in Council, and the cutting and treatment of the timber therein shall be regulated in like manner. 10
- Powers of Commissioner. LXXVII. The powers vested in the Commissioner of the public lands in relation to the public lands shall be vested in the Commissioner with respect to the administration of the forests of the public domain and the cutting and treatment of timber therein. 15
- Conditions of timber licenses to be advertised. LXXVIII. The conditions on which the woods and timber may be cut and got out shall be published in the *Canada Gazette* and in such Newspapers as may be designated by the Commissioner. 20
- Sales to be by auction. LXXIX. All sales in the woods and forests of the public domain shall be by public auction, of which at least two months previous notice shall be given. 25
- Any other to be void. LXXX. Any sale made otherwise than by public auction, shall be deemed a clandestine sale, and shall be declared void.
- Agents and Officers not to be purchaser. LXXXI. Neither agents or officers of the Land Department or of any other public Department, nor any person appointed to effect such sales; shall be parties to such sales, either themselves or by the intervention of other persons directly or indirectly, either as partners or as sureties. 30
- Penalty for contravention. LXXXII. And every contravention shall be punishable by a fine which shall not exceed one fourth nor be less than one twelfth of the amount of the purchase money, and the offenders shall moreover be liable to imprisonment for any period not exceeding two years, at the discretion of the Court. 35
- Secret associations to influence bidding to be punishable. LXXXIII. Any secret association or intrigue among lumber merchants or others tending to prejudice or disturb the bidding, or entered into with the view of obtaining the timber at a lower price, shall be punishable by the like penalties, forfeiture 40

and imprisonment as enacted by section *fifty-three* of this Act ; and if the adjudication have been made to the profit of such secret association or of the originators of the said intrigue it shall be declared void.

5 LXXXIV. All wood and timber cut and carried away in
 contravention of the regulations for the preservation and
 working of the forests of the public domain made under the
 authority of this Act, may be seized and declared forfeited to
 the Crown by the agents or officers of the Land Department,
 10 in such manner as shall be prescribed by the orders of the
 Governor in Council.

Timber carried away without permission to be seizable.

MISCELLANEOUS.

LXXXV. The occupant by permission of the Government
 of any of the Public Lands for which no patent has been issued,
 shall be entitled to demand that the timber dues which may
 15 be collected out of any timber cut upon such Land be applied
 in payment of the purchase money ; and all such occupants
 after having previously obtained authority so to do from the
 Commissioner of Public Lands, may sell the timber standing
 upon such Land, provided that in such case
 20 the total amount then due for such Land, shall be paid in the
 manner prescribed by the Commissioner.

Occupant of land by permission entitled to timber on it : and may sell with leave.

LXXXVI. A sum not exceeding one fifth, shall be reserved out
 of the proceeds of the public lands in any County, as a fund
 for public improvements within the County, and shall be ex-
 25 pended under the direction of the Governor in Council.

Fund out of land sales for improvements.

LXXXVII. The Governor in Council if he deems it expedient,
 may declare that the provisions of this Act, shall extend and
 apply to the Indian lands under the management of the Chief
 Superintendent of Indian Affairs ; and the said Chief Super-
 30 intendent shall in respect to the lands so declared to be under
 the operation of this Act, have and exercise the same powers
 as the Commissioner of Public Lands may have and exercise
 in respect of public lands.

Act may be made to apply to Indian Lands.

LXXXVIII. All affidavits required under this Act may be taken
 35 before the Judge or Clerk of any Court, or Justice of the Peace,
 or Commissioner for taking affidavits, or before the Commis-
 sioner of Public Lands or the Assistant Commissioner or any
 Agent of the Land Department.

Affidavits under this Act, how taken.

LXXXIX. Whereas doubts have been raised whether
 40 reservations marked down on maps of Survey or Diagrams
 of Townships, but which reservation have not been speci-
 ally sanctioned by order in Council, do or do not constitute an
 actual dedication of Public Land for the objects and purposes
 designated on such maps or diagrams, it is enacted that the

As to lands marked for certain purposes or diagrams but not patented.

Governor in Council may, at any time revoke and annul any such suggested or proposed reservation, and dispose of such land and reservation as of any other Public Land.

Doubts concerning power to grant water lots removed.

XC. Whereas doubts have been entertained as to the power vested in the Crown to dispose of and grant water lots, in the harbors, rivers and other navigable waters of the Province, and it is desirable to set at rest any question which might arise in reference thereto, it is enacted, that it has been heretofore and that it shall be hereafter lawful for the Governor in Council to authorize sales, under such conditions as it may be deemed requisite to impose, of such water lots, for the erection of piers, wharves, docks or other works of general utility. 5 10

Swamp lands may be sold by Municipalities.

XCI. With a view to affording facilities for the reclaiming of the swamp and overflowed lands, made unfit thereby for cultivation, the Commissioner of Public Lands, after having obtained an authorization from the Governor in Council, may grant and sell such lands to Municipalities, corporate bodies or private individuals under such conditions as may be most advantageous to the public interest, but the patent for such land shall not be completed until the conditions and agreement entered into on the subject thereof, shall have been fully executed and performed. 15 20

Rights of land owners in streams running through them, &c.

XCII. All navigable rivers running through any public land now sold, or to be sold by virtue of this Act, shall be deemed to be and remain public highways; and in all cases where the opposite banks of any stream, not navigable, shall belong to different persons, the stream and the bed thereof as far as the middle of the stream, opposite the property of each, shall belong to him; but persons owning the land on the banks of such streams, shall not have the right to exact any due or *redevance* for the floating of any timber, or to obstruct the floating of any timber. 25 30

Crown Lands not taxable.

XCIII. No tax shall be imposed upon lands of the Crown.

Commissioner to send lists of lands undisposed of to Municipal authorities.

XCIV. The Commissioner of Public Lands shall transmit in the month of January, in each year, to the Secretary-Treasurer of every Municipality or the Treasurer of every County in the Province, a list of the public lands situate in the limits of such Municipality or County undisposed of, and also a list of public lands for which a license of occupation shall have been granted and be still in force; And all lands for which a license of occupation shall have been granted, and remain uncanceled shall be liable to the assessed taxes in the townships in which such lands respectively lie, from the date of such license. 35 40

Application of price of occu-

XCIV. If such Lands are sold for the Municipal Taxes, the proceeds of the sale shall be applied firstly to the payment 45

of the money remaining due to the Crown for the purchase money of the said Land, and the officer authorized to collect the Taxes shall receive such money and transmit the same to the Commissioner of Public Lands immediately after such sale, and it shall be duty of such Officer to give information to the commissioner of Public Lands of the time and place where such lands shall be sold, at least two months previous to the sale ; and the purchaser shall have the right to obtain a patent granting him the fee simple of such land.

Public Lands sold for taxes.

10 XCVI. All proceedings before any Court in any matter concerning the Public Lands, shall be taken in the name of the Commissioner of Public Lands.

Legal proceedings to be in name of Commissioner.

XCVII. All legal proceedings commenced in virtue of the Acts repealed, shall be continued ; and the rights acquired by virtue and under the Acts repealed, shall be valid, as if the said Acts had not been repealed.

Legal proceedings continued, &c.

XCVIII. No Land shall be acquired on account of the Province, except under a Law authorizing such purchase.

Acquisition of lands by the Province.

XCIX. The term "Public Lands" shall be held to apply to lands heretofore designated as Crown Lands, School Lands, Clergy Lands, Ordnance Lands, Indian Lands, Jesuits Estates, Crown Domain ; and whenever in any Act, which will be in force after the passing of this Act, the Commissioner of Crown Lands or the Assistant Commissioner of Crown Lands is mentioned, the Commissioner of Public Lands or the Assistant Commissioner of Public Lands shall be respectively understood.

Interpretation.

Repealing clause.

C. The Act 4 and 5 Victoria chapter 100 ; the Act 12 Victoria chapter 31 ; the Act 14 and 15 Victoria chapter 56 ; the Act 16 Victoria chapter 159—are repealed.