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# APPENDIX

TO THE

# REVISED STATUTES

OF

BRITISH COLUMBIA,

1871.

*Containing certain repealed Colonial Laws useful for reference,  
Imperial Statutes affecting British Columbia,  
Proclamations, &c.*



VICTORIA:

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# REPEALED LAWS,

USEFUL FOR REFERENCE,

OF THE FORMERLY

SEPARATE COLONY OF VANCOUVER ISLAND.

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## No. 1. (9)

Proclamation by His Excellency James Douglas, Companion of the most Honourable Order of the Bath, Governor and Commander-in-Chief of Vancouver Island and its Dependencies.

Repealed by Proclamation of 19th November, 1866.

[18th January, 1860.]

**W**HEREAS I, James Douglas, Governor of the said Colony, have been instructed by Her Majesty's Principal Secretary of State for the Colonies, in pursuance of a recommendation of Her Majesty's Privy Council in that behalf, to proclaim that the Port of Victoria, including Esquimalt Harbour, is, and from the date hereof shall be, until otherwise determined by proper authority, a Free Port of Entry and Clearance for Ships and Goods:

Now, therefore, I, James Douglas, do hereby publish, declare, and proclaim:—

That the Port of Victoria, including Esquimalt Harbour, is, and shall be until otherwise determined by proper authority, a Free Port of Entry and Clearance for Ships and Goods, save and except the fees now levied thereon.

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A. D. 1860.

No. 2. (25)

An Act to confirm certain Titles to Real Property in Vancouver Island.

[19th December, 1860.]

Repealed by No. 161.

WHEREAS doubts have been entertained whether the Conveyances of Real Estate in Vancouver Island and its Dependencies, heretofore executed on behalf of the Hudson's Bay Company, under and by virtue of letters or powers of attorney under the seal of the said Company, have, in fact, conveyed the legal estate to the grantees thereunder; and it is expedient to remove such doubts:

Be it therefore enacted by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and House of Assembly of Vancouver Island and its Dependencies:—

That all conveyances, grants, and other assurances, heretofore made on behalf of the Hudson's Bay Company, by James Douglas and John Work, and by Alexander Grant Dallas and John Work and Dugald MacTavish, or by either or one of them, shall be deemed and taken to have conveyed to the grantee or grantees therein named the legal estate in the hereditaments thereby purported to have been conveyed.

This Act may be cited as the "Act for confirming Titles from the Hudson's Bay Company, 1860."

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No. 3. (26)

Amended by No. 10 Appendix.  
Repealed by No. 143.

An Act to facilitate the Transfer of Real Estate, and to provide for the Registration of Titles.

[18th January, 1860.]

Preamble.

WHEREAS it is expedient to establish a Registry of Titles, and to facilitate the Transfer of Real Estate:

Be it enacted by His Excellency the Governor, on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies, and by authority of the same, as follows:—

Short Title.

1. This Act may be cited for all purposes as the "Land Registry Act, 1860."

2. From and after the passage of this Act, there shall be established in Victoria an Office for the Registration of Titles affecting Real Estate in the Colony of Vancouver Island and its Dependencies, which shall be styled the "Land Registry Office."

A. D. 1860.

Establishment of a Registry.

3. His Excellency the Governor shall, in Her Majesty's behalf, by Letters Patent, under the Public Seal of the Colony, appoint from time to time a proper person to perform the duties of the said office, and such person shall be a Barrister or Solicitor, admitted to practice as such in the Supreme Court of Civil Justice of Vancouver Island, and shall be styled the "Registrar General of Titles affecting Real Estate in Vancouver Island and its Dependencies," and every such Registrar shall hold his office during Her Majesty's pleasure.

Appointment and qualification of Registrar General.

4. Every Registrar to be appointed as aforesaid, shall give security for the due performance of his duty in his office, in such manner and to such amount as the Governor shall deem fit.

5. It shall be lawful for the Governor to assign to the Registrar a salary not exceeding the yearly sum of Four Hundred Pounds.

6. The following oath shall be taken before the Chief Justice by the Registrar General before entering upon the execution of his office:—

Oath to be taken by Registrar General.

"I, A. B., do solemnly swear, that I will faithfully, and to the best of my ability, execute the office and duties of Registrar General of Titles affecting Real Estate in Vancouver Island and its Dependencies, according to the provisions of the 'Land Registry Act, 1860.' So help me God."

And it shall not be lawful for any Registrar appointed under this Act to practice as a Barrister or Solicitor before any Court in the Colony during his continuance in office as Registrar.

7. It shall be lawful for the Registrar to exercise the following powers (that is to say):—

He may require any person desiring to effect any Registration, or cancellation of Registration, to produce any grant, certificate of title, conveyance, bill of sale, mortgage, deed, lease, will, or any other instrument in his possession, or within his control, affecting such land or the title thereto; and he may, for the purposes of this Act, administer oaths, or in lieu of administering an oath, may require any person examined by him to make and subscribe a declaration of the truth of the statement made by him in his examination.

Authority for Registrar to require the production and to inspect documents for registration or cancellation of registration. He may administer oaths or require declarations.

And, it shall further be lawful for the Registrar, upon such evidence as shall appear to him sufficient in that behalf, to correct errors in entries made, and supply entries omitted to be made under the provisions of this Act. Provided, always, that in the correction of any such entry he shall not erase or render illegible

Further powers of Registrar General to correct errors, and supply omissions of registration.

A. D. 1860.

the original entry, and shall, in correcting or supplying any entry, affix his initials thereto, and the date of such correction; and correction so made, and omission so supplied, shall have the like validity and effect as if such error had not been made, or such entry omitted, except as regards any registration, or filing, which may have been entered in any of the Register Books previously to the actual time of correcting the entry, or supplying the omitted entry.

*Mode and effect of Registration.*

Registration by applicant of a legal fee simple in possession in a book to be called the "Absolute Fees Book," &c., &c.

3. Every person claiming in his own right to be the legal owner in fee simple in possession of Real Estate, may apply to the Registrar for registration in the Form marked A. in the first Schedule hereunto annexed, and may produce evidence to the Registrar of his title thereto; and the Registrar shall, upon being satisfied that a prima facie title has been established by the applicant, register in a book to be kept for that purpose, and to be called the "Absolute Fees Book," the name of such person in the Form marked B. in the Schedule hereto; and shall also register in another book, to be also kept in that behalf, and to be called the "Absolute Fees Parcels Book," a description of the land to which the title relates, in the Form marked C. in the said first Schedule.

Registration of lesser or equitable estates where the absolute fee is already registered in a book to be called the "Charge Book" &c.

9. Every person claiming any other lesser estate than the absolute fee, or any equitable interest whatever in Real Estate (other than a leasehold interest in possession for a term not exceeding one year) whereof the title to the absolute fee has been registered, as last mentioned, may apply to the Registrar for registration in the Form marked D. in the first Schedule hereunto annexed, and may produce to the Registrar evidence of his title to such lesser estate, or equitable interest; and the Registrar shall, upon being satisfied that a prima facie title has been established by the applicant, enter in a book, to be kept for that purpose, and to be called the "Charge Book," a charge in the Form marked E. in the said first Schedule; and shall also register in another book, to be also kept in that behalf, and to be called the "Charge Parcels Book," a description of the land to which the charge relates, in the Form marked F. in the said first Schedule.

The Registrar shall also enter a cross reference in the "Absolute Fees Book" to the folio of the Charge Book in which such charge is registered, and may also enter a charge on behalf of any person who shall be under the disability of infancy, coverture, lunacy, unsoundness of mind, or absence from the Colony, or on behalf of Her Majesty, Her heirs and successors.

10. Every person obtaining, or who shall have obtained, any mortgage, incumbrance, or judgment, upon, over, or against any unregistered real estate, may register a charge against such unregistered real estate in a book to be kept for that purpose, and to be

called the "Supplemental Charge Book," such charge to be obtained upon a like application, and to be registered in a like manner as hereinbefore prescribed for the registration of charges against registered absolute fees.

A. D. 1860.

11. The Registrar shall, upon registration of a "charge" in manner lastly hereinbefore mentioned, register in a book to be kept for that purpose, and to be called the "Supplemental Charge Parcels Book," a description of the land in like manner as hereinbefore prescribed for the registration of charges against registered absolute fees.

12. The Registrar may effect the registration of the absolute fee, as well at the instance of any person showing a prima facie title to the absolute fee as aforesaid, as at the instance of the several persons who together are entitled to the complement of the absolute fee; and where two or more are jointly interested as joint tenants or tenants in common, the absolute fee shall be registered in their joint names. Where two or more are interested in distinct estates or interests, the first owner of an estate of inheritance shall be registered as the owner of the absolute fee, and the interests or estates of the others or other, shall be registered by means of a charge or charges.

At whose instance the Registrar may effect the registration of an absolute fee.

13. If upon production of the evidence of title to the Registrar aforesaid, it shall appear that any person or class of persons, are entitled to any lesser or equitable estate or interest in the real estate in respect of which registration is sought, the Registrar may, with the concurrence of the person or persons applying for registration, and with the concurrence of such other persons as he may require, register the estate of the applicant or applicants, and of the other or others entitled to such lesser or equitable estate or interest if such estates and interests collectively make up the full complement of the absolute fee, and if he is satisfied that the person appearing so interested and not concurring in the application are either not in esse or are minors, or under coverture.

14. Provided that the Registrar shall, in addition to the charge registered by him on behalf of such person or class of persons, add the words at the foot of such charge, "On behalf of (a person or class of persons, as the case may be) under disabilities, as appears by the title or charge registered."

In addition to the charge so registered.

15. A person shall, for the purpose of this Act, be deemed the legal owner in fee simple in possession of real estate, notwithstanding any leasehold interest in possession subsisting therein for a term not exceeding one year.

A leasehold interest not to affect a legal ownership in fee simple in possession of Real Estate.

16. If any person shall have purchased real estate from the Government or the Hudson's Bay Company, as grantees of Vancouver Island, and shall have paid an instalment thereon, but shall not have received a conveyance thereof, registration of the absolute

A. D. 1860.

fee may be effected, in his or her name, with the concurrence of the Surveyor General of Vancouver Island and its Dependencies, in the capacity of agent of the said Hudson's Bay Company where such agency existed at the time of the purchase, and the amount of the unpaid purchase money shall be secured by the registration of a charge to that amount in the name of the said Surveyor General for the time being, and the fees payable in respect of the registration of such charge shall be borne by the applicant for registration.

17. The said Surveyor General shall have power, upon the receipt of the whole of the instalments, to give a discharge for the same, under his hand and seal, which shall be sufficient authority for the Registrar to enter up satisfaction for the said instalments, and to cancel the charge.

Issue of certificates and retention of duplicate of the same on registration of absolute fee.

18. The Registrar shall keep a book of certificates of absolute fees in duplicate in the Form marked G in the said first Schedule, and upon the registration of any absolute fee shall fill up one of the certificates and issue the same to the person who shall have effected registration, and shall fill up the other of the said certificates, and shall retain the same in the said book.

The person registering for any purpose shall declare their names and place of abode in the form A.

19. Every person who shall effect registration either of an absolute fee or a charge, or shall file an "issue" or "contest," shall fill up the Form marked H in the said first Schedule with the particulars therein referred to, and the place in such form mentioned shall be some place within the Colony of Vancouver Island.

Five years' registration renders registered titles indefeasible.

20. Every person, whether the original applicant for registration or the grantee under a duly registered train of transfers, who shall continue registered as the owner of an absolute fee without any issue remaining registered and unsatisfied against the same, as hereinafter mentioned, for the space of five years, shall, subject to the rights of any person who shall have registered a charge against the same, hold the real estate in respect of which he is so registered for an absolute and indefeasible estate of fee simple against all the world, other than a tenant in possession under a term not exceeding one year.

Priority in point of registration gives priority of title where the same land is registered in favor of two or more persons.

21. Provided, always, that when the names of two or more persons appear on the register as sole owners of an absolute fee in the same land, the person who, either as the person originally registering, or by a regular train of duly registered transfers, first completes the aforesaid term of five years of registration without any issue remaining unsatisfied against the land in respect of which he appears, such registered owner of the absolute fee, shall, subject to any rights existing by virtue of any charge, hold the real estate in respect of which he is so registered, for an absolute and indefeasible estate in fee simple, as well against the other registered title to the same land as against every person claiming against the

absolute fee, other than such tenant, for less than one year as aforesaid.

A. D. 1860.

22. Every person, whether the person originally registering a charge, or the transferee of such charge, under a duly registered train of transfers, who shall continue registered as the owner of such charge for the space of five years without an issue remaining unsatisfied against the same, shall, subject to the rights of any person who shall have registered a charge against such charge, be deemed absolutely and indefeasibly entitled to the interest in respect of which such charge shall have been registered: Provided that nothing herein contained shall render any charge registered in the "Supplemental Charge Book" absolute or indefeasible.

Five years' registration of a charge renders the interests thereunder indefeasible.

23. When two or more charges appear entered on the register, affecting the same land, the charges shall, as between themselves, have priority according to the dates at which the applications respectively were made, and not according to the dates of the creation of the estates or interests.

Priority of time between charges creates priority of title.

24. No purchaser for valuable consideration of any registered real estate, or registered interest in real estate, shall be affected by any notice express, implied, or constructive of any unregistered title, interest, or disposition affecting such real estate, other than a leasehold interest in possession for a term not exceeding one year, any rule of law or equity notwithstanding.

No purchaser for value to be affected by any notice not appearing on the Register.

25. The registration of a charge shall give notice to every person dealing with the real estate against which such charge has been registered, of the estate or interest in respect of which such charge has been registered.

Notice conveyed by charge.

26. Any person, before an absolute fee becomes indefeasible, under the provisions of this Act, may set aside the same, either partially or entirely, by filing an "issue" in the Form in the said first Schedule marked I, and by obtaining a decree, or taking such steps in that behalf, as are hereinafter prescribed.

Mode of setting aside registered titles.

27. Any person being a registered owner of an absolute fee against which a charge may have been registered, may, before the same charge has become indefeasible, under the provisions of this Act, set the same aside by filing notice of "contest" and by obtaining a decree, or by taking such other steps as are hereinafter prescribed.

Mode of setting aside registered charges by the owner of an absolute fee.

28. Any person other than a registered owner of an absolute fee seeking to set aside, either partially or entirely, any registered charge, may do so by filing an issue in the form marked J. in the said First Schedule.

Mode of setting aside registered charges by any person not the owner of an absolute fee.

29. The Registrar shall endorse a memorandum of every "issue" or notice of "contest" filed against the estate or interest of any registered owner, on the page of the "absolute fee book" or

A. D. 1860: "charge book," as the case may be, in which such estate or interest is registered.

30. The husband of any female registered owner of an absolute fee shall be entitled to be registered as co-owner with his wife, but he shall be described on the register as co-owner in right of his wife, and on his death the original registry of the wife, with a change, if necessary, in the name, shall revive and confer the same rights as if the husband had never been registered as co-owner with her.

31. Where the absolute fee in real estate is registered in the joint names of husband and wife no dealings with such real estate shall take place until the wife has been examined before the Chief Justice, apart from her husband, and has assented to such dealings after full explanation of her rights in the said real estate, and the effect of the proposed dealing.

Endorsements by Registrar on the instruments of title.

32. Whenever registration of an absolute fee or of a charge shall be applied for, the Registrar shall, upon effecting such registration, endorse upon the instrument, or instruments (if any) produced as evidence of the right upon which such application is founded, a memorandum, in the form marked K. in the said First Schedule.

Saving of the powers of Guardians and Committees.

33. Save as aforesaid, the powers and authorities of the guardian of any minor, or committee of any lunatic or person of unsound mind, shall in nowise be altered or abridged in consequence of any registration.

#### Contest.

Any registered owner may try the validity of any charge or issue by giving notice of contest to the Registrar.

34. Any person who is duly registered in respect of any interest in land, whether as owner of an absolute fee or by means of a charge against which interest a charge or issue respectively shall have been registered or filed, may give notice of contest to the Registrar, in the form marked L. in the Schedule to this Act annexed.

Registrar after receiving notice of contest to make the adverse party bring the question to immediate trial.

35. The Registrar shall, within twenty-one days after receiving the said notice of contest or issue as aforesaid, by a letter under his hand, directed to the address mentioned in the application for registration of the charge or issue, and by an advertisement in the Government Gazette, call upon the person in whose name the said charge or issue is registered or filed, to file a bill or bring an action as the case may require, within a period of not more than two months, to be stated in such letter and advertisement respectively, in order to determine the right asserted by the person who shall have registered such charge or issue.

The person called upon to try the question to give security for costs and speedy trial.

36. The person so called upon to file such bill or bring such action shall, within the time specified, give to the Registrar satisfactory security to such amount, not exceeding £100, as the Registrar may think fit, for the payment of the costs (if any) to the oppo-

A. D. 1860.

site party; occasioned by such bill or action, and for the speedy and expeditious trial of the same. A time shall be specified for the commencement of such action or filing such bill by the Registrar, in the instrument affecting such security, and in default thereof the person giving notice may apply to the Registrar, at the expiry of the specified time aforesaid, in the form marked M. in the said First Schedule, that the charge or issue may be cancelled, or taken off the file of the register, or such other order made as the justice of the case may require.

37. Any charge or issue may be registered or filed, as well in respect of a present and vested right as of a future or contingent interest.

Charges and issues may be filed in respect of future interests.

38. Every person who shall have registered or filed a charge or issue in respect of which notice of contest has been given, as above mentioned, may try the question raised by such contest notwithstanding that the interests in respect of which such charge or issue shall have been registered or filed are of a contingent or executory nature, any rule of law or equity notwithstanding; and the Chief Justice is hereby empowered to make such decree, and to limit the same to a mere declaration of right, if necessary, or to order the Registrar to do such act as the nature of the case may require.

Questions may be tried, although the question at issue is of an executory or contingent nature.

39. A list of the original registrations of absolute fees, transfers of the same, original charges, transfers thereof, and original issues shall be, from time to time, as the same are registered and filed respectively, publicly exhibited on the walls of the Office of the Registrar, for the space of six months next after registration and filing.

Publication of lists of registration, charges, transfers, and issues.

40. When any charge, notice of contest, or issue has been satisfied, discharged, or vacated, the Registrar shall, upon satisfactory proof being given of the same, cancel the entry of such charge, notice of contest, or issue, by writing across the entry thereof the words "cancelled, the—day of—," and shall enter a memorandum of such cancellation, and of the particulars thereof, in a book to be called the "Satisfaction Book," to be kept for that purpose.

Cancellation of satisfied charges and issues.

41. Such memorandum as aforesaid shall be in the Form marked N. in the said first Schedule, and upon such cancellation and entry being made the interest in respect of which such charge shall have been registered shall, as against all persons purchasing for value, the interest against which such charge or issue shall have been registered or filed, be deemed to be discharged; and in those cases where a reconveyance would have been otherwise necessary, such memorandum shall operate as a reconveyance, and the charge or issue respectively shall no longer affect, as against such purchaser, the land in respect of which such charge or issue was registered or filed, and such charge or issue shall not affect the interest of the

Memorandum of cancellation.

A. D. 1860.

person against which the same was originally registered or filed, after the expiry of five years from such discharge, except in the case of fraud, hereinafter mentioned.

Persons claiming to be entitled to any lesser interest to obtain an order for registration from Court.

42. Any person claiming to be entitled to the absolute fee, and any person claiming to be entitled to any lesser equitable or other estate whatever, whether vested or contingent, under any will, or by virtue of a descent or devolution in law, in any real estate in respect of which registration has been effected, may present a petition to the Chief Justice in a summary way, praying that the Registrar may be ordered to make a transfer, or file a charge, as the nature of the case may require.

“Lis Pendens” may be registered.

43. Any person or persons may register lis pendens against any absolute fee or lesser or equitable estate by means of a charge.

Persons claiming to be entitled to absolute fee to petition for registration of estate and the Court to make order thereon and regulate security therefor.

44. Any person entitled to an absolute fee under or by virtue of any will, or by virtue of any descent or other devolution in law, in any unregistered real estate, may present a petition also in a summary way to the Chief Justice, praying that the Registrar be ordered to effect registration of the same estate.

The Chief Justice to make orders in certain cases, and on such terms, and requiring such security, as he may think proper.

45. The Chief Justice may, in any of the cases mentioned in the two preceding sections, upon such evidence as may be deemed satisfactory, make such order as shall be just, and may make such order on such terms, and may require such security, as he may think proper.

Registrations under order to have no other effect than in ordinary cases.

46. All registrations of the absolute fee and charges made in pursuance of any such order as aforesaid shall stand in precisely the same position, and shall have such force and no other, as registrations of the absolute fee and charges made under the ordinary provisions of this Act.

#### *Transfer of Estate.*

Mode of transferring absolute fees.

47. Every person registered in the Form marked B. in the said first Schedule, may transfer the real estate mentioned therein, or any part thereof, by deed in the usual way, or in either of the Forms marked O. and P. in the said first Schedule; and the Registrar, upon the receipt of the former certificate of the absolute fee, may grant registration of the absolute fee to such transferee in the Form marked B. in the said first Schedule, and issue a new certificate to such transferee, and when necessary, a new certificate or certificates to the transferrer or transferrers, in manner aforesaid. And upon such registration the transfer shall confer upon the person to whom the same is made an absolute fee in the land transferred, defeasible however as aforesaid, and subject also to the rights existing against any such estate by virtue of any charge or issue appearing on the register at the time of such transfer, and also to any unregistered leasehold interest in possession for a term not exceeding one year, as aforesaid.

48. Every person in whose behalf a charge is registered, other than a charge registered in the "Supplemental Charge Book," may transfer his interest, or any part thereof, in the real estate mentioned therein, or any part thereof by deed in the usual way, and may also transfer his entire interest in the real estate mentioned therein in either of the Forms Q. and R. in the said first Schedule.

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Mode of transferring interests under charges.

49. The transfer of the entirety shall, when made, upon registry thereof, confer upon the person to whom the same is made such interest as the transferrer then had, defeasible however as aforesaid, and subject also to the rights existing against any such interest by virtue of any charge or issue appearing on the register at the time of such transfer, and subject also to any leasehold interest in possession for a term not exceeding one year.

Effect of transfers.

50. Every transfer, in the said Form marked Q., shall pass to the transferee and his heirs and assigns all the estate and interest of the transferrer, whether legal or equitable, defeasible however as aforesaid, and subject also to any registered charge, or issue filed, or leasehold interest in possession for a term not exceeding one year, and the full and entire benefit of all covenants and agreements in respect of, and all powers, provisoes, and conditions of entry, sale, or leasing (if any) over the real estate, the subject matter of the transfer, to which the transferrer was entitled at the time of such transfer; and if the estate or interest so transferred is that of a mortgagee, such transfer shall also confer upon the transferee, his executors, administrators, and registered assigns the full benefit of and right to sue upon any covenant for payment of the mortgage moneys and the interest thereupon.

Transfer of charge.

51. Every transfer, in the said Form marked R., shall pass to the transferee, his executors, administrators, and assigns all the estate and interest of the transferrer, whether legal or equitable, defeasible however as aforesaid, and subject also to any registered charge or issue filed, or leasehold interest for a term not exceeding one year, and shall also pass the full and entire benefit of all covenants and agreements in respect of, and all powers, provisoes, and conditions of entry, sale, or leasing (if any) over the real estate, the subject matter of the transfer, to which the transferrer was entitled at the time of such transfer; and if the estate or interest so transferred is that of a mortgagee, such transfer shall also confer upon the transferee, his executors, administrators, and registered assigns the full benefit of and right to sue upon any covenant for payment of the mortgage moneys and interest thereupon.

Transfer of charge, chattle, interest.

#### *Power of Attorney.*

52. When any application is made by any person empowered to act under a power of attorney, the Registrar shall require the production of the said power, and if executed out of the Colony a certificate notarial, magisterial, or judicial, as the case may require,

Formalities to be pursued when application is made under a Power of Attorney.

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verifying its authenticity; and the Registrar shall require from the donor an examined copy of the power, and its verification, if any, and shall file the same, and make such further requisitions as he may think necessary to verify the execution of the donor of the power, the identity of the attorney, and the present validity of the power.

An act not to be invalidated by reason of death of donor.

53. No registration, transfer, charge, issue, contest, or other dealing done or effected under or by virtue of a power of attorney shall, as against a purchaser for value, be prejudiced or set aside by reason of the person by whom the power was given dying, revoking the power, becoming bankrupt or insolvent, or if a female, becoming married before doing or effecting such registration, transfer, charge, issue, or contest, unless notice in writing of such death, revocation, bankruptcy, insolvency, or marriage shall have been received by the said Registrar previous to the doing or effecting of such registration, transfer, charge, issue, contest, or other dealing.

#### *Deposit of Map.*

54. It shall be lawful for any registered owner of an absolute fee, who may subdivide any land for the purpose of selling the same in allotments, to deposit with the Registrar a map of such allotments, and the title deeds to the land subdivided; provided, that such map shall exhibit, distinctly delineated, all roads, streets, passages, thoroughfares, squares, or reserves appropriated or set apart for public use, and also all allotments into which the said land may be divided, marked with distinct numbers or symbols.

55. The Registrar shall keep an index of maps deposited as aforesaid, specifying the name of the depositor, the date of deposit, and referring to the page or pages of the Absolute Fees Parcels Book, in which the real estate mapped is described, and shall note the page of the index on the map itself.

Judgment creditor may enter a charge.

56. Every person in whose favour a judgment has been entered, may enter a charge against any registered absolute fee or other interest of the judgment debtor.

No judgment to affect real estate unless a charge in respect thereof shall have been entered.

57. No judgment shall affect any real estate in respect of which registration has been effected, unless and until the person entitled to the same registers a charge with the Registrar in respect of such judgment, any notice of any such judgment in any wise notwithstanding.

Registrar may take the opinion of Court.

58. Whenever, in the opinion of the Registrar, from any special circumstances in the case, it is desirable that an application be heard and decided by the Court, the Registrar may notify the same to the applicant in writing, and the applicant is hereby authorized, upon the receipt of such notification, to petition the Chief Justice aforesaid, in a summary way, to order that the application be

granted, and such order shall be made in the premises as the circumstances of the case may require, and the costs of the applicant in and of and attendant upon such application shall be borne by the applicant.

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59. The Court may, upon the application by petition of any person interested in any real estate registered under this Act, issue an order inhibiting any dealing with such real estate, and annex thereto any terms and conditions it may think fit, and generally make such orders as the justice of the case may require.

Power of the Court to restrain registration.

60. If any person shall register a charge or file an issue, and, after being called on, fail to prosecute his rights, in the time prescribed by the Registrar, such charge or issue shall be cancelled by the Registrar, but without prejudice to a new charge or issue.

Registrar may cancel charges and issues.\*

61. If any person shall register a charge or file an issue, without reasonable cause, or shall fail to prosecute the same as aforesaid, he shall be liable to make compensation to any person who may have sustained damage by such registration or filing.

Penalties of filing a charge or issue without sufficient cause.

62. Such compensation as aforesaid shall be recoverable immediately after the cancellation of the charge or removal from the file of the issue, and such compensation may be awarded by judgment or decree at the trial or hearing of the right asserted by such charge or issue in those cases where the right is tried.

Compensation how to be recovered.

63. The service of any duly authenticated order, decree, rule, judgment, or any other proceeding, touching the registration of real estate, upon the Registrar, shall, without more, be sufficient authority for him to act in compliance therewith.

Service of order, &amp;c.

#### *Inspection of Register.*

64. Any person may inspect the Register on payment of a fee for inspection.

65. No application to be placed on the Register shall be made, and no charge or issue shall be filed or registered, except by the party in person claiming registration or claiming to register or file such charge or issue, or by some Barrister, Solicitor, or Attorney of the Court.

Persons entitled to apply for registration and transfer.

#### *Seal.*

66. The Registrar shall have an official seal.

Official Seal.

67. The Registrar shall impress the seal on every paper, writing, or instrument issued by him officially.

Power to use Seal.

68. Any paper, writing, or instrument purporting to be signed and sealed with the seal of the Registrar, shall prima facie be admissible in evidence, without proof of such signing and sealing.

Evidence of proceedings of Office.

#### *Indices.*

69. The Registrar shall keep separate indices of the "Absolute Fees Book," "Charge Book," "Supplemental Charge Book," and

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“Satisfaction Book,” arranging in alphabetical order the names of the persons on whose behalf absolute fees and charges shall have been registered and on whose behalf cancellation shall have been made, and a reference shall be made opposite each name to each page in the “Absolute Fees Book,” “Charge Book,” “Supplemental Charge Book,” and “Satisfaction Book,” in which an entry appears affecting the estate or interest of each person.

70. The Registrar shall also keep an alphabetical list of the names of all persons against whose estates or interests an issue or notice of contest may have been filed.

71. The Registrar shall also keep an alphabetical list of all persons by whom powers of attorney have been given, and shall endorse a memorandum of revocation opposite the entry of every power of attorney whereof he has received notice of revocation.

*Regulations.*

72. The Registrar may, from time to time, make such rules and orders, forms, and directions for carrying out the purposes of this Act as may be necessary, and may cause the same to be printed, provided that all such rules and orders to be made by the Registrar under this Act, shall be submitted to the Chief Justice. And no such rules and orders shall take effect until the same have been approved by the Chief Justice; and a copy thereof shall be made and affixed to the walls of the Registrar’s office, for the information of the public.

Rules to be laid before Legislature.

73. All such rules, orders, forms, and directions shall be laid before the Legislature within seven days after the same have been approved of as aforesaid, if the Legislature be sitting, but if the Legislature be not sitting, then within seven days after the next meeting thereof.

Any person dissatisfied may obtain a rule to show cause against.

74. Any person dissatisfied with any decision or act of the Registrar may obtain a rule from the Court for the Registrar to show cause why he should not do or omit the thing complained of; but in every instance the costs shall be borne by the person applying for such rule, unless he shall satisfy the Chief Justice that the conduct of the Registrar arose from malicious or interested motives or gross negligence.

No personal liability of Registrar.

75. The Registrar individually shall not, save as aforesaid, nor shall any person acting under his authority, be liable to any action, suit, or proceeding for or in respect of any act or matter bona fide done or omitted to be done in the exercise or supposed exercise of the powers of this Act.

*Forgery.*

Penalty of Forgery.

76. If any person wilfully make any false declaration, or fraudulently procure, or assist in fraudulently procuring, or be privy to

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the fraudulent procurement of any order or rule of the Court, or of any fraudulent entry on the Register, or any alteration or erasure of such entry, he shall be guilty of a misdemeanor, and any order or rule procured by fraud, and any act consequent on such order, and any entry, alteration, or erasure so made by fraud shall be void as between all parties or privies to such fraud.

77. No proceedings or conviction for any act hereby declared to be a misdemeanor, shall affect any remedy which any person aggrieved by such act, may be entitled to either at law or in equity against the person who has committed such act.

Criminal proceedings not to affect civil rights.

78. If any person forge, or procure to be forged, or assist in forging the seal of the Registrar's Office, or the hand writing of any Officer therein, he shall be guilty of felony.

Forging seal or signature of Registrar.

79. Nothing in this Act shall entitle any person to refuse to make a complete discovery by answer to bill in equity or to answer any question or interrogatory in any civil proceeding in any Court of Civil Judicature, but to answer to any such bill, question, or interrogatory, shall be admissible against any such person, in evidence, in any criminal proceeding.

Criminal liability not to protect any person against giving evidence.

80. The fees mentioned in the second Schedule hereunto annexed, shall be taken by the Registrar, and paid once a month into the Treasury of the Colony to and for the use of Her Majesty, Her heirs and successors. Provided always that it shall be lawful for His Excellency the Governor, from time to time to direct that the fees which shall be received under the authority of this Act, shall be applied under such regulations as he shall appoint in payment of the current or incidental expenses of the said Land Registry Office or any of them.

Fees.

81. The Registrar shall, for the purpose of fixing the amount of the percentage to be paid under the provisions of this Act, require the person applying for registration to declare to the best of his knowledge, in writing, the true value of the interest in respect of which registration is sought, and such valuation shall in the cases hereinafter specified, be ascertained as follows:—

Provision for fixing the amount of percentage to be paid.

82. When an absolute fee is sold, and the transfer registered, by the actual price bona fide paid.

As regard absolute fees.

83. When a mortgage is registered, by the amount secured.

Mortgage.

84. An account shall be kept by the Registrar of the fees received under the authority of this Act, and of the expenses paid thereout as aforesaid, and such account shall be transmitted once a month to the Colonial Secretary, for the information of the Governor.

85. In the construction of this Act the following words and expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context (that is to say):—

Interpretation of terms.

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- The word "Court" shall mean the Supreme Court of Civil Justice of Vancouver Island;
- The expression "Chief Justice" shall mean the Chief Justice of the said Court;
- The expression "Absolute Fees" shall mean and comprise the legal ownership in possession of an estate in fee simple;
- The word "Charge" shall mean any lesser estate than a fee simple in possession, or any equitable interest whatever in real estate;
- The word "Judgment" shall mean every Decree or Order of any Court of Equity, and every Judgment or Order of any Court of Common Law whereby any sum of money, whether principal money or costs, is payable to any person or persons in virtue thereof;
- The word "Person," and words applying to any person or individual, shall apply to and include Corporations;
- The word "Registrar" shall mean the Registrar General of Titles affecting Real Estate in Vancouver Island and its Dependencies;
- The word "Governor," and the expression "His Excellency the Governor," shall mean the Governor of the Colony or any other Officer administering the Government of the Colony in Her Majesty's behalf for the time being;
- And the expression "Real Estate" shall extend to and mean lands, messuages, mines, and all other hereditaments whatsoever.

86. After the first appointment of a Registrar under this Act, the Registrar shall, with all convenient speed, procure such books and indices, and frame such forms and directions, and such rules and orders as may be necessary for the due execution of this Act, and for the regulation and management of the "Land Registry Office;" and, generally, for regulating all other matters and things whatsoever connected therewith, and not hereinbefore specially provided for; and as soon thereafter as may be convenient, it shall be lawful for the Registrar, with the consent of the Chief Justice, by notice published in one or more of the newspapers of the Colony, to appoint a time, not earlier than one calendar month from the time of the publication of such notice, when registrations under this Act shall commence, and the time so appointed shall be the time of the commencement of registration under this Act.

## SCHEDULE.

## FORM A.

No.

I, \_\_\_\_\_, declare that I am the legal owner in my own right in fee simple in possession of the Real Estate hereunder described, and I claim to be registered accordingly. The particulars of the said claim appear in the instruments specified in the schedule hereto.

*Description of Real Estate.*

District.	Block.	Section.	Acreage.	

## IF A TOWN LOT.

Town.	Block.	Lot.	Admeasurements.

*Further Description.*

## SCHEDULE OF INSTRUMENTS.

Date.	Parties.	Character of Deed.

A. D. 1890.

FORM B.

No.

Name of Applicant.	Parcels (Short Description.)	Date of Application.	Date of Registration.	List of Instruments.

The Parcels are those described in "Absolute Fee Parcel Book," folio —

FORM C.

No.

Folio of "Absolute Fees Book," —

Name of Applicant

District.	Block.	Section.	Acreage.

IF A TOWN LOT.

Town.	Block.	Lot.	Admeasurement.

Or otherwise, as the case may be.

*Further Description.*

FORM D.

A. D. 1860.

No.

I, \_\_\_\_\_, declare that I am entitled to mortgage for five hundred dollars, estate for life, remainder in fee after the death of William Johnstone, of &c., &c., [according to circumstances, upon, in, over] the real estate hereunder described, and I claim registration of a charge accordingly. The particulars of my said claim appear in the instruments specified in the schedule hereto.

*Description of Real Estate.*

The absolute fee is registered at folio — of the "Absolute Fees Book," in the name of

(This statement will be omitted where the application is made under Section —.)

District.	Block.	Section.	Acreage.

IF A TOWN LOT.

Town.	Block.	Lot.	Admeasurements.

*Further Description.*

SCHEDULE OF INSTRUMENTS.

Date.	Parties.	Character of Deed.

A. D. 1860.

FORM E.

No.

(Folio of Absolute Fee Book.)

Charge.	Parcels. (Short Description.)	Date of Application.	Date of Registration.	Nature of	List of Instruments.

The Parcels are those described in the "Charges Parcels Book," folio —

FORM F.

No.

*Folio of Charges Book.*

District.	Block.	Section.	Acreage.

IF A TOWN LOT.

Town.	Block.	Lot.	Admeasurement.

Or otherwise, as the case may be.

*Further Description.*

FORM G.

A.D. 1860.

No.

*Certificate of Title.*

Name of Owner.	Page of Absolute Fees Book.	Page of Absolute Fees Parcel Book.	Date of Application.	Date of Registration.	List of Instruments.
			year. month. day. hour.		

(Signed)

*Registrar General.*

FORM H.

No.

I declare that my full christian and surnames are  
and I appoint \_\_\_\_\_ to be the place where all notices and  
processes may be served upon me.

FORM I.

No.

*Issue on Absolute Fee.*

I, \_\_\_\_\_, of \_\_\_\_\_, take issue on the  
Registration effected by \_\_\_\_\_, of \_\_\_\_\_, folio  
of the Absolute Fees Book, as to (the whole or) the following part of the Real  
Estate in respect of which Registration has been so effected, namely:—

FORM J.

No.

*Issue on a Charge.*

I, \_\_\_\_\_, of \_\_\_\_\_, take issue on the  
Registration effected by \_\_\_\_\_, of \_\_\_\_\_, folio  
of the Charge Book, and I say the same is improper as to (the whole or)  
of such Registration.

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FORM K.

No.

Registered (Charge, or Absolute Fees Book, as the case may be) folio —

Date of Application.		Registration.		Name of Applicant.
Day.	Hour.	Day.	Hour.	

A. B.,  
Registrar.

FORM L.

No.

I, \_\_\_\_\_, of \_\_\_\_\_, file this notice of contest against an issue filed by \_\_\_\_\_, of \_\_\_\_\_ folio \_\_\_\_\_ of the Issue Book, and I say the same is improper as to (the whole or \_\_\_\_\_) of such Registration.

FORM M.

No.

I, \_\_\_\_\_, of \_\_\_\_\_, have filed a notice of contest, folio \_\_\_\_\_ of the Contest Book, and crave that the (charge or issue, as the case may be) may be (cancelled, or taken off the file, as the case may be).

FORM N.

No.

(Charge, contest, or issue, as the case may be). Folio \_\_\_\_\_ of the Book, satisfied, and the particulars of such satisfaction are as follows:—

FORM O.

No. \_\_\_\_\_  
 I, or We, \_\_\_\_\_, of \_\_\_\_\_,  
 in consideration of \_\_\_\_\_, do hereby grant unto  
 all that piece or parcel of land, together with the messuages and erections  
 thereon, situate

and being (parcel, or as the case may be) the Real Estate described at folio  
 of the Book of Descriptions of the Real Estate registered for an Absolute Fee,  
 and which said Real Estate is registered in the Book of Registration of  
 Absolute Fees, folio \_\_\_\_\_, To have and to hold the same unto and to the use  
 of the said \_\_\_\_\_ heirs and assigns for ever.

In witness whereof, I have hereunto set my hand and seal this  
 day of \_\_\_\_\_

Signed and sealed by the above-named \_\_\_\_\_ }  
 in the presence of \_\_\_\_\_ } [L. S.]  
 the \_\_\_\_\_ day of \_\_\_\_\_

FORM P.

No. \_\_\_\_\_  
 I, or We, \_\_\_\_\_, of \_\_\_\_\_,  
 in consideration of \_\_\_\_\_, do hereby grant unto  
 all that piece or parcel of land, together with the messuages and erections  
 thereon, situate

and being (parcel of, as the case may be) the Real Estate described at folio  
 of the Book of Descriptions of the Real Estate registered for an Absolute Fee,  
 and which said Real Estate is registered in the Book of Registration of  
 Absolute Fees, folio \_\_\_\_\_. To have and to hold the same unto and to the use  
 of the said \_\_\_\_\_ heirs and assigns for ever.

And \_\_\_\_\_ do hereby for  
 heirs, executors, and administrators, covenant with the said  
 and \_\_\_\_\_ heirs, that \_\_\_\_\_ have good right and title to convey the said  
 hereditaments free from incumbrances, and that

heirs, executors, and administrators will at all times hereafter, at the reasonable  
 request and cost of the said  
 heirs and assigns, do all such reasonable acts and deeds as may be required of  
 \_\_\_\_\_ heirs and assigns by the said  
 heirs or assigns, for the further or better assuring the said hereditament in  
 manner aforesaid.

In witness whereof, I have hereunto set my hand and seal this  
 day of \_\_\_\_\_

Signed and sealed by the above-named \_\_\_\_\_ }  
 in the presence of \_\_\_\_\_ } [L. S.]  
 the \_\_\_\_\_ day of \_\_\_\_\_

A. D. 1860.

FORM Q.

Folio , Book

I, of , in consideration of paid to me by of the receipt of which sum I do hereby acknowledge, hereby transfer to him, his heirs and assigns, the estate or interest in respect of which I am registered, together with all my rights, powers, estate, and interest therein.

In witness whereof, I have hereunto set my hand and seal, this day of , in the year one thousand eight hundred and

Signed and sealed by the said } [L. S.]  
in the presence of

FORM R.

Folio , Book

I, of , in consideration of paid to me by of the receipt of which sum I do hereby acknowledge, hereby transfer to him, his executors, administrators, and assigns, the estate or interest in respect of which I am registered, together with all my rights, powers, estate, and interest therein.

In witness whereof, I have hereunto set my hand and seal, this day of , in the year one thousand eight hundred and

Signed and sealed by the said } [L. S.]  
in the presence of

SECOND SCHEDULE.

	£	s.	d.
Inspection.....	0	2	1
Application Registration .....	0	2	1
Registration of any Original Absolute Fee .....	0	4	2
And one-fifth of one per cent. on the value of the Real Estate.			
Registration of any Charge .....	0	2	1
And one-tenth of one per cent. on the value of the interest covered by the charge.			
For every Transfer of an Absolute Fee .....	0	2	1
And one-fifth of one per cent on the value of the Real Estate transferred.			

Every Certificate of Title.....	0	2	1	A. D. 1860. —
Filing any Issue.....	0	8	4	
Filing any Contest.....	0	2	1	
Sealing any Document.....	0	1	0	
Cancellation of any Charge or Issue.....	0	4	2	
Filing any Document, other than an Issue or Contest.....	0	2	1	
Every Notice sent by the Registrar.....	0	2	1	
Every Deposit of a Map and Title Deed.....	2	0	0	

No. 4. (27)

Proclamation by His Excellency James Douglas, Companion of the most Honourable Order of the Bath, Governor and Commander-in-Chief of Vancouver Island and its Dependencies, Vice-Admiral of the same, &c., &c., &c. A. D. 1861.  
Repealed by  
No. 9, Appendix.

[19th February, 1861.]

**W**HEREAS, I have been empowered by Her Majesty's Government to fix the upset price of Country Lands within the Colony of Vancouver Island and its Dependencies, at four shillings and two pence per acre: Preamble.

And whereas I have been authorized as aforesaid to take such steps as may tend to promote the settlement of Country Land in the said Colony:

And whereas it is expedient to make public the method by which bona fide settlers may acquire the same land:

Be it therefore known unto all men:—

1. That the upset price of all Country Land in Vancouver Island shall be from henceforth four shillings and two pence per acre. All Country Land to be sold at 4s. 2d. per acre.

2. That from and after the date hereof, male British Subjects, and aliens who shall take the oath of allegiance before the Chief Justice of Vancouver Island, above the age of eighteen years, may pre-empt unsold Crown Lands in the Districts of Victoria, Esquimalt, Metchosin, the Highlands, Sooke, North and South Saanich, Salt Spring Island, Sallas Island and Chemainus, (not being an Indian Reserve or Settlement), of the area and under the conditions following:— British subjects may enter upon and occupy land, not being otherwise reserved, in certain quantities and in certain districts.

A single man, one hundred and fifty acres;

A married man, whose wife is resident in the Colony, two hundred acres;

For each of his children, under the age of eighteen years, resident in the said Colony, an additional ten acres.

A. D. 1861.

Pre-emptor, before recording his claim, to take the oath of allegiance if a British subject who has become subject to some other nation.

Pre-emptor to record his claim immediately on occupation. Fee.

Regulating the form of claims.

3. All British subjects, who shall be desirous of pre-empting, and who may, at the time of record, have taken the oath of allegiance to, or become the subject or citizen of any Foreign Sovereign, State, or Nation, shall, as a condition precedent to recording their claims, take the oath of allegiance in manner aforesaid.

4. Immediately after occupation, the pre-emptor shall record his claim at the office of the Surveyor General at Victoria; paying for such record the sum of eight shillings and four pence.

5. The land selected, if unsurveyed, shall be of a rectangular form, and the shortest side of the said rectangle shall be two-fifths the length of the longest side; and the boundaries of such land shall also run as nearly as possible by the cardinal points of the compass.

6. Where the land sought to be acquired is unsurveyed, and is in whole or in part bounded by rocks, mountains, lakes, swamps, the margin of a river, or the sea coast, or other natural boundaries, then such natural boundaries may be adopted as the boundaries of the land selected.

7. The claimant shall, if the land is unsurveyed, give the best possible description thereof in writing to the Surveyor General, at the time of record, with a map thereof, and shall identify the land by placing a post at each corner and by stating in his description any other land marks which may be of a noticeable character.

Mode of recording claims in surveyed lands.

8. If the land however be surveyed, the claimant shall give the description aforesaid by identification with the land marks laid down by the Government Survey.

Payment.

9. The claimant shall, if the land be unsurveyed, pay into the Land Office at Victoria, the sum of four shillings and two pence per acre for the same as soon as the land is included within the Government Survey; if the land be surveyed, he shall pay into the said Land Office the sum of four shillings and two pence per acre by three instalments, viz: one shilling and one penny per acre within one year from the said day of record; one shilling and one penny per acre within two years from the said day of record, and two shillings within three years from the said day; and any default in any of the payments aforesaid, shall cause a forfeiture of the pre-emption claim, and of the instalments (if any) paid up.

Certificate of Improvement to be granted after two years occupation and 10s. per acre improvement.

10. When the pre-emptor, his heirs or devisees, shall prove to the Surveyor General by the satisfactory evidence of third parties, that he has, or they have, continued in permanent occupation of the claim for two years from the date of record, and has or have made permanent improvements thereon, to the value of two shillings per acre, the said Surveyor General shall issue to him, or them, a Certificate of Improvement, in the form marked A in the Schedule hereto.

A. D. 1861.

11. Upon the grant of the Certificate of Improvement aforesaid, the person to whom the same is issued may, subject to any unpaid instalments, sell, mortgage, or lease the land, in respect of which such Certificate has been issued; but until the entirety of the purchase money of the said land has been paid, no sale, mortgage, or lease of the said land shall be valid, unless a Certificate of Improvement as aforesaid has been issued in respect thereof.

Holder of Certificate of Improvement may sell, lease, or mortgage.

12. Upon the payment of the entirety of the purchase money, a Conveyance of the land shall be executed in favor of the Pre-emptor, reserving to the Crown the right to take back so much thereof as may be required for roads or other public purposes, and reserving also the precious minerals, with a right to enter and work the same in favor of the Crown, its assigns and licencees.

Conveyance of surveyed lands.

13. If the land is not then included in the Government Survey, the Conveyance shall, with the reservations aforesaid, be executed as soon as possible after the same is so included, and the Pre-emptor shall, upon survey, be entitled to take any quantity of unpre-empted land, at the price of four shillings and two pence per acre, which may be laid off into the sections in which his pre-empted land is situate, or if unwilling so to do, he shall forfeit so much of the pre-empted land as lies in those sections which he is unwilling to purchase.

Conveyance of pre-empted claim in un-surveyed lands.

14. Priority of title shall be obtained by the person who, being in actual occupation, shall first record his claim in manner aforesaid.

Priorities.

15. Whenever any person shall cease to occupy land pre-empted as aforesaid, for the space of two months, the Surveyor General may, in a summary way, on being satisfied of such permanent cessation, cancel the claim of the person so ceasing to occupy the same, and record de novo the claim of any other person satisfying the requisitions aforesaid, and in the event of any person feeling aggrieved thereat, his remedy shall be personally against the person so recording.

Forfeiture by cessation of occupation.

16. In the event of the Crown, its assigns or licencees, availing itself, or themselves, of the reservation to enter and work the precious minerals as aforesaid, a reasonable compensation for the waste and damage done shall be paid by the person entering and working to the person whose land shall be wasted or damaged as aforesaid; and in case of any dispute, a jury of six men, to be summoned by the Surveyor General, shall settle the same.

Compensation for waste or injury.

17. Nothing in the conditions hereinbefore contained, or in any title to be derived hereunder, shall be construed as giving a right to any claimant to exclude licencees of the Crown from searching for any of the precious minerals in any unenclosed land on the conditions aforesaid.

A. D. 1861.

Saving of water  
privileges for mining  
purposes.

18. Water privileges, and the right of carrying water for mining purposes may, notwithstanding any claim recorded, certificate of improvement, or conveyance aforesaid, be claimed and taken upon, under, or over the land so pre-empted by miners requiring the same, and obtaining a grant or licence from the Surveyor General in that behalf, and paying a compensation for waste or damage to the person whose land may be wasted or damaged by such water privilege or carrying of water, to be ascertained in case of dispute by a jury of six men in manner aforesaid.

Arbitration.

19. In case any dispute shall arise between persons with regard to any land acquired as aforesaid, any one of the parties in difference may (before ejection or action of trespass brought) refer the question in difference to the Surveyor General, who is hereby authorized to proceed in a summary way to restore the possession of any land in dispute to the person whom he may deem entitled to the same; and to abate all intrusions and award and levy such costs and damages as he may think fit, and for all or any of the purposes aforesaid to call in to his assistance the civil authorities or any process of law.

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SCHEDULE.

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FORM A.

No.

*Certificate of Improvement.*

Date,

Folio of the Pre-emption Register,

I, A. B., Surveyor General of Vancouver Island and its Dependencies, do hereby certify that C. D. has made permanent improvements upon his Pre-emption Claim, recorded at Folio.....of the Pre-emption Register, to the extent of ten shillings per acre; and I hereby also certify that the said C. D., his heirs or devisees, may now sell, lease, or mortgage the same.

A. D. 1861.

## No. 5. (29)

Proclamation by His Excellency James Douglas, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief of Vancouver Island and its Dependencies, Vice-Admiral of the same, &c., &c., &c.

REPEALED by No. 9, Appendix.

[21st March, 1861.]

WHEREAS I have been empowered by Her Majesty's Government to take such steps as may tend to promote the settlement of Country Land in the said Colony :

And whereas it is expedient to extend the provisions of a Proclamation, given under my hand and the public seal of this Colony, and dated the 19th day of February, 1861, to the whole of Vancouver Island and its Dependencies :

Now, therefore, be it known unto all men, that the provisions of the said Proclamation, given under my hand and the public seal of this Colony, and dated the 19th day of February, 1861, shall, from and after the date hereof, extend to and include the entirety of Vancouver Island and its Dependencies.

## No. 6. (30)

Proclamation by His Excellency James Douglas, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief of Vancouver Island and its Dependencies, Vice-Admiral of the same, &c., &c.

A. D. 1860.

REPEALED by No. 9, Appendix.

[9th May, 1861.]

WHEREAS I have been empowered by Her Majesty's Government, to take such steps as may tend to promote the settlement of Country Land in the said Colony :

And whereas it is expedient to extend the time during which a person may cease to occupy land pre-empted under the provisions of a Proclamation given under my hand and the public seal of this Colony, and dated the 19th day of February, 1861 :

Now, therefore, be it known unto all men, that any person having pre-empted land under the provisions of the said Proclamation may, if he shall have been continuously in occupation of the same for the space of (8) eight calendar months next previously to

A. D. 1861.

his leaving, leave the same for any period not exceeding (6) six calendar months, provided that within (21) twenty-one days from the date of his leaving the same, he shall fill in a memorandum, in a book kept for that purpose in the Land Office at Victoria, with the particulars and in the manner therein contained.

**No. 7. (34)**

A. D. 1861.

**An Act to enable Aliens to hold and transmit Real Estate.**

Repealed by No. 93.

[28th October, 1871.]

Preamble.

**WHEREAS** it is expedient to enable Aliens to hold and transmit Real Estate in Vancouver Island and its Dependencies:

Be it enacted by the Governor, on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies:—

Aliens may hold and transmit Real Estate as fully as British subjects.

1. That from and after the passage of this Act, it shall be lawful for any Alien to hold, possess, use, occupy, enjoy, and transmit by descent or otherwise, Real Estate of what nature or kind soever in Vancouver Island and its Dependencies, as fully and indefeasibly (for all purposes connected with the holding, use, and transmission of Real Estate, but not further or otherwise) as if he had been born a British Subject.

Short Title.

2. This Act may be cited as the "Act to enable Aliens to hold Real Estate, 1861."

**No. 8. (38)**

A. D. 1861.

**An Act to cure defects in Titles to Real Estate in Vancouver Island and its Dependencies, held by or derived through Aliens.**

Repealed by No. 161.

[14th November, 1861.]

Preamble.

**WHEREAS** Aliens have purchased Real Estate in this Colony to a considerable extent, from the Grantees of the Crown:

And whereas it is expedient to remove any doubts as to the Title of Aliens to Real Estate which they now hold, and as to the Title of British subjects to Real Estate derived through Aliens:

Be it therefore enacted by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Colony of Vancouver Island and its Dependencies, as follows:—

A. D. 1861.

1. No person, whether an Alien or a born or naturalized British subject, shall be disturbed in the possession, or precluded from the recovery, of any lands, tenements, or hereditaments in this Colony, on the ground that he himself, or any person through whom he derived his title before the passage of this Act, was an Alien.

Titles derived through Aliens before this Act not on that account invalid.

2. Provided, nevertheless, that no actual possession taken, sale made, or action, or suit, or proceeding instituted previous to the passage of this Act, shall be affected hereby, but shall be and remain as though this Act had not been passed.

Provided that no actual possession or sale shall be affected thereby.

3. This Act may be cited as "An Act for the Confirmation of the Titles of Aliens to Real Estate, 1861."

Short Title.

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No. 9. (60)

Proclamation by His Excellency JAMES DOUGLAS, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief of Vancouver Island and its Dependencies, Vice-Admiral of the same, &c., &c.

A. D. 1862.

Repealed by No. 144.

[6th September, 1862.]

**WHEREAS** I have been authorized by Her Majesty's Government to take such steps as may tend to promote the settlement of country land in the Colony of Vancouver Island and its Dependencies, and to reduce the upset price of country land to four shillings and two-pence per acre:

Preamble.

And whereas it is expedient to make public the methods by which land may be acquired in the said Colony:

Be it, therefore, known unto all men:—

1. The Proclamations issued by me under the public seal of the said Colony, dated respectively the 19th day of February, 1861, the 21st day of March, 1861, and the 9th day of May, 1861, save so far as the rights and interests of any person who may have sought to acquire land thereunder are concerned, are hereby repealed.

Repeal of previous Land Proclamations

2. Whenever the public requirements are such as to render the sale of any tract of land expedient, whether a town site, suburban land, or otherwise, the same land will be put up or sold at public auction, at such upset price as may be from time to time deter-

Land to be sold at auction if requisite.

A. D. 1862.

mined on—not, however, in any case exceeding the sum of four shillings and two-pence per acre for country land, and in the event of any land not fetching the upset price, it shall be lawful for the Surveyor-General to sell the same by private contract at such upset price.

Forfeited lands to be sold at auction.

3. All country land forfeited for non-payment of instalments shall from time to time be put up for sale at public auction, at an upset price of four shillings and two-pence per acre.

Power to British subjects and aliens who take the oath of allegiance to acquire land.

4. That, from and after the date hereof, British subjects, and aliens who shall take the oath of allegiance to Her Majesty and Her successors, above the age of eighteen, may acquire the right to hold and purchase in fee simple, unsold, unoccupied, and unreserved Crown Lands in Vancouver Island and its Dependencies, not being the site of an existent or proposed town, or auriferous land available for mining purposes, or an Indian Reserve or Settlement, under the following conditions:—

The person desirous of acquiring land, to enter into possession and record his claim. Quantities to be recorded.

5. The person desiring to acquire any particular plot of land of the character aforesaid, shall enter into possession and shall record his claim with the Surveyor General, paying to him the sum of eight shillings for recording such claim.

The person recording may record his claim to the following quantities of land:—

If a single man, one hundred acres;

If a married man, whose wife is resident in the Colony, one hundred and fifty acres;

If the parent of children resident in the Colony, and under the age of eighteen, ten additional acres for each such child.

Power of acquiring additional land adjacent to the pre-empted claim, on payment of an instalment.

6. Any person in possession of land so recorded as aforesaid, may acquire the right to hold and purchase any further tract of unoccupied land aforesaid, over and above the quantities aforesaid, and contiguous thereto, upon payment to the Surveyor General of the sum of two shillings and one penny per acre for the same, as and by way of instalment of the purchase money to be ultimately paid to the Government upon the survey of the same land.

Possession and record necessary, as in case of pure pre-emption.

7. Any person so paying such deposit shall enter into possession and record his claim to such last mentioned tract of land, in manner hereinbefore prescribed.

Mode of record.

8. The claimant shall, in all cases, give the best possible description of the land to the Surveyor General, together with a rough plan thereof, and identify the plot in question by placing at the corners of the land four posts, and by stating in his description any other land marks of a noticeable character.

Shape of land claimed.

9. Every piece of land sought to be acquired under the provisions of this Proclamation, if in a surveyed district, shall be selected

A. D. 1862.

according to the lines of the survey; and, if in an unsurveyed district, such piece of land shall (save as hereinafter mentioned with respect to lands abutting on roads, rivers, lakes, or the sea-shore, or bounded by natural boundaries) be of a rectangular shape, and the shortest line thereof shall be at least two-thirds the length of the longest line.

10. Wherever the piece of land sought to be acquired in an unsurveyed district abuts upon a road or highway, river or sea-shore, the frontage on such road or highway, river or sea-shore, shall not exceed 1320 feet in length.

Frontage of claims on roads, rivers, &c.

11. Where the land sought to be acquired in an unsurveyed district is in whole or in part bounded by mountains, rocks, lakes, swamps, roads, highways, or the margin of a river, or by other natural boundaries, then such natural boundaries may be adopted as the boundaries of the land sought to be acquired; and in such case it shall be sufficient for the claimant to show to the satisfaction of the Surveyor General that the said form conforms, as nearly as circumstances permit, to the provisions of this Proclamation.

Natural boundaries may be taken.

12. If the land sought to be acquired be bounded by a claim, the line of such claim may be adopted by the person so seeking to acquire, notwithstanding any irregularity in such line, which has been occasioned by the adoption of a natural boundary, or other cause, by the claimant of the adjacent claim.

Irregular lines of other claims may be taken.

13. Where a piece of land is partially or entirely enclosed between two or more claims, the claimant may acquire such enclosed piece, notwithstanding any irregularity of form, or disproportion in length of any of the sides.

Piece of land enclosed between two claims may be taken of whatever proportions.

14. The boundaries shall run as nearly as possible by the cardinal points of the compass, or if the claim be in an unsurveyed district and front on a road, lake, river, or sea-shore, the boundaries shall run back from such road, lake, river, or sea-shore as nearly as may be at right angles to the frontage.

Direction of boundaries.

15. Until the conveyance of the land in respect of which a claim is recorded, it shall be lawful for the Governor of Vancouver Island and its Dependencies, for the time being, to grant leases of all or any minerals lying under the same for any term of years, and with such rights of entry, and such powers of raising and working metals and metallic substances, and such privileges of using the surface ground for the necessary mining operations, as may be deemed necessary by the said Governor.

The Governor may grant leases of the inferior minerals notwithstanding any pre-emption.

16. Provided, that if any lessee enter and work any minerals upon or under any land previously pre-empted, or in respect of which any instalment has been paid, the pre-emptor or payer of the instalment shall be entitled to full compensation from such lessee for the surface land occupied, the diminution in value occasioned

Compensation to be made to the occupant.

A. D. 1862.]

by such right of entry, and the damage sustained by means of such raising, mining, and working of the minerals aforesaid; such damage to be ascertained as a question of deterioration to the land in question in an agricultural point of view only.

Power to purchase insurveyed districts.

17. Where the land is situate in a surveyed district, the claimant who has entered upon the said land and recorded his claim as aforesaid, his heirs or devisees shall be entitled, after two years permanent occupation, or after the issuance of a Certificate of Improvement (whichever shall first happen) to purchase the land so acquired, or in respect of which such deposit shall have been paid as aforesaid, at such rate as may for the time be fixed by the Government of Vancouver Island and its Dependencies, not exceeding four shillings and two pence per acre.

Person in possession may purchase at the rate of 4s. 2d. per acre when the land is surveyed.

18. When the Government survey shall extend to the land claimed, the claimant who has entered into possession of and recorded his claim as aforesaid, or his heirs or devisees, or in the case of the grant of a Certificate of Improvement hereinafter mentioned, the assigns of such claimant shall, if he or they shall have been in continuous occupation of the same land from the date of the record aforesaid, be entitled (subject to any such mineral leases as aforesaid) to purchase the land so acquired or in respect of which such deposit shall have been paid as aforesaid at such rate as may for the time being be fixed by the Government of Vancouver Island and its Dependencies, not exceeding the sum of four shillings and two pence per acre.

Power to Surveyor General to issue a Certificate of Improvement.

19. When the claimant, his heirs or devisees, shall prove to the Surveyor General by the evidence of himself and of third parties, that he or they has or have continued in permanent occupation of the claim from the date of record, and has or have made permanent improvements thereon to the value of ten shillings per acre, the said Surveyor General shall grant to the said claimant, his heirs or devisees, a Certificate of Improvement in the form marked A in the Schedule hereto.

Power to sell, mortgage, or lease given to occupant who has obtained a Certificate of Improvement

20. Upon the grant of the Certificate of Improvement aforesaid, the person to whom the same is issued may, subject to any unpaid instalment and to the terms of occupation under which the same land was originally acquired, sell, mortgage, or lease the land in respect of which such certificate has been issued, but no interest in any plot of land acquired in either of the methods aforesaid shall, before payment of the purchase money, be capable of passing to a purchaser unless the vendor shall have obtained such Certificate of Improvement as aforesaid.

Time of payment of the purchase money.

21. The purchase money, except as otherwise provided in the case of a person desirous of acquiring a contiguous portion of land, shall be payable for land acquired in manner aforesaid by instal-

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ments at the rate of one shilling per acre, such instalments to be paid once in every year until the purchase money is paid in full, and the first instalment is to be paid within twelve months after the survey of the land is made, or in case of the land being surveyed within twelve months after the record.

22. Upon payment of the purchase money a conveyance of the land purchased shall be executed in favor of the purchaser, reserving the precious minerals with a right to enter and work the same in favor of the Crown, its assignees and licensees, and subject to such mineral leases as may affect the land conveyed.

Grant of the land.

23. In the event of the Crown, its assignees or licensees, availing itself or themselves of the privileges (other than the taking of land required for roads) mentioned in Clauses 31 and 32, a reasonable compensation for the land taken, wasted, or damaged, shall be paid to the person whose land shall be taken, wasted, or damaged as aforesaid.

Compensation to persons whose land is taken by the Government.

24. Priority of title shall be obtained by the person who being in possession shall first record his claim in manner aforesaid.

Priority obtained by registration with possession.

25. Every person who shall have recorded his claim with the Surveyor General aforesaid, shall within thirty days from such record, record with the Land Recorder of the District or Settlement (when appointed) a copy of the record made with the said Surveyor General, and all maps or plans accompanying such record.

Registration to be recorded with land recorder.

26. Whenever any person shall permanently cease to occupy land acquired in either of the methods aforesaid, the Surveyor General may in a summary way, on being satisfied of such permanent cessation, cancel the claim of the person so permanently ceasing to occupy the same, and record the claim thereto of any other person satisfying the requirements aforesaid.

Surveyor General may cancel claims whose occupation has permanently ceased.

27. As an ordinary rule, two months absence from the land acquired shall be sufficient evidence of permanent cessation of occupation.

Two months' absence, as a rule, sufficient evidence of cessation of occupation.

28. The "occupation" mentioned herein shall mean a continuous personal residence of the claimant himself.

Meaning of "occupation."

29. If any claimant shall show good cause to the Surveyor General he may grant him a "Licence to Substitute" in the form contained in Schedule B hereto, and the continuous personal residence of the person named in such licence (such person not being or becoming subsequently to the date of the licence a claimant of land under this or any previous Proclamation) shall, during the continuance of the licence and after record with the Land Recorder, be as effectual as the continuous personal residence of the claimant himself.

Surveyor General may grant a licence to act as substitute for the pre-emptor.

30. All deposits paid in respect of such forfeited claims shall be forfeited, and all improvements, buildings, and erections thereon

On cancellation, all deposits and improvements forfeited.

A. D. 1862.

shall (subsequent to the appeal hereinafter mentioned) be open to settlement by any other person.

Appeal from the decision of the Surveyor General.

31. The summary decision of the Surveyor General may be appealed by either party to the decision of the Judge of the Supreme Court of Civil Justice, in such manner as may be provided by any Act of the Legislature.

Saving of rights of Free Miners.

32. Nothing herein contained shall be construed as giving a right to any claimant to exclude licensed miners from searching for any of the minerals aforesaid or working the same upon the conditions aforesaid.

Government may take land required for roads or public purposes.

33. The Government shall, notwithstanding any claim, record, or conveyance aforesaid, be entitled to enter and take such portion of the land acquired, in either of the methods aforesaid, as may be required for roads or other public purposes.

Saving of the rights of Miners to carry and lead water.

34. Water privileges, and the right of carrying water for mining purposes may, notwithstanding any claim recorded, be claimed and taken upon, under, or over the said land so pre-empted or purchased as aforesaid, by licensed miners requiring the same, and obtaining a grant or license from the Surveyor General, and paying a compensation for damage to the person whose land may be wasted or damaged by such water privilege or carriage of water, to be ascertained in case of dispute in manner aforesaid.

Forfeiture of old by registration of new claim.

35. If any person, being already registered as a claimant, register a claim to any other land not being contiguous thereto, the land so previously claimed shall ipso facto be forfeited, and shall, with all improvements thereon, be open to settlement by any other person.

Power of reference to the Surveyor General.

36. In case any dispute shall arise between persons with regard to any land so acquired as aforesaid, and one of the parties in difference may, before ejection or action of trespass brought, refer the question in difference to the Surveyor General, who may proceed in a summary way to restore the possession of any land in dispute to the person whom he shall deem entitled to the same, and to abate all intrusions, and award and levy such costs and damages as he may think fit.

The Governor may appoint Land Recorders.

37. The Governor may from time to time appoint, remove, and re-appoint a person resident in any District or Settlement to be "Land Recorder" for the same District or Settlement, and may from time to time appoint a Deputy to act in his place during his absence.

Duties of the Land Recorder.

38. The duties of the "Land Recorder" shall be to keep a book to be called the "Occupation Record," in which he shall enter, at the request of any person who has acquired land, a memorandum of the presence of such person in the District or Settlement on the

date of such memorandum, and in the event of such person ceasing to occupy land acquired as aforesaid for a temporary purpose, the name of the person (not being a person registered as a pre-emptor) occupying for him, such person to appear and be identified before such Recorder at the time of the record.

A. D. 1862.

39. The Surveyor General shall, from time to time as Land Recorders are appointed, transmit to each Recorder copies of all maps of the District or Settlement to which such Recorder is appointed, and also copies of the Registration Record of the said District or Settlement (if any).

The Surveyor General to transmit maps and copies of registration to Land Recorder.

40. The Land Recorder shall also record in a book to be supplied to him for that purpose, the copies of the records made with the Surveyor General, and of the maps and plans aforesaid, and keep them for the inspection of the public.

Recorder shall enter copies of fresh records.

41. Any person occupying land in the place of a person temporarily absent, who shall record any claim to any land, shall be deemed from the date of such record to have ceased to occupy on behalf of the person temporarily absent.

Person occupying in the place of another who records for himself to cease representing the other.

42. The Land Recorder shall report to the Surveyor General once every six months the state of his District or Settlement, particularizing as far as possible the number of settlers who are resident on recorded claims, and the number of claims recorded which have been vacant for two months or longer.

Recorders' reports.

43.\* A statement of the Land Recorder, signed and addressed by him to the Surveyor General, shall be prima facie evidence of permanent improvements to the value therein mentioned.

Statement of Recorder as to Certificate of Improvement

44. An extract from the "Occupation Record," signed by the Land Recorder, and proved to have been so signed by a competent witness, shall be prima facie evidence of the occupation by the person therein named as personally present on the date therein mentioned, and an extract made, signed, and proved as aforesaid, of the record of the name of the person occupying as substitute for another shall be prima facie evidence (until rebutted by evidence of absence or registration as aforesaid) of occupation in lieu of the pre-emptor registered.

Extracts from "Occupation Book" to be evidence.

45. In the event of any application for the cancellation of a claim on the ground of permanent cessation of occupation, if the person whose claim shall be sought to be cancelled shall be shown to have quitted the District, without recording the date of his last presence in the District or Settlement as aforesaid, the date of his absence shall prima facie be taken to have been more than two months previously to the date of the application for cancellation.

Omission to enter the last date, when present, to be prima facie evidence of absence for two months previous to the application for cancellation.

46. In the event of the Surveyor General requiring the attendance personally of the person whose claim is so sought to be cancelled, he may require that notice to attend at the Land Office, Victoria,

The Surveyor General may require notice to be served on party whose claim is sought to be cancelled.

A. D. 1862

at a time to be fixed by the Surveyor General, shall be served on such person.

Notice may be substituted on the Recorder.

47. In the event of such person not being found and served with such notice, the Surveyor General may order such notice to be left with the Land Recorder for the District or Settlement where such contested claim is situate.

Costs of serving substituted notice.

48. A sum not exceeding one pound, to be fixed by the Surveyor General, and noted on the notice, shall be paid to the Land Recorder to meet the expenses of serving the said notice, by the party requiring the same to be served.

Service of substituted notice and return by the Recorder.

49. The Land Recorder shall, if the person upon whom the said notice is to be served, can be found in the said District or Settlement, cause the same notice to be served upon him; and as soon as the Land Recorder has served the said person, or ascertained that he cannot be found in the said District or Settlement, shall certify the same under his hand, and remit such certificate by the earliest communication to the Surveyor General.

The Surveyor may proceed ex parte.

50. The Surveyor General, upon the receipt of the said certificate, and after such postponement and advertisements (if any) as he may think necessary, may determine the question on such evidence, whether ex parte or otherwise, as he may think proper.

Fees payable to the Recorder.

51. The Recorder shall be entitled to the fee of four shillings and two-pence on recording copies of any pre-emption record from the Land Office, and to a fee of one shilling on recording any other matter or thing; and the said fees shall be paid and payable by the person requiring the record to be made; and the Recorder of each District or Settlement shall also be entitled to the amount of record fees paid at the Land Office for the registration of claims in his District or Settlement.

Recorder to sign records.

52. The Recorder shall sign his name at the foot of every entry in the "Occupation Record."

Short Title.

53. This Proclamation may be cited as the "Vancouver Island Land Proclamation, 1862."

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### SCHEDULE A.

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I hereby certify that \_\_\_\_\_ has satisfied me by evidence of [naming the witness, and detailing any other evidence upon which the Surveyor General has come to his judgment] that \_\_\_\_\_, of \_\_\_\_\_, has made improvements to the extent of ten shillings an acre on \_\_\_\_\_ acres of land, situated at \_\_\_\_\_.

Signed, this \_\_\_\_\_

day of \_\_\_\_\_

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## SCHEDULE B.

A. D. 1862.

I hereby license \_\_\_\_\_, of \_\_\_\_\_, to occupy  
for the space of \_\_\_\_\_ months, the Claim recorded No. \_\_\_\_\_, Page  
of the Pre-emption Record Book, in the stead of \_\_\_\_\_

Dated, this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
*Surveyor General.*

## No. 10. (101)

A. D. 1865.

An Act to amend "The Land Registry Act, 1860."

[8th April, 1865.]

Repealed by  
No. 143.

WHEREAS it is necessary to amend "The Land Registry Act, 1860:"

Preamble.

Be it therefore enacted by the Governor of the Colony of Vancouver Island and its Dependencies, by and with the advice and consent of the Legislative Council and Assembly thereof, as follows:—

1. It shall be lawful for the Governor to appoint, from time to time as occasion shall require, during the absence or other incapacity to act of the Registrar General, a fit and proper person to perform the duties of Deputy Registrar; and all the acts of such Deputy Registrar shall have the like force and effect as if done by the Registrar General; and the Deputy Registrar shall have such remuneration as the Governor shall think fit.

Appointment of  
Deputy Registrar.

2. Every person claiming any other or less estate than the absolute fee, or any equitable interest whatever in real estate (other than a leasehold interest in possession for a term not exceeding one year) whereof the title to the absolute fee has not been registered, may, on proof of a prima facie title thereto, register a charge in like manner as is prescribed in Section 10 of the said Act.

Registration of  
Charge.

3. No equitable mortgage or lien created simply by a deposit of title deeds, shall be deemed to entitle the person interested to registration under this Act.

Equitable Mortgages  
not to be registered.

4. Whenever any person shall have paid in full for land pre-empted under any Land Proclamation or Act now or hereafter in force, he may, on receiving a certificate of such payment from the Surveyor General, apply to have the same registered as an absolute fee, in like manner as prescribed in Section 8 of "The Land Registry Act, 1860."

Pre-empted Land.

A. D. 1865.

Certificate of Surveyor General.

Form of Certificate of Title, and provision in case of loss thereof.

Certificate of Title to be evidence.

Certificate of Indefeasible Title.

Time of application.

5. The Surveyor General may give a certificate of payment of all or any of the instalments due on land, as mentioned in Sections 16 and 17 of "The Land Registry Act, 1860," and in Section 4 of this Act, in the Form marked U. in the Schedule to this Act.

6. Section 18 in "The Land Registry Act, 1860," is hereby repealed, and, in lieu thereof, be it enacted that the Registrar shall, upon the registration of any absolute fee, issue a certificate of title to the person who shall have effected registration, in the Form marked G. in the first Schedule to this Act; and shall fill up a memorandum thereof, and retain the same in his office; and if any certificate of title shall be lost or destroyed, the Registrar General may, upon being satisfied by affidavit of the applicant, or of some other person, of the truth thereof, issue a fresh certificate in lieu of that so lost or destroyed, expressing on the face thereof that it is a duplicate; but no such fresh certificate shall be of any avail against any person who may have already derived title under the original certificate. In every case, so far as practicable, where a transfer is registered of a portion of the land comprised in or referred to in the certificate of title, an endorsement of such transfer shall be made thereon.

7. Every such certificate of title shall be received as evidence in all Courts of Justice of the particulars therein set forth.

8. Upon the expiration of five years from the time when registration of an absolute fee was first effected, the registered owner shall be entitled to receive a certificate of title in the Form marked S. in the said first Schedule, a duplicate of which shall be retained by the Registrar, and such certificate of title shall be conclusive evidence in all Courts of Justice that the owner therein named is the absolute owner of an indefeasible fee simple in the real estate therein referred to; and such real estate may be transferred by an endorsement on such certificate, in the Form marked T. in the said Schedule, or similar thereto; and the Registrar, upon the receipt of the former certificate of title, may grant registration of the absolute fee to such transferee, in the Form marked B. in the said Schedule, and issue a new certificate to such transferee; and, when necessary, a new certificate or certificates to the transferrer or transferrors, in manner aforesaid; and upon such registration the transfer shall confer upon the person to whom the same is made an absolute and indefeasible title in fee simple in the land transferred, subject, however, to the rights existing against any such estate by virtue of any charge or issue appearing on the register at the time of such transfer, and also to any unregistered leasehold interest in possession for a term not exceeding one year, as aforesaid.

9. The time at which the application for registration shall be deemed to have been made shall be the time when the application paper is filled up and signed by the applicant, and the title deeds handed in to the Registrar.

10. Whenever any deed or instrument is produced for the proving the title of any applicant for registration, the Registrar is hereby required, so far as may be possible, to endorse on such deed or instrument a memorandum of the interest of the said applicant in the land comprised in such deed or instrument.

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Memorandum of registration to be endorsed on title deeds.

11. Within one week after any issue has been filed under the provisions of "The Land Registry Act, 1860," the Registrar shall give notice in writing to the registered owner of the property in respect of which the same has been so filed.

Notice of issue.

12. In every case of cancellation of a charge, notice of contest, or issue under the provisions of "The Land Registry Act, 1860," the interest against which such charge, notice of contest, or issue shall have been registered or filed shall be deemed to be discharged from the date of the satisfaction or discharge of the same, and not from the date of entry thereof as provided in Section 41 of the last mentioned Act.

Date of cancellation of charge.

13. Before any instrument executed after the expiration of six months from the passing of this Act, other than a decree, judgment, or order of a Court of Civil Jurisdiction, is registered, and to entitle the same to be registered, the execution thereof shall first have been acknowledged or proved in the manner hereinafter provided, and such fact of acknowledgment or proof shall appear by a certificate under the hand and seal of the proper officer or other person authorized to take such acknowledgments endorsed upon or attached to such conveyance, deed, or other instrument.

All deeds to be acknowledged.

14. The acknowledgment or proof of execution of all instruments hereby authorized to be registered, if acknowledged or proved within the Colony, may be made to the Registrar, or Deputy Registrar, or any person commissioned in that behalf by the Chief Justice of the Supreme Court of Civil Justice of Vancouver Island, as hereinafter mentioned; and if acknowledged or proved without the Colony and within the British Dominions, may be made to any Judge of a Court, or Clerk or Registrar of any Court having a seal, or to any Notary Public, or to any Magistrate of any Town or District within the said Dominions having a seal of office; and if acknowledged or proved without the British Dominions, may be made to any British Ambassador, Charge d'Affaires or Minister, Consul or Consular Agent appointed to reside in the country where such acknowledgment or proof is made, or to any Judge of any Court of Record having a seal, or to any Notary Public practising in such country, duly certified to be a Notary Public by some British Ambassador, Charge d'Affaires, Minister, Consul, or Consular Agent. And every such acknowledgment of instruments executed without this Colony shall be sufficient to entitle the same to be registered, notwithstanding anything in this Act contained to

Before whom instruments are to be acknowledged.

A. D 1865.

the contrary, and particularly to the provisoes in Section 17, hereinafter following.

Chief Justice may appoint persons to take acknowledgments.

15. The Chief Justice aforesaid, with the approval of the Governor for the time being, may appoint by Commission such and as many competent persons, other than the persons before mentioned, as may be necessary for the accommodation of the public, to take the acknowledgment and proof of the execution of all instruments in writing within the Colony, which may by law be registered.

Persons making acknowledgments shall appear before the Officer taking same.

16. No acknowledgment of the execution of any instrument affecting any real estate within this Colony shall be taken, unless the party offering to make such acknowledgment shall appear before the officer taking the same, and unless such party shall either be personally known to the officer, or his identity be proven by the oath or affirmation of a competent witness; and such certificate of acknowledgment shall recite in substance and legal effect the facts required by this Section.

By whom acknowledgment may be made.

17. Acknowledgments and proofs of the execution of instruments entitled to be registered may, for the purposes of this Act, be made by

- (1.) The party executing in person such instrument;
- (2.) The Attorney in fact, when such instrument is executed by an Attorney in fact;
- (3.) The Secretary of any Corporation, when such instrument is executed by such Secretary;
- (4.) A subscribing witness to such instrument.

Recitals in acknowledgments.

Provided, always, that no acknowledgment of any party executing in person such conveyance, deed, or other instrument, shall be taken, unless in addition to what is required by Section 16 of this Act, such party acknowledge that he is the person mentioned in such instrument as the maker thereof, and whose name is subscribed thereto as a party, that he knows the contents thereof, and that he executed the same voluntarily; and such certificate of acknowledgment shall, in addition to what is required by Section 16 to be recited, recite in substance and legal effect the facts required by this proviso. And, provided also, that no acknowledgment by an Attorney in fact shall be taken, unless in addition to what is required by Section 16 of this Act, such Attorney in fact shall acknowledge that he is the person who subscribed the name of (naming the maker) to the instrument, that said (naming the maker) is the person mentioned in the instrument as the maker thereof, that (naming the Attorney in fact) knows the contents of the instrument, and subscribed the name of (naming the maker) thereto voluntarily as the free act and deed of the said (naming the maker); and such certificate of acknowledgment shall, in addition to what is required by Section 16 to be recited, recite in substance

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and legal effect the facts required by this proviso. And, provided also, that no acknowledgment by the Secretary of any Corporation shall be taken, unless in addition to what is required by Section 16 of this Act, such Secretary acknowledge that he is the person who subscribed his name and affixed the seal of such Corporation, as the Secretary, to such instrument, and that he was first duly authorized to subscribe and to affix the said seal to the same; and such certificate of acknowledgment shall, in addition to what is required by Section 16 to be recited, recite in substance and legal effect the facts required by this proviso. And, provided also, that no acknowledgment by a married woman shall be taken, unless in addition to what is required by Section 16, such married woman shall be first made acquainted with the contents of the instrument, and the nature and effect thereof, and shall acknowledge on examination, apart from and out of hearing of her husband; that she knows the contents of the instrument, and understands the nature and effect thereof, that she executed the same voluntarily, without fear, or compulsion, or undue influence of her husband, that she is of full age and competent understanding, and does not wish to retract the execution of the same; and every such certificate of acknowledgment shall, in addition to what is required by Section 16 to be recited, recite in substance and legal effect the facts required by this proviso. And, provided, that no acknowledgment or proof by a subscribing witness shall be taken, unless in addition to what is required by Section 16 of this Act, such subscribing witness shall acknowledge that he is the person whose name is subscribed to the instrument as a witness, and shall prove that (naming the maker) whose name is subscribed thereto as the maker, did execute the same; and such certificate of acknowledgment or proof shall, in addition to what is required by Section 16 to be recited, recite in substance and legal effect the facts required in this proviso. And, provided, also, that the acknowledgment or proof of instruments required to be made or done as hereinbefore mentioned, may be in the Forms in the third Schedule hereto.

18. Every instrument which shall be acknowledged or proved and certified as in this Act prescribed may, together with the certificate of acknowledgment or proof, be read in evidence in all Courts of Law and Equity, without further proof of execution.

Instruments acknowledged may be read in evidence.

19. When any person applies for registration of a portion of an entire lot or section of land, he shall, if so required by the Registrar, deposit a map thereof properly authenticated, or append the same to the instrument conveying the said land, and reference to such map shall be made by the Registrar and entered by him in the Parcels Books, and such map shall be drawn on a scale in the case of land situated in any district of not less than four inches to a mile, and in the case of land situated in any town, on a scale of not

Registrar may require maps to be deposited or appended to deeds.

A. D. 1865.

less than one chain to an inch, or on such scale respectively as the Registrar shall require, in order that the land may be clearly and conveniently shown.

Surveyor General to deposit copies of official maps.

20. The Surveyor General of the Colony shall, as soon as conveniently may be, and from time to time deposit in the Land Registry Office when requested so to do by the Registrar, copies of all Official Maps in his custody duly authenticated by his signature.

Acknowledgments, &c., to be made before Registrar.

21. All acknowledgments, affidavits, oaths, and declarations necessary for this Act, and "The Land Registry Act, 1860," may be taken by and made before the Registrar.

Power to Registrar to refer cases to the Court.

22. Whenever in the opinion of the Registrar, from any special circumstances in the case it is desirable that an application for registration shall be decided by the Court, or that a declaration of title in the first instance should be made under any Act which may be passed in the present Session, it shall be lawful for him to refer such matter to the Court, and to decline the registration thereof until an order for such registration or a declaration of title has been obtained, as the case may require.

Application for registration may be made by agents.

23. Applications for registration may be made by the agent of any person entitled to be placed on the register, provided that the Registrar be satisfied that such agent is duly authorized to make such application.

Caveat, &c.

24. The Court may, upon the application by petition of any person interested in real estate, although the same be not registered, issue an order or caveat inhibiting any dealing with or registration of such real estate, and annex thereto any terms and conditions it may think fit, and generally to make such order as the justice of the case may require.

May be registered as charges.

25. All orders made under the 59th Section of "The Land Registry Act, 1860," may be registered as charges, and all orders made under the 24th Section of this Act may be registered as supplemental charges.

List of land registered to be kept.

26. The Registrar shall keep a list, arranged under appropriate headings, as to towns and districts, of all lands registered.

Per centage on value of land.

27. The per centage to be paid on the registration of an absolute fee shall be according to the market value of the property at the time of application for registration; and in case of doubt, the market value shall be held to be the value as stated in the last completed Government Assessment Roll.

Forms to be used.

28. The Forms in "The Land Registry Act, 1860," marked A, B, C, D, E, F, G, I, K, L, and M, respectively, shall, as soon as conveniently may be, be discontinued, and those marked A, B, C, D, E, F, G, I, K, L, and M, respectively, in the first Schedule to this Act annexed, may be used in lieu thereof.

29. In lieu of the fees as mentioned in the second Schedule to "The Land Registry Act, 1860," the fees mentioned in the second Schedule hereto shall be charged and paid. A. D. 1865.  
Fees.

30. If the deeds constituting a title have been registered, and they have been allowed to remain in the office for one month there- after or upwards, the same shall be charged as if they had been deposited. Registered deeds al-  
lowed to remain in  
the office one month  
charged as if de-  
posited.

31. It shall be the duty of the Registrar, when requested and upon payment of the proper fees, to record in a book or books to be kept for that purpose, and to be called respectively "The Absolute Fees Record," "The Charges Record," and "The Supplemen- tal Charges Record," all instruments in any manner affecting the title to real estate, or to any interest thereunder which has or may have been already duly registered, by correctly transcribing or copying the same, together with an endorsement thereon or certi- ficate attached thereto, word for word, letter for letter, figure for figure, sign for sign, and erasure for erasure. Documents may be  
copied in the office,  
and official copies  
made.

32. References to such record shall be made in the register books of the title to which such instruments relate. References to be  
made to such copies.

33. The record of any such instrument as aforesaid, or any copy of the same duly certified by the Registrar, may, in the absence of the original, and if produced by a party not having the control of the original, be read in evidence in all Courts of Law and Equity, with- out further proof, but the production of such copy shall not pre- clude the Registrar from requiring the production of the original document in those cases when such production may be deemed necessary for the purpose of registering any title thereunder. Official copies may  
be received in evi-  
dence.

34. This Act may be cited as "The Land Registry Amendment Act, 1865." Short Title.

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## FIRST SCHEDULE.

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### FORM A.

No.

I, *A. B.*, declare that I am the legal owner in my own right in fee simple in possession of the Real Estate hereunder described, and I claim to be regis- tered accordingly.

A. D. 1865.

*Description of Real Estate.*

Town or District.	Lot or Section.	Admeasurement or Acreage.

*List of Instruments.*

Date.	Parties.	Character of Deed.

And I, \_\_\_\_\_, declare that to the best of my knowledge the value of the said Real Estate is \_\_\_\_\_ Dollars.

A. B.

FORM B.

No.	Name of Applicant.	Parcels Short Description.	Absolute Fees Parcels Books.	Date of Application.	Date of Registration.	List of Instruments.	Charge, Issue, &c., if any.

FORM C.

A. D. 1865.

No.	Folio of Absolute Fees Book	Town or District.	Section or Lot.	Further Description.

FORM D.

No.

I, *A. B.*, declare that I am entitled to a \_\_\_\_\_ the Real Estate hereunder described, and I claim Registration of a Charge accordingly.

*Description of Real Estate.*

The absolute fee is registered at folio \_\_\_\_\_, vol. \_\_\_\_\_ of the "Absolute Fees Book," in the name of \_\_\_\_\_

Lot or Section.	Town or District.	Admeasurement or Acreage.

LIST OF INSTRUMENTS.

Date.	Parties.	Character of Deed.

And I, *A. B.*, declare, that to the best of my knowledge, the value of my said Interest is \_\_\_\_\_ Dollars.

*A. B.*

A. D. 1865.

FORM E.

No.	Folio of Absolute Fees Book.	Owner of Charge.	Parcels, short descriptions.	Charge Parcels Book.	Date of Application.	Date of Registration.	Nature of	List of Instruments.	Charge, Issue, Contest, etc., if any

FORM F.

No.	Folio of Charge (or supplemental Charge) Book.	Town or District.	Lot or Section.	Admeasurement or Acreage.	Further Description.

FORM G.

Certificate of Title.

No. 186

Certificate of Title	Name of Owner.	Absolute Fees Book.	Date of Registration.	Parcels Short Description.
No.				
Name				
Absolute Fees Book				
Property				
A. B., Registrar General.		<i>List of Instruments.</i>		

A. B.,

Registrar General.

FORM I.

A. D. 1865.

I, *A. B.*, take issue on the registration effected by  
of the land known as \_\_\_\_\_, in the Absolute Fee Book,  
Vol. \_\_\_\_\_ Folio \_\_\_\_\_

*A. B.*

FORM K.

No. \_\_\_\_\_  
Registered the \_\_\_\_\_ day of \_\_\_\_\_ 186 \_\_\_\_\_, in Book \_\_\_\_\_,  
Vol. \_\_\_\_\_ Folio \_\_\_\_\_

*A. B.*,  
Registrar General.

FORM L.

I, *A. B.*, file this notice of contest against an issue (or charge registered  
or) filed by *C. D.*, in respect of that piece of land registered in the  
Book, Vol. \_\_\_\_\_ Folio \_\_\_\_\_

*A. B.*

FORM M.

I, *A. B.*, having filed a notice of contest on the \_\_\_\_\_ day of  
18 \_\_\_\_\_, against the issue (or charge registered or) filed by *C. D.*, in respect of  
that piece of land registered in the \_\_\_\_\_ Book, Vol. \_\_\_\_\_ Folio \_\_\_\_\_,  
crave that the charge (or issue) may be cancelled (or taken off the file.)

FORM S.

*Certificate of Indefeasible Title.*

This is to certify that *A. B.* is absolutely and indefeasibly entitled in fee  
simple to that piece of land known as \_\_\_\_\_, and more  
particularly described in Absolute Fees Parcels Book, Vol. \_\_\_\_\_ Folio \_\_\_\_\_,  
subject however to \_\_\_\_\_

In witness whereof, I have hereunto set my hand and seal of office, this  
day of \_\_\_\_\_ 186 \_\_\_\_\_

*C. D.*,  
Registrar General.

A. D. 1865.

FORM T.

I, *A. B.*, of \_\_\_\_\_, do hereby, in consideration of Dollars, paid to me, transfer and convey the land in this certificate referred to, to *C. D.*, his heirs and assigns, for ever.

Executed in the presence of } *A. B.*  
*D. E.* }  
*E. F.* }

FORM U.

I hereby certify that \_\_\_\_\_ instalment due in respect of Section \_\_\_\_\_, has been paid, and that there remains a balance of unpaid.

*A. B.*,  
 Surveyor General.

SECOND SCHEDULE.

*Fees.*

Inspection of any Title on the Register.....	\$ 50
Application Registration .....	50
Registration of any Absolute Fee .....	1 00
And one-fifth of one per cent. on the value of the Real Estate, where such value amounts to or is under five thousand dollars; and one-tenth of one per cent. on the additional value, where such value exceeds five thousand dollars.	
Registration of any Charge .....	1 00
And one-tenth of one per cent. on the value of the interest covered by the charge.	
Every Certificate of Title, or search.....	50
Filing any Issue .....	2 00
Filing any Contest.....	50
Sealing any Document .....	25
Cancellation of any Charge, &c.....	1 00
Filing any Document, other than an Issue .....	50
Every Notice.....	50
Every deposit of Map or Title Deed .....	5 00
For every transcript or record of any Deed or Instrument, as provided for in Section 31 of this Act, per folio of one hundred words.....	25
For making certified copies of any Deed or Instrument of record, per folio of one hundred words.....	25
For taking the acknowledgment or proof of execution of any Instrument, including the Certificate thereof, for every acknowledgment or proof	1 00
For administering an oath .....	50

## THIRD SCHEDULE.

*For Maker of a Deed.*

I hereby certify that \_\_\_\_\_, personally known to me, appeared before me and acknowledged to me that the person mentioned in the annexed instrument as the maker thereof, and whose name \_\_\_\_\_ subscribed thereto as part \_\_\_\_\_ that \_\_\_\_\_ knows the contents thereof, and that \_\_\_\_\_ executed the same voluntarily.

In testimony whereof I have hereto set my hand and seal of office, at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand eight hundred and sixty-

*For Married Woman.*

I hereby certify that *A. B.*, personally known to me to be the wife of *C. D.*, appeared before me, and being first made acquainted with the contents of the annexed instrument, and the nature and effect thereof, acknowledged on examination, and apart from and out of hearing of her said husband, that she is the person mentioned in such instrument as the maker thereof, and whose name is subscribed thereto as party, that she knows the contents and understands the nature and effect thereof, that she executed the same voluntarily without fear or compulsion or undue influence of her said husband, that she is of full age and competent understanding, and does not wish to retract the execution of the said instrument.

In testimony whereof I have hereto set my hand and seal of office, at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand eight hundred and

*E. F.*

*For Attorney.*

I hereby certify that \_\_\_\_\_, personally known to me, appeared before me and acknowledged to me that he is the person who subscribed the name of \_\_\_\_\_ to the annexed instrument as the maker thereof \_\_\_\_\_ is the person mentioned in the said instrument as the maker thereof, that he \_\_\_\_\_ knows the contents of the said instrument, and that he subscribed the name of \_\_\_\_\_ thereto voluntarily as the free act and deed of the said

In testimony whereof, I have hereto set my hand and seal of office at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand eight hundred and sixty-

A. D. 1865.

*For Witness.*

I hereby certify that \_\_\_\_\_, personally known to me,  
 appeared before me and acknowledged to me that  
 the person whose name \_\_\_\_\_ subscribed to the annexed Instruments as  
 Witness, and having been duly sworn by me, did prove to me that  
 did execute the same in \_\_\_\_\_ presence voluntarily.

In testimony whereof I have hereto set my hand and seal of office  
 at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, in the  
 year of our Lord one thousand eight hundred and sixty





# REPEALED LAWS,

USEFUL FOR REFERENCE,

OF THE FORMERLY

SEPARATE COLONY OF BRITISH COLUMBIA.

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## No. 11. (131)

Proclamation by His Excellency JAMES DOUGLAS, Governor and Commander-in-Chief of Her Majesty's Colony of British Columbia and its Dependencies. Proclamation, having the force of Law, to enable the Governor of British Columbia to convey Crown Lands sold within the said Colony. A. D. 1858.

Repealed by  
No. 161.

[2nd December, 1858.]

**W**HEREAS by virtue of an Act of Parliament, made and passed in the 21st and 22nd years of the Reign of Her Most Gracious Majesty the Queen, by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, in conformity therewith, I, James Douglas, Governor of the Colony of British Columbia, have been authorized by Proclamation issued under the Public Seal of the said Colony, to make Laws, Institutions and Ordinances for the peace, order, and good government of the same:

Now, therefore, I, James Douglas, Governor of British Columbia, by virtue of the authority aforesaid, do proclaim, ordain, and enact, that on and after the day of the date of this Proclamation, it shall be lawful for the Governor, for the time being of the said Colony, by any instrument in print, or in writing, or partly in print and partly in writing, under his hand and seal, to grant to any person or persons any Land belonging to the Crown in the said Colony; and every such instrument shall be valid as against Her Majesty, Her heirs and successors, for all the estate and interest expressed to be conveyed by such instrument in the Lands therein described.

A. D. 1858.

## No. 12. (133)

Proclamation having the force of Law, &amp;c.

[24th December, 1858.]

Repealed by  
No. 112.

WHEREAS by an Act of Parliament made and passed in the Session of Parliament held in the 21st and 22nd years of the reign of Her Majesty the Queen, intituled "An Act to provide for the Government of British Columbia," and by a commission under the Great Seal of the United Kingdom of Great Britain and Ireland, I, James Douglas, have been appointed Governor of the said Colony, and have been authorized by Proclamation under the Public Seal of the said Colony, to make Laws, Institutions, and Ordinances for the peace, order, and good government of the same :

And whereas Matthew Baillie Begbie has been duly appointed to the office of Judge in British Columbia, and has been duly sworn in to perform the duties of such office ; and the dispatch of public business has hitherto rendered it convenient that he should reside in Victoria, and may from time to time render it convenient that he should have his temporary residence here :

And whereas doubts may arise as to the legal validity of any acts done by the said Matthew Baillie Begbie, while resident out of British Columbia :

Now, therefore, I, James Douglas, Governor of British Columbia, do, by virtue of the aforesaid power in and by the said Act of Parliament and commission conferred on me, and in pursuance thereof hereby ordain and enact that it shall and may be lawful for the said Matthew Baillie Begbie, while residing in Victoria, to make and publish, and from time to time to alter or discharge any general rules or orders of Court, and in particular to make or discharge rules and orders of Court relating to the fees, poundage, and perquisites to be taken on all of any legal process relating to suits in British Columbia, and relating to the application thereof; and also to issue any writ returnable in British Columbia; and also to make and to hear orders on any application for granting or discharging any writ of injunction or ne exeat; and also to perform any other judicial act whereto he shall be from time to time specially commissioned by me, by a commission under the Public Seal of the Colony (but no other judicial act), in the same manner as if the said Matthew B. Begbie were at the time of making or issuing such order or performing such judicial act, resident in British Columbia aforesaid; and every such writ, order, or act shall have the same force, effect, and consequences in all respects as if the said Matthew B. Begbie were, at the time of the issuing, making, or performing of the same, resident in British Columbia, and be obeyed, enforced, and carried into effect accordingly.

A. D. 1859.

## No. 13. (136)

Proclamation by His Excellency JAMES DOUGLAS, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief of British Columbia.

Repealed in part by No. (241), and wholly by No. 144.

[14th February, 1859.]

**W**HEREAS it is expedient to publish for general information, the method to be pursued with respect to the alienation and possession of agricultural lands, and of lands proposed for the sites of towns in British Columbia; and with reference also to the places for levying Shipping and Customs Duties; and for establishing a Capital and Port of Entry in the said Colony:

Now, therefore, I, James Douglas, Governor of the said Colony, do proclaim and declare as follows, viz.:—

1. All the lands in British Columbia, and all the mines and minerals therein, belong to the Crown in fee.

2. The price of lands, not being intended for the sites of towns, and not being reputed to be mineral lands, shall be ten shillings per acre, payable one-half in cash at the time of the sale, and the other half at the end of two years from such sale. Provided, that under special circumstances, some other price, or some other terms of payment, may from time to time be specially announced for particular localities.

3. It shall also be competent to the Executive, at any time, to reserve such portions of the unoccupied Crown Lands, and for such purposes as the Executive shall deem advisable.

4. Except as aforesaid, all the land in British Columbia will be exposed in lots for sale, by public competition, at the upset price above mentioned, as soon as the same shall have been surveyed and made ready for sale. Due notice will be given of all such sales. Notice, at the same time, will be given of the upset price and terms of payment when they vary from those above stated, and also of the rights reserved (if any) for public convenience.

5. All lands which shall remain unsold at any such auction may be sold by private contract, at the upset price, and on the terms and conditions herein mentioned, on application to the Chief Commissioner of Lands and Works.

6. Unless otherwise specially notified at the time of sale, all such sales of Crown Land shall be subject to such public rights of way as may at any time after such sale, and to such private rights of way, and of leading or using water for animals, and for mining and engineering purposes, as may at the time of such sale be specified by the Chief Commissioner of Lands and Works.

A. D. 1859.

7. Unless otherwise specially announced at the time of sale, the conveyance of the land shall include all trees and all mines and minerals within and under the same, except mines of gold and silver.

8. When any "Ditch Privilege" shall be granted, there shall be included (unless excluded by express words) the right to lop, dress, or fell any trees standing on unoccupied Crown Lands which, in the opinion of the proprietors of the ditch, might by their accidental fall, or otherwise, endanger the safety of the ditch or any part thereof.

*Gold Claims.*

9. Until further notice, gold claims and mines shall continue to be worked subject to the existing regulations.

*Capital of British Columbia.*

10. It is intended with all dispatch to lay out and settle the site of a city to be the Capital of British Columbia, on the right or north bank of Fraser River.

11. Plans of the city are intended to be prepared and published in the month of March next. Three-fourths of the whole number of lots, excluding the public reserves, will be submitted in lots to public competition, by auction in the month of April. One-fourth of the whole number of lots, excluding the public reserves, will be reserved in blocks for purchasers in the United Kingdom, Her Majesty's Colonies in North America, and elsewhere. All of such last mentioned lots which may not be disposed of in the United Kingdom, or in Her Majesty's Colonies, other than British Columbia, will be submitted to public competition in this Colony, of which due notice will be given.

12. As the Government is desirous of concentrating the commercial interests of the Colony in and around the capital, purchasers of town lots in the said proposed capital who may be owners of town lots in Langley, under the late sale of the 25th November last, on which the whole amount of purchase money has been paid to the Government, will, if so disposed, be allowed to surrender the lots in Langley so purchased, and to have the price so paid to the Government allowed them as payment in full for a lot or lots purchased by them in the said proposed capital of an equal or less price in the aggregate, and as payment in part for lots in the said proposed capital of a greater price in the aggregate. Every such surrender must be executed and delivered in writing, addressed to the Chief Commissioner of Lands and Works in British Columbia, at Victoria, Vancouver Island, one week, at least, previous to the day appointed for the intended sale.

13. The proposed capital will be declared to be a Port of Entry so soon as the necessary arrangements shall have been provided,

A. D. 1859.

which will be done with all convenient dispatch. Custom House Officers will then be stationed there, and vessels will be able to proceed direct to Fraser River without touching at Victoria, or may clear at Victoria, at their option.

14. The whole of the river frontage will be laid out in a continuous road, the edge of which it is contemplated, ultimately, to convert into a public quay. No quay will, however, be at present constructed at the public expense, nor will the absolute property of the soil along the edge of the water be now alienated by the Crown. But the right to make and maintain quays of convenient sizes, and to demand certain tolls and rates for the use thereof, will be granted to private individuals for the space of seven years; such rights will be disposed of at public auction, at or immediately after the sale of town lots, to the bidder of the highest annual rent. No restrictions will be placed on the lessee, as to the form or nature of the quays, except such as shall be necessary to protect the public safety and convenience.

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No. 14. (138)

Proclamation by His Excellency JAMES DOUGLAS, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief of British Columbia. Proclamation having the force of Law in Her Majesty's Colony of British Columbia.

A. D. 1859.

Repealed by  
No. 93.

[14th May, 1859.]

**W**HEREAS under and by virtue of an Act of Parliament, made and passed in the session of Parliament held in the 21st and 22nd years of the Reign of Her Majesty Queen Victoria, intituled "An Act to provide for the Government of British Columbia," and by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, I, James Douglas, have been appointed Governor of the said Colony, and have been authorized by Proclamation issued under the Public Seal of the said Colony, to make Laws, Institutions, and Ordinances for the peace, order, and good government of the same:

And whereas it is expedient to afford to Aliens, desirous of becoming naturalized British subjects, facilities for so doing; and, also, to afford greater security and facility in possession and transferring of land, and for quieting of titles transmitted in part, or in whole, through Aliens:

Now, therefore, I do hereby declare, proclaim, and enact as follows, viz.:

A. D. 1859.

1. Every Alien now residing, or who may hereafter come to reside in the said Colony, with intent to settle therein, and who shall have actually resided therein, or in the adjacent Colony of Vancouver Island, or partly in the one Colony and partly in the other, for a continuous period of three years, without having been during any portion of that time a stated resident in any foreign country out of Her Majesty's Dominions, shall be entitled to procure himself to be naturalized in manner hereinafter described.

2. Every Alien desirous of becoming so naturalized, shall procure a declaration of residence and character, to be made and subscribed by some British subject, in the Form marked A. in the Schedule hereto. Such Alien shall, in the next place, make and subscribe a declaration of residence, in the Form marked B. in the said Schedule hereto, and shall also take the oath of allegiance to Her Majesty and Her successors, in the Form marked C. in the said Schedule.

3. Every such declaration and oath may be taken, made, and subscribed before any Justice of the Peace acting in any part of the Colony of British Columbia, or before any person appointed by Her Majesty to be a Judge in British Columbia. Every such declaration and oath shall be forthwith delivered to such Alien, with the certificate at the foot thereof signed by such Justice of the Peace, or by the Registrar of the said Judge, stating the compliance on the part of the said Alien with the regulations hereinbefore contained.

4. It shall be lawful for the said Alien to present all the said documents, properly subscribed and filled up as aforesaid, in open Court, on the first day of any Assizes or general sittings of the Court of British Columbia, in any place in the said Colony; and all such documents shall be then read aloud in open Court; and it shall be lawful for the said Court, on the last day of the said Assizes or general sittings, to order all the said documents and proceedings to be entered, as of record, in the said Court; and thereupon such Alien shall be admitted and deemed, while within the said Colony of British Columbia, to be thenceforth a British subject to all intents and purposes whatever, and to hold, enjoy, and transmit all property, rights, and capacities, in the same manner as if born within Her Majesty's Dominions.

5. Any woman (not a British subject previously to her marriage) married to a British subject, whether by birth or naturalization, shall be deemed to be a British subject, naturalized as from the date of her marriage, or of her husband's naturalization, which ever event shall last happen.

6. The declarations hereinbefore referred to (the Forms whereof are set forth in the Schedule hereunto) shall be deemed to be made in accordance with the Act 5 and 6, Wm. 4, c. 62, for the abolition

of unnecessary oaths; and any wilful false statement made therein shall be deemed perjury, and shall expose every person making such false statement, or procuring the same to be made, to all the penalties of perjury; and in addition to all such penalties, it shall be lawful for the said Court, on motion by the prosecutor, on any trial for perjury or subornation of perjury, in respect of any such declaration, to declare null and void the naturalization based upon such false declaration; and, thereupon, all such steps shall be taken as shall be thought fitting by the said Court. Provided, nevertheless, that nothing shall affect the rights of any other person, derived under the person whose naturalization is so annulled, unless such other person shall have been cognizant of the perjury at the time of acquiring the right.

7. There shall be paid to the Justice of the Peace before whom such declarations and oaths as aforesaid shall be taken and subscribed, the sum of four shillings, and no more, for each such declaration and for such oath respectively; and by the Registrar of the said Court for reading and recording the said certificate and documents, the sum of six shillings, and no more; and for every copy of such documents, the same amount as for an office copy of any judgment of the said Court; and all such fees shall be applied as any other fees payable to Justices and Registrars are applicable by law or custom.

8. Every Alien shall have the same capacity to take, hold, enjoy, recover, convey, and transmit title to lands and real estate of every description in this Colony, as if he were, at the time of the passing of this Act, a natural born British subject; and no person shall be disturbed in the possession or precluded from the recovery of any lands or real estate in this Colony, by reason only that some person from or through whom he may derive his title was an Alien.

9. This Act may be referred to in all legal proceedings as "The Aliens' Act, 1859."

## THE SCHEDULE BEFORE REFERRED TO.

### FORM A.

I, *M. N.*, of \_\_\_\_\_, do solemnly declare that I am a naturalized British subject [*or British born subject, as the case may be*], and that I have known *A. B.*, of \_\_\_\_\_, a Prussian subject [*or as the case may be*] ever since \_\_\_\_\_, and that the said *A. B.* has resided within the Colony of \_\_\_\_\_ for a period of [*three years or upwards*], that he is a person of good character, and that there exists to my knowledge no reason why to the said *A. B.* there should not be granted all the right and capacities of a natural

A. D. 1859]

born British subject; and I make this solemn declaration conscientiously believing the same to be true, and in compliance with the provisions of the Statute made and passed in the Session of Parliament held in the 5th and 6th years of the reign of the late King William IV., intituled "An Act for the abolition of unnecessary oaths."

(Signed) *M. N.*

Declared and subscribed by the said *M. N.*, before me, in pursuance of an Act of the Imperial Parliament of the United Kingdom, 5 and 6, William IV., c. 62, and of the Proclamation of the 14th day of May, 1859. And I hereby certify [that, to the best of my knowledge and belief, the said *A. B.* has complied with the requisite formalities specified in such Proclamation, entitling him to be naturalized as a British subject, and I know of no reason why he should not be so naturalized.

(Signed) *J. P.*,

*J. P.* for British Columbia, residing at \_\_\_\_\_, this  
day of \_\_\_\_\_, 185 .

## FORM B.

I, *A. B.*, do solemnly declare that I have resided three years in this Colony [or in this Colony and the adjacent Colony of Vancouver Island, as the case may be], with intent to settle in this Colony, and without having been during that time a stated resident in any foreign country. And I make this solemn declaration conscientiously believing the same to be true, and in compliance with the provisions of the Statute made and passed in the Session of Parliament held in the 5th and 6th years of the reign of the late King William IV., intituled "An Act for the abolition of unnecessary oaths."

(Signed) *A. B.*

Declared and subscribed before me, in pursuance of an Act of the Imperial Parliament of the United Kingdom, 5 and 6, William IV., c. 62, and of the Proclamation of the 14th day of May, 1859. And I hereby certify that, to the best of my knowledge and belief, the said *A. B.* has complied with the requisite formalities specified in such Proclamation, entitling him to be naturalized as a British subject, and I know of no reason why he should not be so naturalized.

(Signed) *J. P.*,

*J. P.* for British Columbia, residing at \_\_\_\_\_, this  
day of \_\_\_\_\_, 185 .

## FORM C.

*Oath of Allegiance.*

I, *A. B.*, do swear that I will be faithful and bear true allegiance to Her Majesty Victoria, of the United Kingdom of Great Britain and Ireland, and of the Dependencies and Colonies thereof in Europe, Asia, Africa, America,



A. D. 1860.

And whereas it is expedient, pending the operation of the survey of agricultural lands in British Columbia, to provide means whereby unsurveyed agricultural lands may be lawfully acquired by pre-emption in British Columbia by British Subjects, and in certain cases to provide for the sale of unsurveyed agricultural land in British Columbia by private contract:

Now, therefore, I, James Douglas, Governor of British Columbia, by virtue of the authority aforesaid, do proclaim, order, and enact:—

1. That from and after the date hereof, British subjects and aliens who shall take the oath of allegiance to Her Majesty and Her successors, may acquire unoccupied and unreserved and unsurveyed Crown Lands in British Columbia (not being the site of an existent or proposed town, or auriferous land available for mining purposes, or an Indian Reserve or settlement, in fee simple) under the following conditions:—

2. The person desiring to acquire any particular plot of land of the character aforesaid, shall enter into possession thereof and record his claim to any quantity not exceeding one hundred and sixty acres thereof, with the Magistrate residing nearest thereto, paying to the said Magistrate the sum of eight shillings for recording such claim. Such piece of land shall be of a rectangular form, and the shortest side of the rectangle shall be at least two-thirds of the longest side. The claimant shall give the best possible description thereof to the Magistrate with whom his claim is recorded, together with a rough plan thereof, and identify the plot in question by placing at the corners of the land four posts, and by stating in his description any other land marks on the said one hundred and sixty acres, which he may consider of a noticeable character.

3. Whenever the Government survey shall extend to the land claimed, the claimant who has recorded his claim as aforesaid, or his heirs, or in case of the grant of certificate of improvement hereinafter mentioned, the assigns of such claimant shall, if he or they shall have been in continuous occupation of the same land from the date of the record aforesaid, be entitled to purchase the land so pre-empted at such rate as may for the time being be fixed by the Government of British Columbia, not exceeding the sum of ten shillings per acre.

4. No interest in any plot of land acquired as aforesaid shall, before payment of the purchase money, be capable of passing to a purchaser unless the vendor shall have obtained a certificate from the nearest Magistrate that he has made permanent improvements on the said plot to the value of ten shillings per acre.

Upon the payment of the purchase money, a conveyance of the land purchased shall be executed in favour of the purchaser, re-

servicing the precious minerals with a right to enter and work the same in favour of the Crown, its assignees and licensees.

A. D. 1865

6. Priority of title shall be obtained by the person first in occupation, who shall first record his claim in manner aforesaid.

7. Any person authorized to acquire land under the provisions of this Proclamation, may purchase in addition to the land pre-empted in manner aforesaid, any number of acres not otherwise appropriated, at such rates as may be fixed by the Government, at the time when such land shall come to be surveyed, not to exceed ten shillings per acre; five shillings to be paid down, and the residue at the time of the survey.

8. In the event of the Crown, its assigns or licensees, availing itself or themselves of the reservation mentioned in Clause 5, a reasonable compensation for the wants and damage done shall be paid by the person entering and working, to the person whose land shall be wasted or damaged as aforesaid, and in case of dispute the same shall be settled by a jury of six men to be summoned by the nearest Magistrate.

9. Whenever any person shall permanently cease to occupy land pre-empted as aforesaid, the Magistrate resident nearest to the land in question, may in a summary way, on being satisfied of such permanent cessation, cancel the claim of the person so permanently ceasing to occupy the same, and record the claim thereto of any other person satisfying the requisition aforesaid.

10. The decision of the Magistrate may be appealed by either party to the decision of the Judge of the Supreme Court of Civil Justice of British Columbia.

11. Any person desirous of appealing in manner aforesaid, may be required, before such appeal be heard, to find such security as may be hereafter pointed out by the rules and orders hereinafter directed to be published.

12. The procedure before the Magistrate and Judge, respectively, shall be according to such rules and orders as shall be published by such Judge, with the approbation of the Governor for the time being of British Columbia.

13. Whenever a person in occupation at the time of record aforesaid, shall have recorded as aforesaid, and he, his heirs or assigns, shall have continued in permanent occupation of land pre-empted, or of land purchased as aforesaid, he or they may, save as hereinafter mentioned, bring ejectment or trespass against any intruder upon the land so pre-empted or purchased, to the same extent as if he or they were seised of the legal estate in possession in the land so pre-empted or purchased.

14. Nothing herein contained shall be construed as giving a right

A. D. 1860.

to any claimant to exclude free miners from searching for any of the precious minerals, or working the same upon the conditions aforesaid.

15. The Government shall, notwithstanding any claim, record, or conveyance aforesaid, be entitled to enter and take such portion of the land pre-empted or purchased as may be required for roads or other public purposes.

16. Water privileges, and the right of carrying water for mining purposes, may, notwithstanding any claim recorded, purchase or conveyance aforesaid, be claimed and taken upon, under, or over the said land so pre-empted or purchased as aforesaid, by free miners requiring the same, and obtaining a grant or license from the Gold Commissioner, and paying a compensation for waste or damage to the person whose land may be wasted or damaged by such water privilege, or carriage of water, to be ascertained, in case of dispute, in manner aforesaid.

17. In case any dispute shall arise between persons with regard to any land so acquired as aforesaid, any one of the parties in difference may (before ejection or action of trespass brought) refer the question in difference to the nearest Magistrate, who is hereby authorized to proceed in a summary way to restore the possession of any land in dispute to the person whom he may deem entitled to the same, and to abate all intrusions, and award and levy such costs and damages as he may think fit.

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No. 16. (153)

A. D. 1860.

Proclamation by His Excellency JAMES DOUGLAS, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief of Her Majesty's Colony of British Columbia and its Dependencies, Vice-Admiral of the same, &c., &c.

[20th January, 1860.]

**W**HEREAS by virtue of an Act of Parliament, made and passed in the 21st and 22nd years of the Reign of Her Most Gracious Majesty the Queen, and by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, in conformity therewith, I, James Douglas, Governor of the Colony of British Columbia, have been authorized by Proclamation, issued under the Public Seal of the said Colony, to make Laws, Institutions, and Ordinances for the peace, order, and good government of the same:

A. D. 1860.

And whereas it is expedient that town lots, suburban lots, and surveyed agricultural lands in British Columbia, which have been, or which may hereafter be, offered for sale at public auction, and remain unsold, should be sold by private contract:

Now, therefore, I, James Douglas, Governor of British Columbia, by virtue of the authority aforesaid, do proclaim, order, and enact as follows:—

The Chief Commissioner of Lands and Works for the time being for British Columbia, and all Magistrates, Gold Commissioners, and Assistant Gold Commissioners, by the said Chief Commissioner authorized in writing in that behalf, may sell by private contract any of the lots and lands hereinafter mentioned, at the prices and on the terms hereinafter respectively stated, viz.:—

- (a.) Town and suburban lots which have been, or hereafter may be, offered for sale at public auction, and remain unsold, at the upset price, and on the terms at and on which the same were offered for sale at such auction.
- (b.) Agricultural lands, surveyed by the Government Surveyor, which may or shall have been offered for sale at public auction, and remain unsold, at ten shillings per acre, payable one-half in cash at the time of sale, and the other half at the expiration of two years from such sale.

And the purchaser of any agricultural land aforesaid, shall purchase, subject to such rights of way and water as may be hereafter declared by some writing under the hand of the Chief Commissioner of Land and Works aforesaid.

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**No. 17. (163)**

Proclamation by His Excellency JAMES DOUGLAS, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief of British Columbia and its Dependencies, Vice-Admiral of the same, &c., &c.

A. D. 1861.

Repealed by  
No. 144.

[19th January, 1861.]

**W**HEREAS by virtue of an Act of Parliament, made and passed in the session of Parliament held in the 21st and 22nd years of the Reign of Her Majesty Queen Victoria, entitled “An Act to provide for the Government of British Columbia,” and by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, I, James Douglas, have been appointed Governor of the said Colony, and have been authorized by Proclamation issued under the Public Seal of the said Colony, to make

A. D. 1861.

Laws, Institutions, and Ordinances for the peace, order, and good government of the same :

And whereas by the second section of the Proclamation issued under the Public Seal of the said Colony, on the 4th day of January, 1860, it was (amongst other things) provided that the piece of land therein authorized to be acquired by pre-emption should be of a rectangular form, and the shortest side of the rectangle should be at least two-thirds of the longest side :

And whereas it was also provided by the seventh section of the said Proclamation, that any person authorized to acquire land under the provisions of the said Proclamation might purchase, in addition, any number of acres not otherwise appropriated :

And whereas it is expedient that land purchased under the provisions of the said Proclamation should be of the same form as land acquired by pre-emption by virtue of the said Proclamation :

And whereas it is expedient that persons acquiring land, either by purchase or pre-emption, should upon payment of the price of the land acquired be enabled to obtain a conveyance thereof ;

And whereas it is expedient to make further provisions with regard to the form of land acquired under the provisions of the said Proclamation as well by pre-emption as purchase :

Now, therefore, I do declare, proclaim, and enact as follows :—

Lands purchased as well as lands pre-empted shall be of rectangular shape, the shortest side being two-thirds the length of the longest side.

The boundaries shall be nearly as may according to the cardinal points of the compass.

Natural boundaries may be taken in certain instances.

When land is bounded by a purchased or pre-empted claim, the line of such claim may be adopted notwithstanding any irregularity in said line.

1. That land sought to be acquired, either by purchase or pre-emption, under the provisions of the said Proclamation of the 4th day of January, 1860, shall be of a rectangular form, and the shortest side of the said rectangle shall be two-thirds the length of the longest side, as provided in the said Proclamation touching land sought to be acquired by pre-emption.

2. The boundaries shall also run as nearly as possible by the cardinal points of the compass.

3. Where the land sought to be acquired is in whole or in part bounded by mountains, rocks, lakes, swamps, or the margin of a river, or by other natural boundaries, then such natural boundaries may be adopted as the boundaries of the land sought to be acquired, and in such case it shall be sufficient for the pre-emptor or purchaser to show to the satisfaction of the Magistrate in the said Proclamation last mentioned, that the said form conforms as nearly as circumstances permit to the provisions of the said Proclamation.

4. If the land sought so be acquired be bounded by a purchased or pre-empted claim, the line of such purchased or pre-empted claim may be adopted by the person so seeking to acquire, notwithstanding any irregularity in such line which may have been occasioned by the person's adoption of a natural boundary by the purchased or pre-empted claim.

5. Where a piece of land, not exceeding one hundred and sixty acres in area, is partially or entirely enclosed between two or more claims, the person seeking to pre-empt or purchase, may pre-empt or purchase such enclosed piece, notwithstanding any irregularity of form or disproportion in length of any of the sides.

A. D. 1861.

Land enclosed partially or entirely between two or more claims, and not exceeding 160 acres in area, may be purchased or pre-empted, notwithstanding irregularity of form or disproportion in length of sides.

6. The Chief Commissioner of Lands and Works may, from time to time, appoint sworn Surveyors to survey the piece of land acquired under the provisions of the said recited Proclamation, and shall administer to them the oath set forth in the Schedule hereto, and shall also acquire from each of them security to the value of £100, that they will well and efficiently survey such piece of land as they may be required to survey.

Sworn Surveyors.

7. Any person desirous of paying for any land acquired by him or her, may apply to the Chief Commissioner of Lands and Works to appoint a sworn Surveyor to survey the said land at the expense of the applicant.

Application for sworn survey may be made to Chief Commissioner of Lands and Works.

8. The sworn Surveyor shall make an accurate survey of the said land, and report thereupon to the Chief Commissioner of Lands and Works, and the Chief Commissioner of Lands and Works may, if the title of the applicant be clear and undisputed, receive payment for the same land, and a conveyance may thereupon be issued to the applicant.

Sworn Surveyor to make survey and report, on which a conveyance may be issued.

9. The report of a sworn Surveyor may also be received as evidence upon an application for a certificate of improvement.

Sworn Surveyor may report on improvements.

10. The Chief Commissioner of Lands and Works may issue a scale of remuneration to be paid to the sworn Surveyor.

Scale of remuneration.

11. This Proclamation may be cited for all purposes as "The Pre-emption Amendment Act, 1861."

Short Title.

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## SCHEDULE.

### *Form of Oath.*

I, A. B., of \_\_\_\_\_, do hereby make oath that I will, whilst acting as Sworn Surveyor, make the surveys which I may be appointed to make by the Chief Commissioner of Lands and Works, in a true, faithful, and accurate manner, and will report in like manner the surveys so made.

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A. D. 1861.

## No. 18. (163A)

Proclamation by His Excellency JAMES DOUGLAS, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief of British Columbia.

[19th January, 1861.]

WHEREAS under and by virtue of an Act of Parliament, made and passed in the session of Parliament held in the 21st and 22nd years of the Reign of Her Majesty Queen Victoria, intituled "An Act to provide for the Government of British Columbia," and by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, I, James Douglas, have been appointed Governor of the said Colony, and have been authorized by Proclamation issued under the Public Seal of the said Colony, to make Laws, Institutions, and Ordinances for the peace, order, and good government of the same:

And whereas by a Proclamation issued under the Public Seal of the said Colony, on the 4th day of January, 1860, the price of unsurveyed land acquired by purchase or pre-emption, under the provisions of the said Proclamation, was stated to be at such rate as might for the time being be fixed by the Government of British Columbia, not exceeding the sum of ten shillings per acre:

And whereas by a Proclamation issued under the Public Seal of the said Colony, on the 20th day of January, 1860, the price of agricultural land, surveyed by the Government Surveyor, which may or shall have been offered for sale at public auction and remain unsold, was fixed at ten shillings per acre, payable one-half in cash at the time of sale, and the other half at the expiration of two years from the time of sale:

And whereas I have been empowered by Her Majesty's Government to lower the price of Country Lands in British Columbia, in all cases, to the sum of four shillings and two pence (4s. 2d.) per acre:

Now, therefore, I do hereby declare, proclaim and enact as follows:—

Repeal of so much of the Proclamation of the 20th January 1860, as fixes the price of land in B.C. at 10s. per acre.  
Price of unsurveyed lands to be 4s. 2d. per acre,

1. So much of the said Proclamation of the 20th day of January, 1860, as fixed the price of surveyed agricultural land at ten shillings per acre, is hereby repealed.

2. The price of all unsurveyed country land in British Columbia, whether acquired by pre-emption or purchase under the Proclamation dated the 4th day of January, 1860, shall be four shillings and two pence (4s. 2d.) per acre.

3. The upset price of all country lands in British Columbia, exposed for sale at public auction, shall be four shillings and two pence (4s. 2d.) per acre.

A. D. 1861.

Upset price of surveyed lands 4s. 2d. per acre.  
Short Title.

4. This Proclamation may be cited for all purposes as the "Country Land Act, 1861."

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**No. 19. (167)**

Proclamation by His Excellency JAMES DOUGLAS, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief of British Columbia and its Dependencies, Vice-Admiral of the same, &c., &c.

A. D. 1861.

Repealed by  
No. (170) and 144.

[28th May, 1861.]

WHEREAS under and by virtue of an Act of Parliament, made and passed in the session of Parliament held in the 21st and 22nd years of the Reign of Her Majesty Queen Victoria, entitled "An Act to provide for the Government of British Columbia," and by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, I, James Douglas, have been appointed Governor of the said Colony, to make Laws, Institutions, and Ordinances for the peace, order, and good government of the same, and

Whereas by the "Country Land Act, 1861," the price of all un-surveyed Country Land in British Columbia, whether acquired by pre-emption or purchase, under the Proclamation dated the 4th day of January, 1860, was fixed at four shillings and two pence per acre: and

Whereas it is inexpedient that any person, other than a bona fide settler, should take up land under the said Proclamation, and without the occupation and improvement necessary under the said Proclamation to complete his title as a pre-emptor:

Now, therefore, I do hereby declare, proclaim, and enact as follows, viz.:

That all persons who may, after the date hereof, purchase land under the provisions of the Proclamation of the 4th day of January, 1860, or the "Country Land Act, 1861," shall hold the same under precisely the same terms and conditions of occupation and improvement as are mentioned in the said Proclamation of the 4th day of January, 1860, with regard to lands pre-empted without purchase.

No person shall be entitled to hold by pre-emption more than one hundred and sixty acres under the said Proclamation, or any of them, at one time.

If any person, being already registered as a pre-emptor, pre-empt any other land under the provisions of the said Proclamation, the

A. D. 1861.

land so previously pre-empted shall ipso facto be forfeited, and shall with all improvements made thereon be open to settlement by any other person.

This Proclamation may, on all occasions, be cited as the "Pre-emption Purchase Act, 1861."

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No. 20. (169)

A. D. 1861.

Extended by  
No. (208) and re-  
pealed by 143.

Proclamation by His Excellency JAMES DOUGLAS, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief of British Columbia and its Dependencies, Vice-Admiral of the same, &c., &c.

[26th August, 1861.]

Preamble.

**W**HEREAS under and by virtue of an Act of Parliament made and passed in the session of Parliament held in the 21st and 22nd years of the reign of Her Majesty Queen Victoria, entitled "An Act to provide for the Government of British Columbia," and by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, I, James Douglas, have been appointed Governor of the said Colony, and have been authorized by Proclamation under the Public Seal of the said Colony, to make Laws, Institutions, and Ordinances for the peace, order, and good government of the same :

And whereas for the more effectually securing the title to and facilitating the transfer of real property in the Colony of British Columbia it is expedient to provide the means of registering matters affecting the same :

Now, therefore, I do hereby declare, proclaim, and enact as follows :—

Offices in New West-  
minster and other  
Districts in British  
Columbia.

1. There shall be established in New Westminster and in such other Districts in British Columbia as may from time to time be nominated by the Governor by Proclamation under his hand and the public seal of the Colony, Offices for the Registration of Instruments in writing affecting Real Estate in the Colony, and the office in New Westminster shall be styled "The Land Registry Office," and the other offices shall be styled the "District Land Registry Offices," with the addition of the names of the Districts wherein the same are established.

Appointment of  
Registrar General  
and Registrars for  
Districts.

2. It shall be lawful for His Excellency the Governor to appoint by commission under the public seal of the Colony, proper persons to perform the duties of the said offices, who shall be styled the

“Registrars,” and also upon any vacancy in the said offices to appoint from time to time in like manner other proper persons to be the Registrars.

A. D. 1861

The Registrar appointed at New Westminster shall be styled “Registrar General of British Columbia,” and shall have the superintendence of all the said offices.

3. The Magistrates in British Columbia may be appointed Registrars pro tempore.

Magistrates may be appointed District Registrars.

4. There shall be provided at the public expense houses or other places convenient for carrying on the business of the said offices, with all proper means for making and preserving the records and registers hereinafter directed to be made and kept, and also seals of office with suitable devices, whereon shall be inscribed “Land Registry Office,” with the addition of the name of the District wherein the same is situate; the said seals shall be in the custody of the Registrars for the time being, to be used in their official capacity only, and they shall be responsible for the safety and use thereof, and judicial notice shall be taken in all Courts of the impressions thereof without any evidence of such seal having been impressed, or any other evidence in relation thereto.

Places of business. Seals of office to be kept and impressions thereof to be taken judicial notice of.

5. The Registrar General shall from time to time, by writing under his hand and official seal, appoint a Deputy who may perform the duties of the office, but all the official acts of the said Deputy shall be in the name of the Registrar General who shall be responsible for the same. The instrument under which such Deputy shall be appointed shall be deposited among the records of the office for public reference. And in case of a vacancy in the office of Registrar General, the Deputy shall during such vacancy perform the duties of the office as the Registrar General, and until a successor be appointed.

Deputy Registrar.

6. Before entering upon the duties of their offices the Registrars and Deputy Registrar shall find good and sufficient bonds conditioned for the faithful performance of their duties, and shall take the oaths of allegiance and supremacy, and shall be sworn to the faithful performance of their duties before entering thereon.

Registrar's bonds and oaths.

7. There shall be paid to the Registrar General an annual salary not to exceed the sum of five hundred pounds, to the Deputy and Registrars an annual salary not to exceed three hundred pounds, and an adequate remuneration to each of the Magistrates appointed Registrars.

Salaries.

8. The office at New Westminster shall be opened on the 1st day of November, 1861, and the other offices shall be opened on the 28th day next after the Proclamations of nomination respectively, and until the opening of the District Offices the registration of all instruments affecting real estate in British Columbia shall be effected at the Land Registry Office at New Westminster.

Date of opening office at New Westminster and in other Districts.

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All instruments affecting real estate in a District are to be registered in the District office when nominated.

Office hours.

Registration of instruments affecting real estate.

Upon the opening of a District office a transcript of registrations in that District to be sent to the District Registrar.

Custody and preservation of records.

To entitle instruments to be registered.

Acknowledgments of proofs of execution to whom to be made within the Colony and within the British Dominions. If acknowledged without the British Dominions.

9. From and after the nomination of a District and the opening of an office therein as aforesaid, all instruments affecting any real estate in the said District shall be registered in the office of such District, and in none other.

10. The place of business of the said offices shall be kept open every day in the year, except Saturdays, Sundays, Good Friday, Christmas Day, New Year's Day, and such other public holidays and fast days as are or may by Law or Proclamation from time to time be declared in the Colony, from the hour of 10 o'clock in the morning to the hour of 4 o'clock p.m.

11. It shall be the duty of the Registrars when requested, and upon payment of the proper fees, to register or cause to be registered all instruments in any manner affecting real estate situate within their respective Districts or the title thereto, which shall be certified as hereinafter required, by correctly transcribing or copying the same, with the certificates endorsed thereon or attached thereto, word for word, letter for letter, figure for figure, sign for sign, and erasure for erasure, in books appropriate to the titles respectively endorsed on such instruments.

12. Upon the opening of a District Office, a transcript of the registrations affecting real estate in such District prior to such opening, shall be sent to the Registrar of such District from the Registrar General's Office, and shall be kept in such District Office as part of the records of such office.

13. The Registrars shall have the custody of and shall safely keep and preserve all the records, the furniture and seal of their offices, but shall not be responsible if the same are lost or destroyed by fire or other inevitable accident.

14. Before any instrument, other than a decree, judgment, or order of a Court of civil jurisdiction, is registered, and to entitle the same to be registered in the said office, the execution thereof shall first have been acknowledged or proved in the manner hereinafter provided; such fact of acknowledgment or proof shall appear by a certificate under the hand and seal of the proper officer, or other person authorized to take such acknowledgments, endorsed upon or attached to such conveyance, deed, or other instrument.

15. The acknowledgment or proof of execution of all instruments hereby authorized to be registered, if acknowledged or proved within the Colony, may be made to any Registrar, or to any person commissioned in that behalf by the Judge of the Supreme Court of Civil Justice of British Columbia; and if acknowledged or proved without the Colony and within the British Dominions, may be made to any Judge of a Court, or Clerk or Registrar of any Court having a seal, or to any Notary Public, or to any Magistrate of any Town or District within the said Dominions; and if acknowledged

or proved without the British Dominions, may be made to any British Ambassador, Charge d'Affaires, or Minister, Consul, or Consular Agent appointed to reside in the country where such acknowledgment or proof is made, or to any Judge of any Court of Record having a seal, or to any Notary Public practising in such country.

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16. The Judge of the Supreme Court of Civil Justice, for the time being, may appoint by a Commission such and as many competent persons, other than the persons before mentioned, as may be necessary for the accommodation of the public, to take the acknowledgment and proof of the execution of all instruments in writing, within the Colony, which may by law be registered.

Judge of Supreme Court to appoint officers to take acknowledgments.

17. No acknowledgment of the execution of any instrument affecting any real estate within this Colony shall be taken, unless the party offering to make such acknowledgment shall appear before the officer taking the same, and unless such party shall either be personally known to the officer, or his identity be proven by the oath or affirmation of a competent witness; and no certificate of acknowledgment shall be valid unless it recites in substance and legal effect the facts required by this Section.

Party acknowledging must either be known to officer taking acknowledgment or identity proven.

18. Acknowledgments and proofs of the execution of instruments entitled to be registered may, for the purposes of this Act, be made by

Who may make acknowledgments, what facts to be acknowledged, and forms and contents of certificates.

- (1.) The party executing in person such instrument.
- (2.) The Attorney in fact, when such instrument is executed by an Attorney in fact.
- (3.) The Secretary of any Corporation, when such instrument is executed by such Secretary.
- (4.) A subscribing witness to such instrument.

Provided, always, that no acknowledgment of any party executing in person such conveyance, deed, or other instrument, shall be taken, unless in addition to what is required by Section 17 of this Act, such party acknowledge that he is the person mentioned in such instrument as the maker thereof, and whose name is subscribed thereto as a party, that he knows the contents thereof, and that he executed the same voluntarily; and no certificate of acknowledgment shall be valid unless in addition to what is required by Section 17 to be recited, it recites in substance and legal effect the facts required by this proviso. And, provided also, that no acknowledgment by an attorney in fact shall be taken, unless in addition to what is required by Section 17 of this Act, such attorney in fact shall acknowledge that he is the person who subscribed the name of (naming the maker) to the instrument, that said (naming the maker) is the same person mentioned in the instrument as the maker thereof, that (naming the attorney in fact) knows the contents of the instrument, and subscribed the name of (naming the

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maker) thereto voluntarily as the free act and deed of the said (naming the maker); and no certificate of such acknowledgment shall be valid unless in addition to what is required by Section 17 to be recited, it shall recite in substance and legal effect the facts required by this proviso. And, provided also, that no acknowledgment by the Secretary of any Corporation shall be taken unless, in addition to what is required by Section 17 of this Act, such Secretary acknowledge that he is the person who subscribed his name and affixed the seal of such Corporation as the Secretary, to such instrument, and that he was first duly authorized to subscribe and affix the said seal to the same; and no certificate of such acknowledgment shall be valid unless, in addition to what is required by Section 17 to be recited, it recites in substance and legal effect the facts required by this proviso. And, provided also, that no acknowledgment by a married woman shall be taken unless, in addition to what is required by Section 17, such married woman shall be first made acquainted with the contents of the instrument, and the nature and effect thereof, and shall acknowledge on examination, apart from and out of hearing of her husband, that she knows the contents of the instrument, and understands the nature and effect thereof, that she executed the same voluntarily, without fear, or compulsion, or undue influence of her husband, that she is of full age and competent understanding, and does not wish to retract the execution of the same; and no certificate of such acknowledgment shall be valid unless, in addition to what is required by Section 17 to be recited, it recites in substance and legal effect the facts required by this proviso. And, provided also, that no acknowledgment or proof by a subscribing witness shall be taken unless, in addition to what is required by Section 17 of this Act, such subscribing witness shall acknowledge that he is the person whose name is subscribed to the instrument as a witness, and shall prove that (naming the maker) whose name is subscribed thereto as the maker did execute the same; and no certificate or such acknowledgment or proof shall be valid unless, in addition to what is required by Section 17 to be recited, it recites in substance and legal effect the facts required by this proviso.

Registrar General  
may subpoena party  
or witness to testify.

19. That, upon the application of any person taking any grant, lease, mortgage, or charge, under or by virtue of any instrument entitled under this Act to be registered, or of any person claiming under such last mentioned person, verified under the oath of the applicant, that any party or witness to such instrument, residing or being within twenty miles of any office, refuses to appear and acknowledge or testify touching the execution thereof, and that such instrument cannot be registered without such acknowledgment or testimony, the Registrar may issue a notice in writing requiring such party or witness to appear before him, and to acknowledge or testify.

20. That every person who, after having been served with such notice as aforesaid, shall refuse or neglect to appear without reasonable cause assigned, or appearing shall refuse to acknowledge or answer upon oath or affirmation touching the matter aforesaid, shall be liable to a penalty not exceeding £20 sterling, which may be recovered before any Justice of the Peace in a summary way, and for such damages as may be sustained by such party on account of such neglect or refusal; but no person shall be required to attend unless his reasonable expenses shall have been first tendered to him, together with a reasonable sum for his loss of time.

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Penalty for refusing to obey subpoena or to acknowledge or testify. When not bound to obey subpoena.

21. That it shall be competent for the Supreme Court of Civil Justice aforesaid, to issue a Commission for taking the deposition of any subscribing witness to any instrument entitled under this Act to be registered, in the same manner as for taking the testimony of any witness in a cause pending before it; and that all the costs of such Commission, and all directions for executing the same shall be at the discretion of the said Court, regard being had to the general provisions of this Act.

Commission may issue to take deposition.

22. When any instrument, authorized by law to be registered, shall be deposited in the Registrar's Office for registration, the Registrar, or in the case of the Registrar General, the Registrar General or his Deputy shall endorse upon the same the exact time when it was so deposited, noting the year, month, day, hour, and minute of its reception, which shall be considered the date of registration, and when the same shall have been registered, shall also note at the foot of the register or record thereof, the year, month, day, hour, and minute when it was deposited for registration, and shall sign the record thereof, and shall also note under his signature and seal, upon each instrument registered, the book and pages of the book in which, and the time when, it is registered, before it is returned to the party entitled to the same.

Registrar's duty on receipt of instruments.

23. From the time any instrument affecting real estate, acknowledged and certified as required by this Act, shall be delivered to a Registrar, or in case of the Registrar General to him or his Deputy Registrar, for registration, all persons shall be deemed to have notice of the contents and legal effect of such instrument.

Registration to impart notice.

24. No person, other than the actual parties thereto, shall be deemed to have notice of any instrument affecting real estate in the said Colony executed after the said 1st day of November, 1861, unless the same be acknowledged or proved and certified, and registered pursuant to this Act, and every instrument hereafter made which shall not be acknowledged or proved, certified, and registered pursuant to this Act, shall be void as against any subsequent purchaser or incumbrance of the same real estate who shall have registered the instrument under which his title as purchaser or incumbrance arises previously; provided always that nothing herein

Unregistered conveyance &c. not to impart notice to third parties.

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contained shall be construed to impair the power of the Court of Chancery to grant relief upon bill filed charging actual fraud or conspiracy.

List &c., when released to be satisfied of Record.

25. Whenever any lien or incumbrance registered as aforesaid, affecting any real estate shall be released, satisfied or discharged, it shall be the duty of the person for whom such release, satisfaction, or discharge moves, to give to the person in whose favour the same is made an instrument in writing acknowledging the same to have been made, and such instrument shall be acknowledged or proved and certified as hereinbefore required.

And if any person whose duty it is to give such release, satisfaction, or discharge, refuses or neglects for the space of ten days after being thereto requested by the party entitled to the same to execute and acknowledge such instrument, he shall be liable to a like penalty of twenty pounds as aforesaid, to be levied in manner aforesaid, and also for all actual damages occasioned by such neglect or refusal.

Power not to be revoked until revocation is registered.

26. No power of attorney when registered as required by this Act, shall be deemed to be revoked by any act of the grantor thereof until the instrument containing such revocation, acknowledged or proved and certified in the manner required by this Act, shall be delivered for registration.

Revocation by death insanity &c., not to revoke until registration of an affidavit.

27. The death, insanity, bankruptcy, or insolvency of any maker of a power of attorney, or the marriage of any female maker of a power of attorney, shall not be deemed to revoke such power of attorney as far as any real estate in any district in British Columbia is concerned, until an affidavit of such death, insanity, bankruptcy, or marriage shall have been served upon the Registrar General or his Deputy, and the Registrar of each District in which such real estate is situate.

Registrar to register affidavit accordingly.

28. It shall be the duty of every Registrar or Deputy Registrar, served with such affidavit as last aforesaid, immediately to register the same in an affidavit book to be kept for that purpose, and to write on the pages of the register on which such power of attorney is registered, a note to the effect following: "alleged to be revoked by" (death, insanity, &c., &c.) see registered affidavit (page                      affidavit book, volume                      ).

Original Deed duly acknowledged may be read in evidence.

29. Every instrument which shall be acknowledged, or proved and certified, as in this Act prescribed, may, together with the certificate of acknowledgment or proof, be read in evidence in all Courts of Law and Equity, without further proof of execution.

Certified copies of Deeds to have the force of originals in certain cases.

30. Copies of all instruments, duly deposited for registration, or registered in a Registrar's office, certified by the Registrar, or in case of the Registrar General's office, by him or the Registrar General's Deputy, to be full, true, and correct copies may, in the absence

of the original, and if produced by a party not having the control of the original, be read in evidence in all Courts of Law and Equity, without further proof.

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31. The certificate of any Officer authorized to take acknowledgments pursuant to this Act, shall be prima facie evidence of the facts therein recited, but shall not be conclusive.

Certificate of acknowledgment to be prima facie evidence.

32. Each Registrar shall form and keep indices in separate volumes, in such manner as to afford correct and easy reference to the several records of his office.

Indices to be kept.

33. It shall be the duty of the Registrars, upon the application of any person set forth in distinct and specific terms in writing, to make searches for all instruments deposited and registered in his office, touching or affecting the real estate specified in such application, and to furnish a certificate of every such search, stating the names of the parties to such instruments, the dates thereof, the year, month, day, hour, and minute they were deposited or registered, and the book and page where they are registered.

Registrar to make searches and to furnish certificates thereof.

34. For the official services rendered by the Registrars, they are hereby authorized and empowered to charge the following fees, viz:

Fees of office.

For taking the acknowledgment or proof of any instrument which may by law be registered, for each signature of a party, if more than one, four shillings, if only one signature, eight shillings, including a certificate of acknowledgment of execution in both cases.

For administering an oath, four shillings.

For endorsing the time of depositing any instrument, and for noting the same in the record, and for endorsing the registration thereof upon every such instrument, two shillings.

For registering any instrument, for every folio of one hundred words and figures therein, each and every figure to count as a word, three shillings; fractions of a folio to count as a folio.

For making in the indices the several entries of instruments registered, required by law to be indexed, for every such instrument, two shillings and six-pence.

For the use of the records for inspection and examination by persons desiring to inspect the same, for every such inspection and examination at one time, one shilling.

For making certified copies of all instruments, matters, and things deposited and of record in the office, the same fees as for registering instruments.

For every subpoena, four shillings.

For every official certificate, four shillings.

For registering plans, maps, charts, surveys, diagrams, schedules, drawings, and other writings, matters, and things not herein

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enumerated and mentioned, and for making certified copies of such, and for making searches, and for all other services not herein specified to be rendered by the Registrars, such fees to be charged as may be agreed upon between them and the party requiring the performance of the same; and in case of difference, the fees to be determined under the direction of the Judge of the Supreme Court, whose decision shall be final.

For persons not connected with the office making for themselves transcripts or extracts from the records, no charge, but the making of such transcripts and extracts to be allowed only subject to such rules as shall be established by the Registrar General as aforesaid, and which shall be suspended in the office for the information of the public.

Authority to alter fees under certain conditions.

35. It shall be lawful for the Registrar General, from time to time, as he shall see fit, with the sanction of the Supreme Court of Civil Justice, to change the amount of any of the aforesaid fees, and to establish such other and reduced or additional fees as may be deemed expedient; provided, that a list of all such changes and additions shall, when made and sanctioned, be laid before the Governor within a fortnight; and, provided also, that a similar list shall be suspended in a conspicuous place in the Registrar General's office for one calendar month, at least, before the same shall come into operation, after which period it shall be lawful for the Registrars to charge and recover such altered fees.

Fees to be prepaid.

36. The Registrars shall not be bound to receive or register any instrument, or furnish any copies, or make any search, or render any service connected with their offices until the fees for the same, as prescribed by law, are first paid or tendered.

The Registrars shall keep a strict account of all fees received in their offices, and shall, quarterly, pay over all such fees to the Colonial Treasurer, whose receipt in writing will be a sufficient discharge for the same; and such fees, when so received by the said Treasurer, shall form part of the public moneys belonging to the Colony.

Meaning of certain words, expressions, and terms in this Act.

37. In the construction of this Act, the following words used therein shall have the following meanings, unless there be something repugnant or contradictory in the context, viz.: "Real Estate" shall include lands, tenements, and hereditaments, whether corporeal or incorporeal. "Instrument" shall include every deed or agreement in writing, and every judgment, decree, or order of any Court of civil jurisdiction in British Columbia.

Exceptions as to conveyances made.

38. Nothing hereinbefore contained shall be deemed to apply to any instrument, of whatever nature, made before the said 1st day of November, 1861, but any instrument made prior to the said 1st of November, 1861, although not acknowledged or proved and

certified as provided in this Act, may be registered in the offices of the said Registrars; and all such last mentioned records shall be made and kept in a manner, as nearly as may be, the same as herein appointed for instruments of a like nature, dated subsequently to the 1st day of November, 1861.

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And indices shall also be kept thereof, as nearly as may be, similar to those herein appointed for instruments dated subsequently to the said 1st day of November, 1861, but all such records and indices shall be kept separate and distinct from the records and indices relating to instruments made subsequently to the said 1st day of November, 1861.

And all persons shall be deemed to have notice of any instrument executed prior to the said 1st day of November, 1861, which shall be registered pursuant to this Section, from the time the same shall be delivered to the Registrar General for registration.

39. This Act may be cited as the "British Columbia Land Registry Act, 1861." Short Title.

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**No. 21.** (170)

Proclamation by His Excellency JAMES DOUGLAS, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief of British Columbia and its Dependencies, Vice-Admiral of the same, &c., &c.

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Repealed by No.  
(241.)

[27th August, 1861.]

**W**HEREAS under and by virtue of an Act of Parliament made and passed in the session of Parliament held in the 21st and 22nd years of the reign of Her Majesty Queen Victoria, entitled "An Act to provide for the Government of British Columbia," and by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, I, James Douglas, have been appointed Governor of the said Colony, and have been authorized by Proclamation under the Public Seal of the said Colony, to make Laws, Institutions, and Ordinances for the peace, order, and good government of the same:

And whereas it is expedient to amend and consolidate the Laws affecting the settlement of unsurveyed Crown Lands in British Columbia:

Now, therefore, I do hereby declare, proclaim, and enact as follows:—

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Repeal of former Proclamations.

Purchasers since the 20th June, to hold on the ordinary terms of pre-emption.

British subjects, and aliens who shall take the oath of allegiance, may acquire the right to hold land, and to purchase the same when surveyed, on certain conditions.

The settler shall enter into possession and record his claim to any quantity not exceeding 160 acres.

A holder of land may acquire additional land contiguous to the 160 acres, by paying an instalment of the purchase money.

Proposing purchaser shall hold and record.

Description of the land, how to be stated.

Rectangular shape, or as nearly as possible proportion of the lines.

1. The Proclamation issued by me, under the public seal of the said Colony, dated the 4th day of January, 1860, and the "Pre-emption Amendment Act, 1861," and the "Pre-emption Purchase Act, 1861," are hereby repealed.

2. All purchasers of unsurveyed land in British Columbia, who shall have made their purchases subsequently to the 20th day of June, 1861, and previously to the 27th day of August, 1861, shall hold the land purchased under precisely the same terms and conditions of occupation and improvement as are mentioned in the said Proclamation of the 4th day of January, 1860, with regard to lands pre-empted without purchase.

3. That from and after the date hereof, British subjects and aliens who shall take the oath of allegiance to Her Majesty and Her successors, may acquire the right to hold and purchase in fee simple unoccupied, and unsurveyed, and unreserved Crown Lands in British Columbia, not being the site of an existent or proposed town, or auriferous land available for mining purposes, or an Indian Reserve or Settlement, under the following conditions:—

4. The person desiring to acquire any particular plot of land of the character aforesaid, shall enter into possession thereof and record his claim to any quantity not exceeding one hundred and sixty acres thereof, with the Magistrate residing nearest thereto, paying to the said Magistrate the sum of eight shillings for recording such claim.

5. Any person in possession of one hundred and sixty acres of land as aforesaid, may acquire the right to hold and purchase any further tract of unsurveyed and unoccupied land aforesaid, over and above the quantity of one hundred and sixty acres aforesaid, and contiguous thereto, upon payment to the nearest Magistrate of the sum of two shillings and one penny per acre for the same, as and by way of instalment of the purchase money to be ultimately paid to the Government upon the survey of the same land.

6. Any person so paying such deposit shall enter into possession and record his claim to such last mentioned tract of land, in manner hereinbefore prescribed.

7. The claimant shall in all cases give the best possible description of the land to the Magistrate with whom his claim is recorded, together with a rough plan thereof, and identify the plot in question by placing at the corners of the land four posts, and by stating in his description any other land marks of a noticeable character.

8. Every piece of land sought to be acquired under the provisions of this Proclamation, shall, save as hereinafter mentioned, be of a rectangular shape, and the shortest line thereof shall be at least two-thirds the length of the longest line.

9. Where the land sought to be acquired is in the whole or in part bounded by mountains, rocks, lakes, swamps, or the margin of a river, or by other natural boundaries, then such natural boundaries may be adopted as the boundaries of the land sought to be acquired, and in such case it shall be sufficient for the claimant to show to the satisfaction of the Magistrate that the said form conforms as nearly as circumstances permit to the provisions of this Proclamation.

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Natural boundaries may be adopted in certain cases.

10. If the land sought to be acquired be bounded by a claim, the line of such claim may be adopted by the person so seeking to acquire, notwithstanding any irregularity in such line which may have been occasioned by the adoption of a natural boundary by the claimant of the adjacent claim.

Lines of adjacent claims may be adopted.

11. Where a piece of land is partially or entirely enclosed between two or more claims, the claimant may acquire such enclosed piece notwithstanding any irregularity of form, or disproportion in length, of any of the sides.

Enclosed spaces may be adopted, notwithstanding any irregularity of shape.

12. The boundaries shall run as nearly as possible by the cardinal points of the compass.

Boundaries to run as nearly as possible according to the points of the compass.

13. When the Government Survey shall extend to the land claimed, the claimant who has recorded his claim as aforesaid, or his heirs or devisees, or in the case of the grant of a certificate of improvement hereinafter mentioned, the assigns of such claimant shall, if he or they shall have been in continuous occupation of the same land from the date of the record aforesaid, be entitled to purchase the land so acquired, or in respect of which such deposit shall have been paid as aforesaid, at such rate as may for the time being be fixed by the Government of British Columbia, not exceeding the sum of four shillings and two pence per acre.

Purchase on survey.

14. When the claimant, his heirs or devisees, shall prove to the nearest Magistrate by the evidence of himself and of third parties, that he or they has or have continued in permanent occupation of the claim from the date of record, and has or have made permanent improvements thereon to the value of 10s. per acre, the said Magistrate shall grant to the said claimant, his heirs or devisees, a certificate of improvement in the Form marked A in the Schedule hereto.

Certificate of improvement to be issued when improvements have been made to the extent of 10s. per acre.

15. Upon the grant of the certificate of improvement aforesaid, the person to whom the same is issued may, subject to any unpaid instalments, sell, mortgage, or lease the land in respect of which such certificate has been issued, but no interest in any plot of land acquired in either of the methods aforesaid, shall, before payment of the purchase money, be capable of passing to a purchaser, unless the vendor shall have obtained such certificate of improvement as aforesaid.

When certificate of improvement has been issued the holder may sell or deal with the land.

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Conveyance on payment of the purchase money.

16. Upon payment of the purchase money a conveyance of the land purchased shall be executed in favour of the purchaser, reserving the precious minerals with a right to enter and work the same in favour of the Crown, its assignees and licensees.

Compensation to owner whose land may be taken or injured in certain cases.

17. In the event of the Crown, its assignees or licensees, availing itself or themselves of the privileges (other than the taking of land required for roads) mentioned in clauses 25 and 26, a reasonable compensation for the land taken, wasted, or damaged shall be paid to the person whose land shall be taken, wasted, or damaged as aforesaid, and in case of dispute the same shall be settled by a jury of six men, to be summoned by the nearest Magistrate.

Priority of title.

18. Priority of title shall be obtained by the person who, being in possession, shall first record his claim in manner aforesaid.

Cancellation of claim on permanent cessation of occupation.

19. Whenever any person shall permanently cease to occupy land acquired in either of the methods aforesaid, the Magistrate resident nearest to the land in question may, in a summary way, on being satisfied of such permanent cessation, cancel the claim of the person so permanently ceasing to occupy the same, and record the claim thereto of any other person satisfying the requisitions aforesaid.

Deposits and improvements forfeited on cancellation.

20. All deposits paid in respect of such forfeited claims, and all improvements, buildings, and erections thereon, shall, (subject to the appeal hereinafter mentioned) on such cancellation be absolutely forfeited; and such claims, improvements, buildings, and erections shall, subject to the appeal hereinafter mentioned, be open to settlement by any other person.

Appeal.

21. The decision of the Magistrate may be appealed by either party to the decision of the Judge of the Supreme Court of Civil Justice of British Columbia.

Security on appeal.

22. Any person desirous of appealing in manner aforesaid, may be required before such appeal be heard, to find such security as may be hereafter pointed out by the Rules or Orders hereinafter directed to be published.

Procedure.

23. The procedure before the Magistrate and Judge respectively, shall be according to such Rules and Orders as shall be published by such Judge with the approbation of the Governor for the time being of British Columbia.

Ejectment or trespass by holder.

24. Whenever a person in occupation at the time of record aforesaid, shall have recorded as aforesaid, and he, his heirs or (in the case of a certificate of improvement) his assigns, shall have continued in permanent occupation of the same land since the date of such record, he or they may, save as hereinbefore mentioned, bring

ejection or trespass against any intruder upon the same land, to the same extent as if he or they were seized of the legal estate in possession in the same land.

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25. Nothing herein contained shall be construed as giving a right to any claimant to exclude free miners from searching for any of the precious minerals or working the same, upon the conditions aforesaid.

Saving of right to search and get gold in favour of free miners.

26. The Government shall, notwithstanding any claim, record, or conveyance aforesaid, be entitled to enter and take such portion of the land acquired in either of the methods aforesaid, as may be required for roads or other public purposes.

Power to Government to re-take land for public purposes.

27. Water privileges, and the right of carrying water for mining purposes may, notwithstanding any claims recorded, be claimed and taken upon, under, or over the said land so pre-empted or purchased as aforesaid, by free miners requiring the same, and obtaining a grant or license from the Gold Commissioner, and paying a compensation for waste or damage to the person whose land may be wasted or damaged by such water privilege or carriage of water, to be ascertained in case of dispute in manner aforesaid.

Water for mining purposes may be taken.

28. If any person, being already registered as a claimant, register a claim to any other land not being contiguous thereto, the land so previously claimed shall, ipso facto, be forfeited, and shall, with all improvements made thereon, be open to settlement by any other person.

If new claim taken up the old claim is lost.

29. In case any dispute shall arise between persons with regard to any land so acquired as aforesaid, any one of the parties in difference may, before ejection or action of trespass brought, refer the question in difference to the nearest Magistrate, who is hereby authorized to proceed in a summary way to restore the possession of any land in dispute to the person whom he shall deem entitled to the same, and to abate all intrusions, and award and levy such costs and damages as he may think fit.

Arbitrament of Magistrate.

30. This Proclamation may be cited as the "Pre-emption Consolidation Act, 1861."

Short Title.

### SCHEDULE A.

I hereby certify that \_\_\_\_\_ has satisfied me by evidence of (naming the witnesses, and detailing any other evidence upon which the Magistrate has come to his judgment) that \_\_\_\_\_ of \_\_\_\_\_ has made improvements to the extent of 10s. an acre on \_\_\_\_\_ acres of land, situated at \_\_\_\_\_

Signed,

this

day of

## No. 22. (208)

A. D. 1864. An Ordinance to increase the facilities for Registering documents relating to Real Property.  
 REPEALED by 143.

[4th May, 1864.]

Preamble.

WHEREAS it is expedient to facilitate the registration of titles to real property in this Colony:

Be it therefore enacted by the Governor of British Columbia, by and with the advice and consent of the Legislative Council thereof, as follows:—

Notarial certificate shall be sufficient acknowledgment.

1. From the passing of this Ordinance, it shall be lawful for the Registrar-General or District Registrars to register any deed or instrument relating to real property in the Colony of British Columbia, made without the limits thereof, the due execution of which is acknowledged and proved by the certificate thereof by a Notary Public, in the manner usual for noting foreign deeds or documents of title.

Every such proof of execution, when accepted by the Registrar-General or District Registrar, shall have the force of an acknowledgment under the "British Columbia Land Registry Act, 1861."

Crown Grants to be registered before issue.

2. And whereas it is of public importance that Crown Grants, the root of titles to land in the Colony, should be registered for the protection of persons afterwards acquiring or disposing of the land included in such grants; be it enacted that all Crown Grants issued after the date of this Ordinance shall, previous to such issue, be registered in books in the Registry Office, and such registration may be partly in print and partly in writing, and no objection shall be taken to any such registration by reason thereof.

Fees on registration.

3. There shall be demandable by and paid to the Registrar-General, upon the registration of every such Crown Grant the uniform fee of five shillings, for the use of Her Majesty, Her heirs and successors, as revenue.

How read.

4. This Ordinance shall be read with the "British Columbia Land Registry Act, 1861."

Short Title:

5. This Ordinance may be cited as the "British Columbia Land Registry Extension Ordinance, 1864."

## No. 23. (241)

## An Ordinance for regulating the acquisition of land in British Columbia.

A. D. 1865.

REPEALED by 144.

[11th April, 1865.]

**W**HEREAS it is expedient to amend and consolidate the laws affecting lands in British Columbia, and for that purpose to repeal, alter, and re-enact certain portions of the existing laws affecting the same: Preamble.

Be it enacted by the Governor of British Columbia, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. The Proclamation passed on the 14th February, 1859, except the portion thereof after clause 9, which refers to the capital of British Columbia, the "Mining District Act, 1863," and the "Pre-emption Consolidation Act, 1861," are hereby repealed. Repeals certain Acts

2. Such repeal shall not be construed to prejudice or affect any rights actually existing to or in respect of any land in this Colony at the date of this Ordinance, or to revive any provisions of any Acts or Proclamations heretofore repealed. Saving of existing rights.

3. All the lands in British Columbia, and all the mines and minerals therein, not otherwise lawfully appropriated, belong to the Crown in fee. Crown lands.

4. The upset price of surveyed lands, not being reserved for the sites of towns or the suburbs thereof, and not being reputed to be mineral lands, shall be four shillings and two pence per acre. Upset price of land  
4s. 2d. per acre.

5. The Governor shall at any time, and for such purposes as he may deem advisable, reserve any lands that may not have been either sold or legally pre-empted. Reserves.

6. Except as aforesaid, all the land in British Columbia will be exposed in lots for sale, by public competition, at the upset price above mentioned, after the same shall have been surveyed and made ready for sale. Due notice shall be given of all such sales; notice at the same time shall be given of the upset price and terms of payment when they vary from those above stated, and also of the rights specially reserved (if any) for public convenience. All land to be offered for sale at public auction.

7. All lands which shall remain unsold at any such auction may be sold by private contract at the upset price and on the terms and conditions herein mentioned, on application to the Chief Commis- Land unsold at auction may be purchased by private sale.

A. D. 1865.

sioner of Lands and Works and Surveyor-General, or other person for the time being duly authorized in writing by the Governor in that behalf.

Saves public rights.

8. Unless otherwise specially notified at the time of sale, all Crown Lands sold shall be subject to such public rights of way as may at any time after such sale be specified by the Chief Commissioner of Lands and Surveyor-General, and to such private rights of way, and of leading or using water for animals, and for mining and engineering purposes, as may at the time of such sale be existing.

Conveyance to include everything but precious metals.

9. Unless otherwise specially announced at the time of sale, the conveyance of the land shall include all trees and all mines and minerals within and under the same (except mines of gold and silver.)

*Aliens.*

Aliens may not pre-empt.

10. Aliens who have not taken the oath of allegiance may not pre-empt, but may purchase any pre-empted or other lands lawfully open to sale.

Aliens now holding land may be confirmed in possession thereof.

11. Provided that it shall be lawful for the Governor, by any writing under his hand, to confirm aliens at present in possession of lands which are either pre-empted or purchased by them, and for which they hold the necessary certificate of improvement.

*Pre-emption.*

Who may pre-empt land.

12. From and after the date hereof, British subjects, and aliens who shall take the oath of allegiance to Her Majesty, Her heirs and successors, may acquire the right to pre-empt and hold in fee simple unoccupied and unsurveyed and unreserved Crown Lands, not being the site of an existent or proposed town, or auriferous land available for gold or silver mining purposes, or an Indian reserve or settlement, under the following conditions :

Permission to be obtained from Magistrate of District.

13. The person desiring to acquire any particular plot of land of the character aforesaid, shall, before entering into possession thereof, obtain from the Stipendiary Magistrate of the District permission in writing to enter on and pre-empt certain lands, to be specified in writing by the applicant.

Rules to be observed in pre-empting land not exceeding 160 acres.

14. If the Magistrate see no objection thereto, the person so wishing to pre-empt shall, within seven days after such permission, enter into possession of such land by placing at the corners of the land four posts marked with his name or some other distinguishing name, and shall apply in writing to record his claim, to any quantity not exceeding 160 acres thereof, with the Stipendiary Magistrate of the district, paying to the said Magistrate the fees hereinafter mentioned.

15. If the land applied for has not been previously recorded, the Magistrate shall forthwith, upon receiving with such application a fee of eight shillings and four pence, enter and record the application, and give to the applicant a certificate of such record, to be called "The Record Certificate," with leave of absence from his claim, without forfeiting the same, for such period not exceeding six months as the Magistrate of the district may in his discretion decide, for the purpose of procuring tools, seeds, and other necessaries.

A. D. 1865.

Record fee.

Record.

Record certificate.

Leave of absence.

16. If the land has been previously recorded, the Magistrate, upon receipt of a fee of four shillings and two pence, shall make an entry in his books of the date, name, and particulars of such application, and shall give to such applicant, who shall cause to be affixed to the door of the Court House, and some conspicuous part of the land in question, a notice in writing, that unless within one calendar month next ensuing the date of so affixing such notice, any prior claimant (if any) to any of the same land shall shew cause to the satisfaction of such Magistrate why any of the ground then applied for should not be recorded in the name of the said applicant, the said claim will be so recorded.

Rules for land previously pre-empted.

Notice to be given of subsequent record.

17. Such publication of notice shall, during such month, operate as a bar to all subsequent applications for the ground covered by such application.

Notice a bar to other applications.

18. At the expiration of such month, if such cause shall not be shewn, the Magistrate shall record the claim in the name of the said applicant, and upon receipt of a fee of four shillings and two pence, shall grant a certificate under his hand of such record to the applicant, and preserve a duplicate thereof in his office.

Land may be re-recorded at the expiration of a month.

19. Such certificate shall specify the conditions under which the land included therein shall be held, and may be pleaded in bar to all previous claims (if any) in respect of or against any of the said land.

Certificate of such record bars prior claim.

20. Any person in possession of 160 acres of land as aforesaid, may acquire the right to pre-empt and hold any further tract of unsurveyed and unoccupied land contiguous thereto, not exceeding 480 acres (and no more, either directly or indirectly, save with the express sanction in writing of the Governor in that behalf) over and above the quantity of 160 acres aforesaid, upon the payment to the Stipendiary Magistrate of the district of the sum of two shillings and one penny per acre for the same, as by way of instalment of the purchase money to be ultimately paid to the Government, after the survey of the same land.

Over 160 acres how to be pre-empted.

21. If such land shall not have been previously recorded, any person so paying such deposit shall forthwith enter into possession,

Rules to be observed in this case.

A. D. 1865.

and if previously recorded, after one month's notice as aforesaid, and, cause to the contrary not shewn, record his claim to such last mentioned tract of land and enter into possession in manner hereinbefore prescribed.

General rules to be observed in pre-empting.

22. The claimant or applicant shall in all cases make his application in writing, and give the best possible written description of the land, to the Stipendiary Magistrate of the district to whom he applies to record his claim; together with a proper plan thereof, and identify the plot in question by pointing out the position of the said posts, and by stating in his description any other land-marks of a noticeable character; and all such plans and descriptions shall be in duplicate.

Rectangular shape, or as nearly as possible proportion of the lines.

23. Every piece of land sought to be acquired under the provisions of this Ordinance shall, save as hereinafter mentioned, be of a rectangular shape, and the shortest line thereof shall be at least two-thirds the length of the longest line.

Natural boundaries may be adopted in certain cases.

24. Where the land sought to be acquired is in whole or in part bounded by mountains, rocks, lakes, swamps, or the margin of a river, or by other natural boundaries, then such natural boundaries may be adopted as the boundaries of the land sought to be acquired, and in such case it shall be sufficient for the claimant to show to the satisfaction of the Stipendiary Magistrate of the district that the said form conforms as nearly as circumstances permit to the provisions of this Ordinance.

Lines of adjacent claims may be adopted.

25. If the land sought to be acquired be bounded by land already pre-empted or surveyed, the line of such land may be adopted by the person so seeking to acquire, notwithstanding any irregularity in such line which may have been occasioned by the adoption of a natural boundary by the claimant of the adjacent land.

Enclosed spaces may be adopted, notwithstanding any irregularity of shape.

26. Where a piece of land is partially or entirely enclosed between two or more claims, the claimant may acquire such enclosed piece notwithstanding any irregularity of form, or disproportion in length, of any of the sides.

Boundaries to run as nearly as possible according to the points of the compass.

27. The boundaries shall run as nearly as possible by the cardinal points of the compass.

When pre-empted land may be purchased.

28. When the Government shall survey the land claimed, the claimant who has recorded his claim as aforesaid, or his heirs or devisees, or in the case of the grant of a certificate of improvement hereinafter mentioned, the assigns of such claimant shall, if he or they shall have been in continuous occupation of the same land from the date of the record aforesaid, be entitled to purchase the land so acquired, or in respect of which such deposit shall have been

paid as aforesaid, at such rate as may for the time being be fixed by the Government of British Columbia, not exceeding the sum of four shillings and two pence per acre.

A. D. 1865.

29. No person shall be entitled to receive a grant of such land until he shall have received from the recording Magistrate a certificate of improvement as in the Schedule hereto, in respect to such land.

Certificate of improvement requisite.

30. When the claimant, his heirs or devisees, shall prove to the Stipendiary Magistrate of the district, by the evidence of himself and of third parties, that he or they has or have continued in permanent occupation of the claim from the date of record, and has or have made permanent improvements thereon to the value of ten shillings per acre, the said Magistrate shall grant to the said claimant, his heirs or devisees, a certificate of improvement in the form in the Schedule hereto.

Certificate of improvement to be issued when improvements have been made to the extent of 10s. per acre.

31. Upon the grant of the certificate of improvement aforesaid, the person to whom the same is issued may, subject to any unpaid instalment, sell, mortgage, or lease the land in respect of which such certificate had been issued; but no interest in any plot of land acquired in either of the methods aforesaid shall, before payment of the purchase money, be capable of passing to a purchaser, unless the vendor has obtained such certificate of improvement as aforesaid.

When certificate of improvement has been issued, the holder may sell or deal with the land.

32. Upon payment of the purchase money after the survey and continuous occupation, and the notice required under this Ordinance, a conveyance of the land purchased shall be executed in favour of the purchaser, excepting the precious minerals, with a right to enter and work the same in favour of the Crown, its assignees and licensees, with power to the Crown to take such portions of such land as it may find necessary for roads, bridges and ferries, and public purposes.

Conveyance, upon what conditions.

33. No pre-emptor shall be entitled to receive a Crown grant of his pre-emption claim unless he shall shew, to the satisfaction of the Magistrate of the district, that before applying for such grant he has caused a written or printed notice of his intention to apply for such grant to be posted in some conspicuous part of his own and the adjacent pre-emption claims (if any), and on the Court House of the district, without any valid opposition to his claim being substantiated.

Rules to be observed in applying for a Crown grant.

34. Priority of title shall be obtained by the person who, being in possession, shall first apply and record his claim in manner aforesaid.

Priority of title.

35. Whenever any person shall permanently cease to occupy land acquired in either of the methods aforesaid, the Stipendiary Magistrate of the district may, in a summary way, on being satisfied of

Cancellation of claim on permanent cessation of occupation.

A. D. 1865.

such permanent cessation, cancel the claim of the person so permanently ceasing to occupy the same, and record the claim thereto of any other person satisfying the requisitions aforesaid.

Deposits and improvements forfeited on cancellation.

36. All deposits paid in respect of such forfeited claims, and all improvements, buildings and erections thereon, shall (subject to the appeal hereinafter mentioned), on such cancellation, be absolutely forfeited; and such claims, improvements, buildings and erections shall, subject to the appeal hereinafter mentioned, be open to settlement by any other person.

Magistrate's decision appealable.

37. The decision of the Magistrate may be appealed by either party to the decision of the Supreme Court of Civil Justice of British Columbia.

Security on appeal.

38. Any person desirous of appealing in manner aforesaid, may be required, before such appeal be heard, to find such security as may be pointed out by the Magistrate whose decision is appealed against; but such appeal shall be made within one calendar month after the decision complained of, and after security to the satisfaction of the Magistrate shall have been given for the due prosecution of such appeal and submission thereto.

Ejectment or trespass by holder.

39. Whenever a person shall have duly recorded as aforesaid, and he, his heirs or (in case of a certificate of improvement) his assignees shall have continued in permanent occupation of the same land since the date of such record, save for the two months hereinbefore mentioned, he or they may (save where herein otherwise mentioned) bring ejectment or trespass against any intruder upon the same land to the same extent as if he or they were seized of the legal estate in possession in the same land.

Saves miners' rights.

40. Nothing herein contained shall be construed as giving a right to any claimant to exclude free miners from searching for any of the precious minerals or working the same, but in case of any entry being made upon lands held as aforesaid, full compensation shall be made, or adequate security therefor be given, to the satisfaction of the Stipendiary Magistrate of the district, prior to such entry, to the occupant for any loss or damage he may sustain by reason of any such entry; such compensation to be determined by the Stipendiary Magistrate or Gold Commissioner of the district, with or without a jury of not less than five, in the discretion of such Magistrate or Commissioner.

Power to Government to re-take land for public purposes.

41. The Government shall, notwithstanding any claim, record, or conveyance aforesaid, be entitled to enter and take such portion of the land acquired in either of the methods aforesaid, as may be required for roads, bridges, and ferries, without compensation, or for other public purposes on paying reasonable compensation for the same.

42. No person shall be entitled to hold at the same time two claims by pre-emption, and any person so pre-empting more than one claim shall forfeit all right, title, and interest to the prior claim so recorded by him.

A. D. 1865.

One claim only can be pre-empted.

43. In case any dispute shall arise between persons with regard to any land so acquired as aforesaid, any one of the parties in difference may, before ejectment or action of trespass brought, refer the question in difference to the Magistrate of the district, who is hereby authorized to proceed in a summary way to restore the possession of any land in dispute to the person whom he shall deem entitled to the same, and to abate all intrusions, and award and levy such costs and damages as he shall deem fit.

Disputes, how arranged.

#### Water.

44. Every person lawfully occupying and bona fide cultivating lands may divert any unoccupied water from the natural channel of any stream, lake or river adjacent to or passing through such land for agricultural and other purposes, upon obtaining the written authority of the Stipendiary Magistrate of the district for the purpose, and recording the same with him, after due notice as hereinafter mentioned, specifying the name of the applicant, the quantity sought to be diverted, the place of diversion, the object thereof, and all such other particulars as such Magistrate may require.

Rules for diverting water.

45. Previous to such authority being given, the applicant shall post up in a conspicuous place on each person's land through which it is proposed that the water should pass, and on the district Court house, notices in writing stating his intentions to enter such land and through and over the same to take and carry such water, specifying all particulars relating thereto, including direction, quantity, purpose, and term.

Notice to be given.

46. Priority of right to any such water privilege, in case of dispute, shall depend upon priority of record.

Priority of right.

47. The right of entry on and through the lands of others for carrying water for any lawful purpose, upon, over, or under the said land, may be claimed and taken by any person lawfully occupying and bona fide cultivating as aforesaid, and (previous to entry) upon paying or securing payment of compensation as aforesaid for the waste or damage so occasioned, to the person whose land may be wasted or damaged by such entry or carrying of water.

Right of entry on land.

48. In case of dispute, such compensation or any other question connected with such water privilege, entry, or carrying, may be ascertained by the Stipendiary Magistrate of the district in a summary manner, at the option of either of the contending parties either with or without a jury of five men, to be summoned as in ordinary cases.

Disputes settled with or without jury.

A. D. 1865.

Non-attendant  
jurors may be fined.

49. It shall be lawful for such Magistrate, by an order under his hand directed to the Sheriff or Deputy Sheriff, to summon a jury for such purpose, and in the event of non-attendance of any persons so summoned he shall have power to impose a fine not exceeding five pounds.

Water for mining  
purposes may be  
taken.

50. Water privileges for mining or other purposes not otherwise lawfully appropriated may be claimed, and the said water may be taken upon, under, or over any land so pre-empted or purchased as aforesaid, by obtaining a grant or licence from the Stipendiary Magistrate of the district, and previous to taking the same paying reasonable compensation for waste or damage to the person whose land may be wasted or damaged by such water privilege or carriage of water.

### *Leases.*

Land leased.

51. Leases of any extent of unoccupied and unsurveyed land may be granted for pastoral purposes, by the Governor or any officer duly authorized by him in that behalf, to any person or persons whomsoever being bona fide pre-emptors or purchasers of land, at such rent as such Governor or officer shall deem expedient. But every such lease of pastoral lands shall, among other things, contain a condition making such land liable to pre-emption, reserve, and purchase, by any persons whomsoever, at any time during the term thereof, without compensation, save by a proportionate deduction of rent; and to a further condition that the lessee shall, within six months stock the property demised in such proportion of animals to the one hundred acres as shall be specified by the Stipendiary Magistrate in that behalf.

May be pre-empted,  
&c.

And must be  
stocked.

Ejectment.

52. Any person who shall have obtained such lease as aforesaid may bring ejectment or trespass against any intruder upon the same land, to the same extent as if he or they were seized of the legal estate in fee.

Leases for timber  
cutting, &c.

53. Leases of any extent of unoccupied Crown lands may be granted by the Governor, to any person, persons, or corporation duly authorized in that behalf; for the purpose of cutting spars, timber, or lumber, and actually engaged in those pursuits, subject to such rent, terms, and provisions as shall seem expedient to the Governor.

To be in writing.

54. The application for any such lease must be in writing, and if passing through a Magistrate, in duplicate, for transmission to the Governor, who alone shall decide on any such lease.

### *Free Grants.*

Free grants.

55. It shall be lawful for the Governor, upon receiving the assent of Her Majesty's Government thereto, and the publication thereof in the Government Gazette, to make such free or partially free

grants of the unoccupied Crown lands of the Colony, for the encouragement of immigration, with and under such provisions, restrictions, and privileges, as to the Governor in his discretion may seem most advisable for the encouragement and permanent settlement of immigrants.

A. D. 1865.

56. Nothing in this Ordinance contained shall be construed so as to interfere prejudicially with the rights granted to free miners under the "Gold Mining Ordinance, 1865."

Saves miners' rights generally.

57. The Schedule hereto shall form part of this Ordinance.

Schedule.

58. This Ordinance shall be cited as the "Land Ordinance, 1865."

Short title.

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### SCHEDULE.

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#### CERTIFICATE OF IMPROVEMENT.

I hereby certify that \_\_\_\_\_ has satisfied me by evidence of (naming the witnesses and detailing the same and any other evidence upon which the Magistrate has come to his judgment) that \_\_\_\_\_ of \_\_\_\_\_ has made improvements to the extent of ten shillings an acre on acres of land, situated at \_\_\_\_\_

Signed,  
this \_\_\_\_\_ day of \_\_\_\_\_

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#### No. 24. (255)

An Ordinance further to define the law regulating the acquisition of Land in British Columbia.

A. D. 1866.

[31st March, 1866.]

REPEALED by  
No. 144.

**WHEREAS** it is expedient to provide for the adjustment of boundaries and other matters relating to the acquisition of land:

Preamble.

Be it enacted by the Governor of British Columbia, by and with the advice and consent of the Legislative Council thereof, as follows:

1. The right conferred under Clause 12 of the "Land Ordinance, 1865," on British subjects, or aliens who shall take the oath of allegiance, of pre-empting and holding in fee simple unoccupied, and unsurveyed, and unreserved crown lands in British Columbia, shall not (without the special permission thereto of the Governor first had in writing) extend to or be deemed to have been conferred on

Companies and ab-origines cannot pre-empt.

A. D. 1866.

companies whether chartered, incorporated, or otherwise, or without the permission aforesaid, to or on any of the Aborigines of this Colony or the Territories neighbouring thereto.

Enabling pre-empted and purchased lands to be surveyed of shape not in exact conformity to the requirements of the "Land Ordinance, 1865."

2. It shall be lawful for the Chief Commissioner of Lands and Works and Surveyor-General in carrying out any Government survey, whenever in his opinion the circumstances of the case may require it, to survey pre-emption claims or purchased lands recorded previous to the date of this enactment, by metes and bounds not strictly in accordance with the requirements in these respects of the "Land Ordinance, 1865."

Every such survey certified by the said Chief Commissioner of Lands and Works and Surveyor-General shall be binding and final to all intents and purposes upon all persons whomsoever, and shall be evidence in all Courts of Law in the Colony of the matters and things therein contained, and of the compliance of the particular claim or tract of land therein mentioned with the requirements of the survey clauses of the "Land Ordinance 1865," as to courses and lengths of boundaries and general shape of said claim or tract of land.

Stipendiary Magistrate means Assistant Commissioner of Lands and Works.

3. In the interpretation of the "Land Ordinance, 1865," the words "Stipendiary Magistrate" shall be deemed to mean Stipendiary Magistrate acting as Assistant Commissioner of Lands and Works.

Saving prerogative rights.

4. Nothing herein contained shall be construed to affect the prerogative rights of Her Majesty, Her heirs and successors, over the crown lands of the Colony.

Short title.

5. This Ordinance may be cited as the "Pre-emption Ordinance, 1866."



# REPEALED LAWS,

USEFUL FOR REFERENCE,

OF THE

UNITED COLONIES OF VANCOUVER ISLAND

AND BRITISH COLUMBIA.

No. 25. (303)

An Ordinance to confirm certain Titles to Real Property in Vancouver Island. A. D. 1868.

[1st May, 1868.] REPEALED by 161.

**W**HEREAS doubts have been entertained whether the conveyances of Real Estate in that portion of the United Colony formerly known as the Colony of Vancouver Island and its Dependencies, executed on or before the 19th day of December, A. D. 1860, on behalf of "The Governor and Company of Adventurers of England trading into Hudson's Bay," under and by virtue of letters or powers of attorney under the seal of the said Governor and Company, have in fact conveyed the legal estate to the grantees thereunder, and it is expedient to remove such doubts : Preamble.

Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows:—

1. That all conveyances, grants, and other assurances made on or before the 19th day of December, A. D. 1860, on behalf of "The Governor and Company of Adventurers of England, trading into Hudson's Bay," by James Douglas and John Work, and by Alexander Grant Dallas, and John Work, and Dougal MacTavish, and William Fraser Tolmie, and Roderick Finlayson, or by either or one of them, and relating to hereditaments situated within that

Confirms titles granted prior to 19th December, 1860.

A. D. 1868.

portion of the United Colony formerly known as the Colony of Vancouver Island and Dependencies, shall be deemed and taken to have conveyed to the grantee or grantees therein named, the legal estate of the hereditaments thereby purported to have been conveyed, and no objection shall be taken or allowed to any conveyance, grant, or assurance, purporting to be made as aforesaid, under any letters or powers of attorney duly executed under the seal of the said Company.

Short title.

2. This Ordinance may be cited as the "Hudson Bay Titles Confirmatory Ordinance, 1868."

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No. 26. (321)

An Ordinance respecting Pre-emption Claims.

[10th March, 1869.]

A. D. 1869.

REPEALED by 144.

Preamble.

**W**HEREAS it is expedient to declare the law as to the payment of the purchase money that may be due and payable for land taken up by Settlers as pre-emption and pre-emption purchase claims in that part of the Colony heretofore known as the Colony of British Columbia and its Dependencies, under the "Land Ordinance, 1864," or any other pre-emption laws affecting that portion of the Colony:

Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows:—

Defines time for  
payment of pur-  
chase money.

1. The purchase money for pre-emption claims, and the balance of purchase money upon pre-emption purchase claims, held under any of the laws heretofore or for the time being regulating the acquisition and tenure of pre-emption claims in that part of the Colony formerly known as the Colony of British Columbia and its Dependencies, shall be, and be deemed to have been, and to be due and payable to Her Majesty, Her heirs and successors, as part of the general revenue of the Colony, as and from the date of the service of an application signed by the Chief Commissioner of Lands and Works and Surveyor-General, upon the person or persons to be affected thereby, and notifying the completion of the Government survey of the land specified in such application, and calling upon such person or persons for the payment of the amount for the time being due and payable as aforesaid in respect of such land.

Short title.

2. This Ordinance may be cited for all purposes as the "Pre-emption Payment Ordinance, 1869."



# IMPERIAL STATUTES,

ORDERS IN COUNCIL, PROCLAMATIONS, &c., &c., &c.,

USEFUL FOR REFERENCE.

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## No. 27.

Proclamation by His Excellency Anthony Musgrave, Esquire, Governor and Commander-in-Chief in and over the Colony of British Columbia and its Dependencies, Vice-Admiral and Ordinary of the same, &c., &c., &c.

A. D. 1870.

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[20th October, 1870.]

**W**HEREAS it is provided by the 54th clause of the "Land Ordinance, 1870," that the said Ordinance shall not take effect until Her Majesty's assent thereto shall have been proclaimed in the Colony:

And whereas Her Most Gracious Majesty has been pleased to confirm and allow the said Ordinance:

Now, therefore, I, Anthony Musgrave, Governor of the said Colony of British Columbia, do hereby proclaim Her Majesty's confirmation and allowance of the said "Land Ordinance, 1870."

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## No. 28.

Proclamation by His Excellency Anthony Musgrave, Esquire, Companion of the Most Distinguished Order of St. Michael and St. George, Governor and Commander-in-Chief of the Colony of British Columbia, and Vice-Admiral of the same, &c., &c., &c.

A. D. 1871.

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[26th June, 1871.]

**W**HEREAS it is provided by the "Constitution Act, 1871," that the said Act shall not come into operation until it has received

A. D. 1871.

Her Majesty's assent, nor until such assent has been proclaimed in this Colony by the Governor, nor until the expiration of such time as the Governor shall direct after such assent has been proclaimed as aforesaid, to be fixed by the Governor in such Proclamation:

And whereas Her Majesty has been graciously pleased to give Her assent to the said Act:

And whereas I, the said Anthony Musgrave, as such Governor as aforesaid, have fixed the 19th day of July next, to be the date when the said Act shall come into operation and take effect:

Now, therefore, know ye that I, Anthony Musgrave, Governor of the Colony of British Columbia, do hereby proclaim the assent of Her Majesty to the "Constitution Act, 1871," and I do hereby proclaim and declare that the said Act shall take effect and come into operation in the said Colony of British Columbia on, from, and after the 19th day of July, in the present year of Our Lord one thousand eight hundred and seventy-one.

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### No. 29.

A. D. 1849.

An Act to Provide for the Administration of Justice in Vancouver's Island.

[28th July, 1849.]

43 G. 3. c. 138.

1 &amp; 2 G. 4. c. 66.

**WHEREAS** an Act was passed in the forty-third year of King George the Third, intituled "An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada to the trial and punishment of persons guilty of crimes and offences within certain parts of North America adjoining to the said Provinces:" And whereas by an Act passed in the second year of King George the Fourth, intituled "An Act for regulating the fur trade, and establishing a criminal and civil jurisdiction, within certain parts of North America," it was enacted, that from and after the passing of that Act the Courts of Judicature then existing, or which might be thereafter established in the Province of Upper Canada, should have the same civil jurisdiction, power, and authority, as well in the cognizance of suits as in the issuing process, mesne and final, and in all other respects whatsoever, within the Indian territories and other parts of America not within the limits of either of the Provinces of Lower or Upper Canada or of any Civil Government of the United States, as the said Courts had or were invested with within the limits of the said Provinces of Lower or Upper Canada respectively, and that all and

every contract, agreement, debt, liability, and demand whatsoever, made, entered into, incurred, or arising within the said Indian territories and other parts of America, and all and every wrong and injury to the person or to property, real or personal, committed or done within the same, should be and be deemed to be of the same nature, and be cognizable by the same Courts, Magistrates, or Justices of the Peace, and be tried in the same manner, and subject to the same consequences in all respects, as if the same had been made, entered into, incurred, arisen, committed, or done within the said Province of Upper Canada, and in the same Act are contained provisions for giving force, authority and effect within the said Indian territories and other parts of America to the process and acts of the said Courts of Upper Canada; and it was thereby also enacted, that it should be lawful for His Majesty, if he should deem it convenient so to do, to issue a commission or commissions to any person or persons to be and act as Justices of the Peace within such parts of America as aforesaid, as well within any territories theretofore granted to the company of adventurers of England trading to Hudson's Bay as within the Indian territories of such other parts of America as aforesaid; and it was further enacted, that it should be lawful for His Majesty from time to time, by any Commission under the great seal, to authorize and empower any such persons so appointed Justices of the Peace as aforesaid to sit and hold Courts of Record for the trial of criminal offences and misdemeanors, and also of civil causes, and it should be lawful for His Majesty to order, direct, and authorize the appointment of proper officers to act in aid of such Courts and Justices within the jurisdiction assigned to such Courts and Justices in any such commission, provided that such Courts should be constituted, as to the number of Justices to preside therein, and as to such places within the said territories of the said company, or any Indian territories or other parts of North America as aforesaid, and the times and manner of holding the same, as His Majesty should from time to time order and direct, but should not try any offender upon any charge or indictment for any felony made the subject of capital punishment, or for any offence or passing sentence affecting the life of any offender, or adjudge or cause any offender to suffer capital punishment or transportation, or take cognizance of or try any civil action or suit in which the cause of such suit or action should exceed in value the amount or sum of two hundred pounds, and in every case of any offence subjecting the person committing the same to capital punishment or transportation, the Court, or any Judge of any such Court, or any Justice or Justices of the Peace before whom any such offender should be brought, should commit such offender to safe custody, and cause such offender to be sent in such custody for trial in the Court of the Province of Upper Canada: And whereas,

A. D. 1849.

43 G. 3. c. 138. and  
parts of 1 & 2 G. 4.  
c. 66. repealed as to  
Vancouver Island.

for the purpose of the colonization of that part of the said Indian territories called Vancouver's Island, it is expedient that further provision should be made for the administration of justice therein: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the proclamation of this Act in Vancouver's Island, the said Act of the forty-third year of King George the Third, and the said recited provisions of the second year of King George the Fourth, and the provisions contained in such Act for giving force, authority and effect within the said Indian territories and other parts of America to the process and acts of the said Courts of Upper Canada, shall cease to have force in and to be applicable to Vancouver's Island aforesaid; and it shall be lawful for Her Majesty from time to time (and as well before as after such proclamation) to make provision for the administration of justice in the said Island, and for that purpose to constitute such Court or Courts of Record and other Courts, with such jurisdiction in matters civil and criminal, and such equitable and ecclesiastical jurisdiction, subject to such limitations and restrictions, and to appoint and remove, or provide for the appointment and removal of such Judges, Justices, and such ministerial and other officers, for the administration and execution of justice in the said Island, as Her Majesty shall think fit and direct.

Power to local Leg-  
islature to make  
provision for admin-  
istration of justice.

2. Provided always, and be it enacted, That when and so soon as a local Legislature has been established in Vancouver's Island it shall be lawful for such Legislature, from time to time, by any law or Ordinance made in the manner and subject to the conditions which may be by law required in respect of laws or Ordinances made by such local Legislature, to make such alterations as to such Legislature may seem meet in the constitution or jurisdiction of the Courts which may be established in the said Island, and to make all such other provisions as to such local Legislature may seem meet for and concerning the administration of justice in the said Island.

Appeal to Privy  
Council in civil  
cases.

3. Provided always, and be it enacted, That all judgments given in any civil suit in the said Island shall be subject to appeal to Her Majesty in Council, in the manner and subject to the regulations in and subject to which appeals are now brought from the Civil Courts of Canada, and to such further or other regulations as Her Majesty, with the advice of Her Privy Council, shall from time to time appoint.

Adjacent islands  
deemed part of Van-  
couver Island.

4. And be it enacted, That all such islands adjacent to Vancouver's Island or to the Western Coast of North America, and forming part of the dominions of Her Majesty, as are to the south-

ward of the fifty-second degree of North latitude, shall be deemed part of Vancouver's Island for the purposes of this Act.

A. D. 1849.

5. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this session of Parliament.

Act may be amended, &c.

**No. 30.**

An Act to provide for the Government of British Columbia.

A. D. 1858.

[2nd August, 1858.]

**W**HEREAS divers of Her Majesty's Subjects and others have, by the licence and consent of Her Majesty, resorted to and settled on certain wild and unoccupied territories on the North-west Coast of North America, commonly known by the designation of New Caledonia, and from and after the passing of this Act to be named British Columbia, and the Islands adjacent, for mining and other purposes; and it is desirable to make some temporary provision for the Civil Government of such territories, until permanent settlements shall be thereupon established, and the number of colonists increased: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. British Columbia shall, for the purposes of this Act, be held to comprise all such territories within the dominions of Her Majesty as are bounded to the South by the frontier of the United States of America, to the East by the main chain of the Rocky Mountains, to the North by Simpson's River and the Finlay branch of the Peace River, and to the West by the Pacific Ocean, and shall include Queen Charlotte's Island and all the other Islands adjacent to the said territories, except as hereinafter excepted.

Boundaries of British Columbia.

2. It shall be lawful for Her Majesty, by any order or orders to be by Her from time to time made, with the advice of Her Privy Council, to make, ordain and establish, and (subject to such conditions or restrictions as to Her shall seem meet) to authorize and empower such officer as She may from time to time appoint as Governor of British Columbia, to make provision for the administration of justice therein, and generally to make, ordain, and establish all such laws, institutions, and ordinances as may be necessary for the peace, order, and good government of Her Majesty's subjects and others therein; provided that all such Orders in Council,

Her Majesty by Order in Council may make or provide for the making of laws for the Government of Her Majesty's subjects and others in British Columbia.

A. D. 1858.

and all Laws and Ordinances so to be made as aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.

Her Majesty may establish a local Legislature in British Columbia.

3. Provided always, that it shall be lawful for Her Majesty, so soon as She may deem it convenient, by any such Order in Council as aforesaid, to constitute or to authorize and empower such officer to constitute a Legislature to make laws for the peace, order, and good government of British Columbia, such Legislature to consist of the Governor and a Council, or Council and Assembly, to be composed of such and so many persons, and to be appointed or elected in such manner and for such periods, and subject to such regulations as to Her Majesty may seem expedient.

Certain provisions of 43 G. 3. c. 138. and 1 & 2 G. 4 c. 66 as regards British Columbia repealed.

4. And whereas an Act was passed in the forty-third year of King George the Third, intituled "An Act for extending the jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada, to the trial and punishment of persons guilty of crimes and offences within certain parts of North America adjoining to the said Provinces : " And whereas by an Act passed in the second year of King George the Fourth, intituled "An Act for regulating the fur trade, and establishing a Criminal and Civil Jurisdiction within certain parts of North America," it was enacted that from and after the passing of that Act the Courts of Judicature then existing or which might be thereafter established in the Province of Upper Canada should have the same civil jurisdiction, power, and authority within the Indian territories and other parts of America, not within the limits of either of the Provinces of Lower or Upper Canada, or of any Civil Government of the United States, as the said Courts had or were invested with within the limits of the said Provinces of Lower or Upper Canada respectively, and that every contract, agreement, debt, liability, and demand made, entered into, incurred, or arising within the said Indian territories and other parts of America, and every wrong and injury to the person or to property committed or done within the same, should be and be deemed to be of the same nature, and be cognizable and be tried in the same manner, and subject to the same consequences in all respects, as if the same had been made, entered into, incurred, arisen, committed, or done within the said Province of Upper Canada; and in the same Act are contained provisions for giving force, authority, and effect within the said Indian territories and other parts of America to the process and acts of the said Courts of Upper Canada; and it was thereby also enacted, that it should be lawful for His Majesty, if He should deem it convenient so to do, to issue a commission or commissions to any person or persons to be and act as Justices of the Peace within such parts of America as aforesaid, as well within any territories theretofore granted to the Company of Adventurers of

A. D. 1858.

England trading to Hudson's Bay, as within the Indian territories of such other parts of America as aforesaid; and it was further enacted, that it should be lawful for His Majesty from time to time by any commission under the great seal to authorize and empower any such persons so appointed Justices of the Peace as aforesaid, to sit and hold Courts of Record for the trial of criminal offences and misdemeanors, and also of civil causes, and it should be lawful for His Majesty to order, direct, and authorize the appointment of proper officers to act in aid of such Courts and Justices within the jurisdiction assigned to such Courts and Justices in any such commission, provided that such Courts should not try any offender upon any charge or indictment for any felony made the subject of capital punishment, or for any offence or passing sentence affecting the life of any offender, or adjudge or cause any offender to suffer capital punishment or transportation, or take cognizance of or try any civil action or suit in which the cause of such suit or action should exceed in value the amount or sum of two hundred pounds, and in every case of any offence subjecting the person committing the same to capital punishment or transportation, the Court, or any Judge of any such Court, or any Justice or Justices of the Peace before whom any such offender should be brought, should commit such offender to safe custody, and cause such offender to be sent in such custody for trial in the Court of the Province of Upper Canada.

From and after the proclamation of this Act in British Columbia the said Act of the forty-third year of King George the Third, and the said recited provisions of the said Act of the second year of King George the Fourth, and the provisions contained in such Act for giving force, authority, and effect within the Indian territories and other parts of America to the process and acts of the said Courts of Upper Canada, shall cease to have force in and to be applicable to British Columbia.

5. Provided, always, that all judgments given in any civil suit in British Columbia shall be subject to appeal to Her Majesty in Council, in the manner and subject to the regulations in and subject to which appeals are now brought from the Civil Courts of Canada, and to such further or other regulations as Her Majesty, with the advice of Her Privy Council, shall from time to time appoint.

Appeal from judgments in civil suits to the Privy Council.

6. No part of the Colony of Vancouver Island, as at present established, shall be comprised within British Columbia for the purpose of this Act; but it shall be lawful for Her Majesty, Her heirs and successors, on receiving at any time during the continuance of this Act, a joint Address from the two Houses of the Legislature of Vancouver Island, praying for the Incorporation of that Island with British Columbia by order to be made as aforesaid, with the advice of Her Privy Council, to annex the said Island to

Vancouver Island, as at present established, not to be included in British Columbia.

A. D. 1858.

British Columbia, subject to such conditions and regulations as to Her Majesty shall seem expedient; and thereupon and from the date of the publication of such order in the said Island, or such other date as may be fixed in such order, the provisions of this Act shall be held to apply to Vancouver Island.

“Governor.”

7. In the construction of this Act the term “Governor” shall mean the person for the time being lawfully administering the Government of British Columbia.

Act to continue in force until December 31, 1862.

8. This Act shall continue in force until the thirty-first day of December, One thousand eight hundred and sixty-two, and thenceforth to the end of the then next Session of Parliament: Provided, always, that the expiration of this Act shall not effect the boundaries hereby defined, or the right of appeal hereby given, or any act done or right or title acquired under or by virtue of this Act, nor shall the expiration of this Act revive the Acts or parts of Acts hereby repealed.

Expiration of Act not to affect boundaries, &c.

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No. 31.

A. D. 1859.

An Act to repeal, as regards the Colony of Victoria, and to enable other Colonial Legislatures to repeal, certain provisions of the Imperial Acts of the fifty-fourth year of George the Third, chapter fifteen, and of the fifth and sixth years of William the Fourth, chapter sixty-two.

[8th August, 1859.]

54 G. 3. c. 15.

WHEREAS by the first, second, and third sections of an Act passed in the fifty-fourth year of His late Majesty King George the Third, intituled “An Act for the more easy recovery of debts in Her Majesty’s Colonies of New South Wales,” provision was made for the proof, by affidavit, affirmation, or otherwise, of certain matters requiring to be proved before any Courts of Law or Equity in New South Wales or its dependencies, and for the punishment of persons guilty of making such affidavits or affirmations falsely: And whereas by the fifteenth and seventeenth sections of an Act passed in the session of Parliament held in the fifth and sixth years of His late Majesty King William the Fourth, intituled “An Act to repeal an Act of the present Session of Parliament, intituled ‘An Act for the effectual abolition of oaths and affirmations taken and made in various departments of the State, and to substitute declarations in lieu thereof,’ and for the more entire suppression of voluntary and extra-judicial oaths and affidavits, and to make other

5 & 6 W 4. c. 62.

A. D. 1859.

provisions for the abolition of unnecessary oaths," provision was made for the proof by solemn declaration or otherwise of certain matters or things requiring to be proved before any Court of Law or Equity in Her Majesty's possessions abroad: And whereas it is expedient that the provisions above recited should be repealed as regards the Colony of Victoria, and that as well the said provisions as the fourth section of the said first-recited Act of Parliament should be alterable or repealable as regards any of Her Majesty's possessions abroad by the Legislature or other Legislative authority of such possession: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The first, second and third sections of the said first-recited Act of Parliament, and the fifteenth and seventeenth sections of the said secondly-recited Act of Parliament, shall be and they are hereby repealed so far as they apply to Her Majesty's Colony of Victoria.

Certain sections of recited Acts repealed so far as they apply to the Colony of Victoria.

2. It shall be lawful for the Legislature or other Legislative authority of any of Her Majesty's possessions abroad to which any of the provisions contained in the said first-recited Act, or in the fifteenth or seventeenth section of the said secondly-recited Act, shall apply, to repeal, alter, or amend all or any of the provisions, so far as applicable to such possession, in like manner and subject to the same conditions as if the same had been originally enacted by such Legislature or Legislative authority.

Power to Colonial Legislatures to repeal, alter, or amend provisions of recited Acts so far as applicable to such possessions.

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No. 32.

An Act to make further Provision for the Regulation of the Trade with the Indians, and for the Administration of Justice in the North-western Territories of America.

A. D. 1859.

[13th August, 1859.]

WHEREAS an Act was passed in the forty-third year of King George the Third (chapter one hundred and thirty-eight), "for extending the jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada to the trial and punishment of persons guilty of crimes and offences within certain parts of North America adjoining to the said Provinces," and an Act was passed in the session holden in the first and second years of King George the Fourth (chapter sixty-six), "for regulating the fur trade, and for establishing a criminal and civil jurisdiction within

43 G. 3. c. 138.

1 &amp; 2 G. 4 c. 66.

A. D. 1859.]

certain parts of North America;" and by the firstly herein-mentioned Act it was enacted, that all offences committed within any of the Indian territories or parts of America not within the limits of either of the Provinces of Lower or Upper Canada, or of any Civil Government of the United States of America, should be and be deemed to be offences of the same nature, and should be tried in the same manner, and subject to the same punishment, as if the same had been committed within the Provinces of Lower or Upper Canada; and by the secondly herein-mentioned Act it was enacted, that it should be lawful for His Majesty, if he should deem it convenient so to do, to issue a commission or commissions to any person or persons to be and act as Justices of the Peace within such parts of America as aforesaid; and it was also enacted, that it should be lawful for His Majesty, by commission under the great seal, to authorize and empower such persons so appointed Justices to sit and hold Courts of Record for the trial of criminal offences and misdemeanors, and also of civil causes: And whereas no Courts of Record have been established or authorized as aforesaid, and it is expedient to make further provision for the administration of justice in criminal cases in the said Indian territories, and such other parts as aforesaid of America, and also to make provision for better regulating trade with the Indians in the territories and parts aforesaid: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Justices of the Peace in the British American Indian territories authorized to try offences summarily, and punish by fine or imprisonment.

1. It shall be lawful for Her Majesty, by the commission by which any Justices of the Peace are appointed under the said Act of King George the Fourth, or by any subsequent commission, or by any Order in Council, from time to time to authorize any such Justice or Justices to take cognizance of and try in a summary way all crimes, misdemeanors, and offences whatsoever, except as hereinafter mentioned, within the local limits of the jurisdiction of such Justices (or such parts thereof as Her Majesty may direct in this behalf), and to punish such crimes, misdemeanors and offences by fine or imprisonment, or both; and it shall be lawful for Her Majesty, in manner aforesaid, from time to time to restrict or regulate the exercise of such jurisdiction as she may think fit, and to direct in what cases the same may be exercised by one or by more than one of such Justices, and generally to make such provision concerning the exercise of such jurisdiction as to Her Majesty may seem expedient; and it shall also be lawful for Her Majesty, in manner aforesaid, to order or authorize the appointment of all proper officers to act in aid of such Justices, and the said Justices respectively may do or cause to be done all acts, matters, and things for the execution of their sentences, and in aid of their jurisdiction

A. D. 1859.  
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under this Act, which might be done or caused to be done by Courts of Record having jurisdiction in the like cases: Provided always, that where the offence with which any person is charged before any such Justice or Justices is one which is punishable with death, or one which in the opinion of such Justice or Justices ought, either on account of the inadequacy of the punishment which such Justice or Justices can inflict, or for any other reason, to be made the subject of prosecution in the ordinary way, rather than to be disposed of summarily, such Justice or Justices shall commit the offender to safe custody, and cause him to be sent in such custody for trial to Upper Canada, as provided by the said Act of King George the Fourth, or, where such Justice or Justices may see fit, to the Colony of British Columbia; and such offender may be tried and dealt with by any Court constituted in British Columbia having cognizance of the like offences committed there, and such Court shall have the like powers and authorities for this purpose as under the said Acts are given to any Court in Canada in the like cases.

2. Provided, that nothing hereinbefore contained shall be taken to repeal or affect the provisions of the said Act of King George the Fourth concerning the establishment of Courts of Record in the said territories, and where such Courts are established any offenders within the limits of the jurisdiction thereof may be committed for trial to such Courts instead of the Courts of Canada or British Columbia.

The power to establish Courts of Record not to be affected.

3. It shall be lawful for Her Majesty, by and with the advice of Her Privy Council, from time to time to make such rules and regulations as she may deem expedient for the conduct of the trade with the Indians, and for diminishing or preventing the sale and distribution of spirits to the Indians, or for promoting their moral and religious improvement, to be in force in all or any portions of the territories mentioned in the said Act of King George the Fourth which may not be included in any grant or licence for the time being in force under that Act.

Her Majesty, by Order in Council, may make regulations for the trade with the Indians.

4. Nothing herein contained shall extend to the territories heretofore granted to the company of adventurers trading to Hudson's Bay; and nothing herein contained shall extend to the Colony of British Columbia, save as herein expressly provided, or to the Colony of Vancouver's Island.

Hudson's Bay Company, British Columbia and Vancouver Island not affected.

No. 33.

A. D. 1860.

An Act to enable the Legislatures of Her Majesty's Possessions abroad to make enactments similar to the enactment of the Act Ninth George the Fourth, chapter thirty-one, section eight.

[28th August, 1860.]

9 G. 4. c. 31.

WHEREAS by an Act passed in the ninth year of His late Majesty George the Fourth, intituled "An Act for consolidating and amending the Statutes in England relating to offences against the person," it was enacted (amongst other things), that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place in England, should die of such stroke, poisoning, or hurt upon the sea or at any place out of England, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, might be dealt with, inquired for, tried, determined, and punished in the country or place in England in which such stroke, poisoning, or hurt should happen, in the same manner in all respects as if such offence had been wholly committed in that country or place: and whereas it may be desirable that provisions similar or analogous to the above-recited provisions should be made with respect to offences committed within Her Majesty's possessions abroad: and whereas doubts are entertained whether it is competent to the Legislature of any such possession to make such provision: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Legislatures of possessions abroad empowered to make Ordinances enacting to the like effect as in provisions of sec. 8 of 9 G. 4. c. 31.

1. It shall be lawful for the Legislature of any of Her Majesty's possessions abroad to enact by any Law or Ordinance, to be by them made in the usual manner, that where any person, being feloniously stricken, poisoned or otherwise hurt at any place within the limits of such possession, shall die of such stroke, poisoning, or hurt upon the sea or at any place out of the limits of such possession, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in the possession within the limits of which such stroke, poisoning, or hurt shall happen, in the same manner in all respects as if such offence had been wholly committed within the limits of such possession, or such Legislature may enact, by any such Law or Ordinance to be made as aforesaid, to the like effect.

## No. 34.

An Act to facilitate the appointment of Vice-Admirals and of Officers in Vice-Admiralty Courts in Her Majesty's Possessions abroad, and to confirm the past proceedings, to extend the jurisdiction, and to amend the practice of those Courts.

A. D. 1863.

[8th June, 1863.]

**WHEREAS** it is expedient to facilitate the appointment of Vice-Admirals and of Officers in Vice-Admiralty Courts in Her Majesty's Possessions abroad, and to confirm the past proceedings, to extend the jurisdiction, and to amend the practice of those Courts: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited for all purposes as the "Vice-Admiralty Courts Act, 1863." Short Title.

2. In the interpretation, and for the purposes of this Act, (if not inconsistent with the context or subject matter) the following terms shall have the respective meanings hereinafter assigned to them; that is to say, Interpretation of terms.

"Her Majesty" shall mean Her Majesty, Her heirs and successors :

The "Admiralty" shall mean the Lord High Admiral or the Commissioners for executing his office :

"British Possession" shall mean any Colony, Plantation, Settlement, Island, or Territory being a part of Her Majesty's Dominions, but not being within the limits of the United Kingdom of Great Britain and Ireland, or of Her Majesty's Possessions in India :

"Governor" shall mean the Officer for the time being lawfully administering the Government of any British Possession :

"Vice-Admiralty Court" shall mean any of the existing Vice-Admiralty Courts enumerated in the Schedule marked A. hereto annexed, or any Vice-Admiralty Court which shall hereafter be established in any British Possession :

"Ship" shall include every description of vessel used in navigation not propelled by oars only, whether British or Foreign :

"Cause" shall include any cause, suit, action, or other proceeding instituted in Vice-Admiralty Court.

A. D. 1863.

Appointment of  
Vice-Admiral.

3. In any British possession, where the office of Vice-Admiral is now or shall at any time hereafter become vacant, the Governor of such possession shall be *ex officio* Vice-Admiral thereof, until a notification is received in the possession that a formal appointment to that office has been made by the Admiralty in the manner hereinafter mentioned.

Appointment of  
Judge.

4. In any British possession, where the office of Judge of a Vice-Admiralty Court is now or shall at any time hereafter become vacant, the Chief Justice, or the principal Judicial Officer of such possession, or the person for the time being lawfully authorized to act as such, shall be *ex officio* Judge of the Vice-Admiralty Court, until a notification is received in the possession that a formal appointment to that office has been made by the Admiralty in the manner hereinafter mentioned.

Appointment of  
Registrar and  
Marshal.

5. In any British possession, where the office of Registrar or Marshal of any Vice-Admiralty Court is now or shall at any time hereafter become vacant, the Judge of the Court may, with the approval of the Governor, appoint some person to the vacant office, until a notification is received in the possession that a formal appointment thereto has been made by the Admiralty in the manner hereinafter mentioned, and may, for good and reasonable cause to be approved by the Governor, remove the person so appointed. The Judge may also appoint some person to act as Registrar or Marshal during the temporary absence of either of those officers.

Names of appointees, &c., to be notified to Home Government.

6. On any vacancy in the office of Judge, Registrar, or Marshal of any Vice-Admiralty Court, the Governor of the British possession in which the Court is established shall, as soon as is practicable, communicate to one of Her Majesty's Principal Secretaries of State the fact of the vacancy and the name of the person succeeding or appointed to the vacant office.

Saving the powers  
of the Admiralty.

7. Nothing in this Act contained shall be taken to affect the power of the Admiralty to appoint any Vice-Admiral, or any Judge, Registrar, Marshal, or other officer of any Vice-Admiralty Court, as heretofore by warrant from the Admiralty, and by letters patent issued under seal of the High Court of Admiralty of England.

Past proceedings  
confirmed.

8. No act done by any person in the capacity of Judge, Registrar, or Marshal of any Vice-Admiralty Court, which shall not have been set aside by any competent authority before the passing of this Act, shall be held invalid by reason that such person had not been duly appointed, but all such acts shall be as valid and effectual as if done by a person duly appointed.

Protection of  
officers.

9. No action, prosecution, or other proceeding shall be brought against any such person by reason of the illegality or informality of any act hereby declared to be valid and effectual.

10. The matters in respect of which the Vice-Admiralty Courts shall have jurisdiction are as follows:—

A. D. 1863.

Jurisdiction of Vice Admiralty Courts

- (1.) Claims for seamen's wages:
- (2.) Claims for master's wages, and for his disbursements on account of the ship:
- (3.) Claims in respect of pilotage:
- (4.) Claims in respect of salvage of any ship, or of life, or goods therefrom:
- (5.) Claims in respect of towage:
- (6.) Claims for damage done by any ship:
- (7.) Claims in respect of bottomry or respondentia bonds:
- (8.) Claims in respect of any mortgage where the ship has been sold by a decree of the Vice-Admiralty Court, and the proceeds are under its control:
- (9.) Claims between the owners of any ship registered in the possession, in which the Court is established, touching the ownership, possession, employment, or earnings of such ship:
- (10.) Claims for necessaries supplied, in the possession in which the Court is established, to any ship of which no owner or part owner is domiciled within the possession at the time of the necessaries being supplied:
- (11.) Claims in respect of the building, equipping, or repairing within any British possession of any ship of which no owner or part owner is domiciled within the possession at the time of the work being done.

11. The Vice-Admiralty Courts shall also have jurisdiction—

Jurisdiction of Vice Admiralty Courts.

- (1.) In all cases of breach of the regulations and instructions relating to Her Majesty's Navy at sea:
- (2.) In all matters arising out of droits of Admiralty.

12. Nothing contained in this Act shall be construed to take away or restrict the jurisdiction conferred upon any Vice-Admiralty Court by any Act of Parliament in respect of seizures for breach of the revenue, customs, trade, or navigation laws, or of the laws relating to the abolition of the slave trade, or to the capture and destruction of pirates and piratical vessels, or any other jurisdiction now lawfully exercised by any such Court; or any jurisdiction now lawfully exercised by any other Court within Her Majesty's Dominions.

Nothing to restrict existing jurisdictions.

13. The jurisdiction of the Vice-Admiralty Courts, except where it is expressly confined by this Act to matters arising within the possession in which the Court is established, may be exercised, whether the cause or right of action has arisen within or beyond the limits of such possession.

As to matters arising beyond limits of Colony.

A. D. 1863.

Her Majesty empowered to establish and alter rules and tables of fees.

14. Her Majesty may, by Order in Council, from time to time establish rules touching the practice to be observed in the Vice-Admiralty Courts, as also tables of the fees to be taken by the officers and practitioners thereof for all acts to be done therein, and may repeal and alter the existing and all future rules and tables of fees, and establish new rules and tables of fees in addition thereto, or in lieu thereof.

Rules and tables of fees to be laid before House of Commons.

15. A copy of any rules or tables of fees which may at any time be established, shall be laid before the House of Commons within three months from the establishing thereof, or if Parliament shall not be then sitting, or if the session shall terminate within one month from that date, then within one month after the commencement of the next session.

To be entered in the records of the Courts

16. The rules and tables of fees in force in any Vice-Admiralty Court shall, as soon as possible after they have been received in the British possession in which the Court is established, be entered by the Registrar in the public books or records of the Court, and the books or records in which they are so entered shall at all reasonable times be open to the inspection of the practitioners and suitors in the Court.

To be hung up in Court, &c.

17. A copy of the rules and tables of fees in force in any Vice-Admiralty Court shall be kept constantly hung up in some conspicuous place as well in the Court as in the office of the Registrar.

Established fees to be the only fees taken.

18. The fees established for any Vice-Admiralty Court shall, after the date fixed for them to come into operation, be the only fees which shall be taken by the officers and practitioners of the Court.

Taxation may be revised by the High Court of Admiralty.

19. Any person who shall feel himself aggrieved by the charges of any of the practitioners in any Vice-Admiralty Court, or by the taxation thereof by the officers of the Court, may apply to the High Court of Admiralty of England to have the charges taxed, or the taxation thereof revised.

Registrar may administer oaths.

20. The Registrar of any Vice-Admiralty Court shall have power to administer oaths in relation to any matter depending in the Court; and any person who shall wilfully swear falsely in any proceeding before the Registrar, or before any other person authorized to administer oaths in the Court, shall be deemed guilty of perjury, and shall be liable to all the penalties attaching to wilful and corrupt perjury.

As to the hearing of cross causes.

21. If a cause of damage by collision be instituted in any Vice-Admiralty Court, and the defendant institute a cross cause in respect of the same collision, the Judge may, on application of either party, direct both causes to be heard at the same time and on the same evidence; and if the ship of the defendant in one of the causes has

been arrested, or security given by him to answer judgment, but the ship of the defendant in the other cause cannot be arrested, and security has not been given to answer judgment therein, the Court may, if it think fit, suspend the proceedings in the former cause until security has been given to answer judgment in the latter cause.

A. D. 1863.

22. The appeal from a decree or order of a Vice-Admiralty Court lies to Her Majesty in Council; but no appeal shall be allowed, save by permission of the Judge, from any decree or order not having the force or effect of a definitive sentence or final order.

No appeal save from final sentence or order.

23. The time for appealing from any decree or order of a Vice-Admiralty Court shall, notwithstanding any existing enactment to the contrary, be limited to six months from the date of the decree or order appealed from; and no appeal shall be allowed where the petition of appeal to Her Majesty shall not have been lodged in the Registry of the High Court of Admiralty and of appeals within that time, unless Her Majesty in Council shall, on the report and recommendation of the Judicial Committee of the Privy Council, be pleased to allow the appeal to be prosecuted, notwithstanding that the petition of appeal has not been lodged within the time prescribed.

Appeal to be made within six months.

24. The Acts enumerated in the Schedule hereto annexed marked B. are hereby repealed to the extent therein mentioned, but the repeal thereof shall not affect the validity of any rules, orders, regulations, or tables of fees heretofore established and now in force, in pursuance of the Act of the second and third William the Fourth, Chapter fifty-one; but such rules, orders, regulations, and tables of fees shall continue in force until repealed or altered under the provisions of this Act.

Acts repealed saving rules established under 2 & 3 W. 4. c. 51.

### SCHEDULE A.

*List of the existing Vice-Admiralty Courts to which this Act applies.*

Antigua.	Natal.
Bahamas.	Nevis.
Barbadoes.	New Brunswick.
Bermuda.	Newfoundland.
British Columbia.	New South Wales.
British Guiana.	New Zealand.
British Honduras.	Nova Scotia, otherwise Halifax.
Cape of Good Hope.	Prince Edward Island.
Ceylon	Queensland.
Dominica.	Saint Christopher.
Falkland Islands.	Saint Helena.
Gambia River.	Saint Lucia.
Gibraltar.	Saint Vincent.

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Gold Coast.  
Grenada.  
Hong Kong.  
Jamaica.  
Labuan.  
Lagos.  
Lower Canada, otherwise Quebec.  
Malta.  
Mauritius.  
Montserrat.

Sierra Leone.  
South Australia.  
Tasmania, formerly called Van Diemen's Land.  
Tobago.  
Trinidad.  
Vancouver Island.  
Victoria.  
Virgin Islands, otherwise Tortola.  
Western Australia.

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SCHEDULE B.

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ACTS AND PARTS OF ACTS REPEALED.

Reference to Act.	Title of Act.	Extent of Repeal.
56 Geo. III. c. 82...	An Act to render valid the Judicial acts of Surrogates of Vice-Admiralty Courts abroad, during vacancies in office of Judges of such Courts.	The whole Act, save as regards Her Majesty's Possessions in India.
5 Geo. IV. c. 113...	An Act to amend and consolidate the Laws relating to the Abolition of the Slave Trade.	Section twenty-nine, save as above.
2 & 3 Will. IV. c. 51	An Act to regulate the practice and the fees in the Vice-Admiralty Courts abroad, and to obviate doubts as to their jurisdiction.	The whole Act, save as above.
6 & 7 Vic. c. 38.....	An Act to make further regulations for facilitating the hearing Appeals and other matters by the Judicial Committee of the Privy Council.	Section 11, so far as it relates to Appeals from Vice-Admiralty Courts, save as above
17 & 18 Vic. c. 37...	An Act for establishing the validity of certain proceedings in Her Majesty's Court of Vice-Admiralty in Mauritius.	The whole Act.

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No. 35.

A. D. 1863.

An Act to determine the time at which Letters Patent shall take effect in the Colonies.

[28th July, 1863.]

WHEREAS Her Majesty hath from time to time caused to be made under the great seal of the United Kingdom of Great Britain and Ireland divers letters patent intended to take effect within Her Majesty's Colonies and Possessions beyond the seas:

A. D. 1863.

And whereas doubts are entertained respecting the period at which such letters patent have taken or may hereafter take effect within such Colonies and Possessions, and it is expedient that such doubts should be removed: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. No such letters patent heretofore made shall (unless otherwise provided therein or by other lawful authority) be deemed to have taken or shall take effect in any such Colony or Possession as aforesaid until the same were or shall be publicly made known or acted upon therein: Provided that any act or thing heretofore done or purporting to have been done in pursuance or under authority of such letters patent shall be as valid and effectual as if the same letters patent had taken effect at the date of the making thereof.

Existing Letters Patent not to take effect in Colonies till published or acted on.

Acts done under such Letters Patent valid.

2. No such letters patent hereafter to be made shall (unless otherwise provided therein or by other lawful authority) take effect in any such Colony or Possession until the making of the same shall have been signified therein by Proclamation or other public notice.

Future Letters Patent not to take effect in Colony till publication.

3. Any such letters patent by which any person may be hereafter appointed to any office or employment within any of such Colonies or Possessions shall (unless otherwise provided therein or by other lawful authority) become null and void in respect of such Colony, unless the same shall be so signified as aforesaid within the following period; that is to say, within nine calendar months in case such Colony or Possession shall be to the eastward of Bengal in the East Indies, or to the west of Cape Horn in South America, or in any other case within six months after the making thereof.

Appointments by Letters Patent to be void unless published within six or nine months.

4. The Act, chapter ninety-one, of the ninth and tenth years of Her Majesty, intituled "An Act to continue certain patent commissions until the exhibition of the commissions revoking them," is hereby repealed.

9 & 10 Vict. c. 91 repealed.

5. This Act shall take effect in each of Her Majesty's Colonies and Possessions so soon as the same shall be proclaimed therein by the Officer administering the Government thereof.

Period of Act coming into operation.

## No. 36.

A. D. 1863. **An Act to define the Boundaries of the Colony of British Columbia, and to continue an Act to provide for the Government of the said Colony.**

[28th July, 1863.]

21 & 22 Vict. c. 99:

**WHEREAS** it is desirable to amend and continue an Act passed in the twenty-first and twenty-second year of Her Majesty, chapter ninety-nine, intituled "An Act to provide for the Government of British Columbia: ". Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Section 1 of recited Act repealed.

1. The first section of the aforesaid Act is repealed.

Remaining Sections of recited Act continued.

2. The remaining sections of the said Act shall continue in force till the thirty-first day of December, One thousand eight hundred and sixty-three, and no longer; provided that the expiration of the said Act shall not invalidate any Order in Council or other instrument issued under authority of the said Act, nor any act done or right or title acquired by virtue of the said Act, nor affect the right of appeal thereby given, nor revive any Acts or parts of Acts of Parliament thereby repealed.

Boundaries of British Columbia.

3. British Columbia shall, for the purposes of the said Act, and for all other purposes, be held to comprise all such territories within the Dominions of Her Majesty as are bounded to the South by the territories of the United States of America, to the West by the Pacific Ocean and the frontier of the Russian Territories in North America, to the North by the sixtieth parallel of north latitude, and to the East from the boundary of the United States northwards, by the Rocky Mountains and the one hundred and twentieth meridian of west longitude, and shall include Queen Charlotte's Island and all other Islands adjacent to the said Territories, except Vancouver Island and the Islands adjacent thereto.

## No. 37.

An Act to confirm certain Acts of Colonial Legislatures.

A. D. 1863.

[28th July, 1863.]

WHEREAS doubts are entertained respecting the validity of divers Acts passed by the Legislature of South Australia for the purpose of altering the Constitution of the Legislative Council and House of Assembly of the said Colony, and respecting the power of Colonial Legislatures to make laws for the above purpose; and it is expedient to remove such doubts: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. In this Act of Parliament the term "Colonial Legislature" shall mean the authority (other than Her Majesty in Council) competent to make laws for any of Her Majesty's possessions abroad, except India, the Channel Islands, and the Isle of Man.

As to terms "Colonial Legislature" and "Governor."

The term "Governor" shall mean the Officer lawfully administering the Government of any Colony.

2. All laws heretofore passed or purporting to have been passed by any Colonial Legislature with the object of declaring or altering the constitution of such Legislature, or of any branch thereof, or the mode of appointing or electing the Members of the same, shall have and be deemed to have had from the date at which the same shall have received the assent of Her Majesty or of the Governor of the Colony on behalf of Her Majesty, the same force and effect for all purposes whatever as if the said Legislature had possessed full powers of enacting laws for the objects aforesaid, and as if all formalities and conditions by Acts of Parliament or otherwise prescribed in respect of the passing of such laws had been duly observed.

Confirmation of certain Acts of Colonial Legislatures.

No. 38.

A. D. 1864.

An Act to enable Joint Stock Companies carrying on Business in Foreign Countries to have Official Seals to be used in such Countries.

[13th May, 1864.]

WHEREAS there have been and may be established in the United Kingdom companies whose business is to be carried on in countries not situate in the United Kingdom, and it is convenient and desirable that investments may be made, and mortgages, conveyances, and leases taken, and contracts and engagements entered into, on behalf of the company, in such countries, in the name of the company: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The Companies Seals Act, 1864."

Power to companies to have an official seal.

2. Any company, under "The Companies Act, 1862," whose objects require or comprise the transaction of business, as hereinbefore mentioned, in foreign countries, may cause to be prepared an official seal for and to be used in any place, district or territory situate out of the United Kingdom in which the business of the company shall be carried on, and every such official seal may and shall be a fac-simile of, or as nearly as practicable a fac-simile of, the common seal of the company, with the exception that on the face thereof shall be inscribed the name of each and every place, district or territory in and for which it is to be used: Provided that it shall be lawful for any such company as aforesaid from time to time to break up and renew any official seal or seals, and to vary the limits within which it is intended to be used.

Power to companies to appoint agents abroad to affix seals.

3. Every company having or using any such official seal as is authorized by this Act may from time to time, by any instrument or instruments in writing under the common seal of the company, empower any agent or agents specially appointed for the purpose, or any local agent, board, committee, manager, or commissioner appointed under the provisions of the articles of association of such company, in any place, district or territory situate out of the United Kingdom where the business of the company shall for the time being be carried on, to affix such official seal to any deed, contract, or other instrument to which the company is or shall be made a party in such place, district, or territory, and no other order of the

company or the board of directors thereof shall be necessary to authorize any such seal to be affixed to any deed, contract, or other instrument.

A. D. 1864.

4. Every power granted under the last preceding section shall, as between the company, their successors and assigns, on the one hand, and the person or persons dealing with the agent or agents, board, committee, manager, or commissioner named in the instrument conferring the power, and all parties claiming through or under such person or persons, on the other hand, continue in force during the period, if any, mentioned in the instrument conferring the power, or if no power be there mentioned, then until notice of the revocation or determination of the power shall have been given to such person or persons as aforesaid.

As to the duration of powers granted under sect. 3 of this Act.

5. Whenever any such official seal as aforesaid shall be affixed to any document, the person affixing the same shall, by writing under his hand, and written on the document to which the seal may have been affixed, certify the date when and the place where the same was affixed; and any document to which any such seal shall have been duly affixed within the district or territory or place the name whereof is inscribed on such seal shall bind the company in the same way and to the same extent and have the same force and effect as if it had been duly sealed with the common seal of the company.

Person affixing seal to document to certify the date when so affixed.

6. The powers given by this Act shall be exercised by such companies only as are or shall be expressly authorized to exercise the same by their articles of association, or a special resolution passed according to the provisions of "The Companies Act, 1862," and shall be exercised by such companies, subject to any directions or restrictions in their articles of association or the special resolutions contained.

Companies not to exercise powers of Act unless authorized.

7. Nothing in this Act contained shall operate to repeal the provisions of the fifty-fifth section of "The Companies Act, 1862," but such section shall continue in force, and all Acts done or to be done thereunder shall be as valid and effectual as if this Act had not been passed.

Section 55 of 25 & 26 Vict. c. 89 not repealed.

## No. 39.

A. D. 1865. An Act to make better Provision for the Naval Defence of the Colonies.

[7th April, 1865.]

22 & 23 Vict. c. 40.

**W**HEREAS it is expedient to enable the several colonial possessions of Her Majesty the Queen to make better provision for naval defence, and to that end to provide and man vessels of war, and also to raise a volunteer force to form part of the Royal Naval Reserve established under the Act of Parliament, 1859, "for the establishment of a reserve volunteer force of seamen, and for the government of the same," (hereafter in this Act called the Act of 1859,) and accordingly to be available for general service in the Royal Navy in emergency:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short Title.

1. This Act may be cited as the "Colonial Naval Defence Act, 1865."

Interpretation.

2. In this Act—

The term "Colony" includes any plantation, Island, or other possession within Her Majesty's dominions, exclusive of the United Kingdom of Great Britain and Ireland, and of the islands being immediate dependencies thereof, and exclusive of India as defined by the Act of Parliament of 1858 "for the better Government of India:"

The term "the Admiralty" means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral.

Power for Colonies to provide vessels and raise men and commission officers, &c.

3. In any Colony it shall be lawful for the proper Legislative authority, with the approval of Her Majesty in Council, from time to time to make provision for effecting at the expense of the Colony all or any of the purposes following:

- (1.) For providing, maintaining, and using a vessel or vessels of war, subject to such conditions and for such purposes as Her Majesty in Council from time to time approves:
- (2.) For raising and maintaining seamen and others entered on the terms of being bound to serve as ordered in any such vessel:

A. D. 1865.

- (3.) For raising and maintaining a body of volunteers entered on the terms of being bound to general service in the Royal Navy in emergency, and, if in any case the proper Legislative authority so directs, on the further terms of being bound to serve as ordered in any such vessel as aforesaid:
- (4.) For appointing commissioned, warrant, and other officers to train and command or serve as officers with any such men ashore or afloat, on such terms and subject to such regulations as Her Majesty in Council from time to time approves:
- (5.) For obtaining from the Admiralty the services of commissioned, warrant, and other officers and of men of the Royal Navy for the last-mentioned purposes:
- (6.) For enforcing good order and discipline among the men and officers aforesaid while ashore or afloat within the limits of the Colony:
- (7.) For making the men and officers aforesaid, while ashore or afloat within the limits of the Colony or elsewhere, subject to all enactments and regulations for the time being in force for the discipline of the Royal Navy.

4. Volunteers raised as aforesaid in any Colony shall form part of the Royal Naval Reserve, in addition to the volunteers who may be raised under the Act of 1859, but, except as in this Act expressly provided, shall be subject exclusively to the provisions made as aforesaid by the proper Legislative authority of the Colony.

Volunteers to form part of Royal Naval Reserve.

5. It shall be lawful for Her Majesty in Council from time to time as occasion requires, and on such conditions as seem fit, to authorize the Admiralty to issue to any officer of the Royal Navy volunteering for the purpose a special commission for service in accordance with the provisions of this Act.

Power to Admiralty to issue special commissions.

6. It shall be lawful for Her Majesty in Council from time to time as occasion requires, and on such conditions as seem fit, to authorize the Admiralty to accept any offer for the time being made or to be made by the Government of a Colony, to place at Her Majesty's disposal any vessel of war provided by that Government and the men and officers from time to time serving therein; and while any vessel accepted by the Admiralty under such authority is at the disposal of Her Majesty, such vessel shall be deemed to all intents a vessel of war of the Royal Navy, and the men and officers from time to time serving in such vessel shall be deemed to all intents men and officers of the Royal Navy, and shall accordingly be subject to all enactments and regulations for the time being in force for the discipline of the Royal Navy.

Placing of Colonial vessel with men and officers at Her Majesty's disposal.

7. It shall be lawful for Her Majesty in Council from time to time as occasion requires, and on such conditions as seem fit, to

As to services of volunteers and officers in navy.

A. D. 1865.

authorize the Admiralty to accept any offer for the time being made or to be made by the Government of a Colony, to place at Her Majesty's disposal for general service in the Royal Navy the whole or any part of the body of volunteers with all or any of the officers raised and appointed by that Government in accordance with the provisions of this Act; and when any such offer is accepted, such of the provisions of the Act of 1859 as relate to men of the Royal Naval Reserve raised in the United Kingdom when in actual service shall extend and apply to the volunteers whose services are so accepted.

Delegation of admiralty powers to naval officer.

8. The Admiralty may, if they think fit, from time to time by warrant authorize any officer of Her Majesty's Navy of the rank of Captain, or of a higher rank, to exercise, in the name and on behalf of the Admiralty, in relation to any Colony, for such time and subject to such limitations, if any, as the Admiralty think fit, any power exercisable by the Admiralty under this Act.

Not to impose charge on Imperial revenues, &c.

9. Nothing done under this Act by Order in Council, or by the Admiralty, or otherwise, shall impose any charge on the revenues of the United Kingdom without express provision made by Parliament for meeting the same.

Not to affect powers vested in Colonies.

10. Nothing in this Act shall take away or abridge any power vested in or exercisable by the Legislature or Government of any Colony.

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### No. 40.

A. D. 1865.

An Act to remove doubts as to the validity of Colonial Laws.

[29th June, 1865.]

**W**HEREAS doubts have been entertained respecting the validity of divers laws enacted or purporting to have been enacted by the Legislatures of certain of Her Majesty's Colonies, and respecting the powers of such Legislatures, and it is expedient that such doubts should be removed:

Be it hereby enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Definitions:  
"Colony:"

1. The term "Colony" shall in this Act include all of Her Majesty's possessions abroad in which there shall exist a Legis-

A. D. 1865.

lature, as hereinafter defined, except the Channel Islands, the Isle of Man, and such territories as may for the time being be vested in Her Majesty under or by virtue of any Act of Parliament for the Government of India :

The terms "Legislature" and "Colonial Legislature" shall severally signify the authority, other than the Imperial Parliament or Her Majesty in Council, competent to make laws for any Colony :

"Legislature:"  
"Colonial Legislature:"

The term "Representative Legislature" shall signify any Colonial Legislature which shall comprise a Legislative body of which one-half are elected by inhabitants of the Colony :

"Representative Legislature:"

The term "Colonial Law" shall include laws made for any Colony either by such Legislature as aforesaid or by Her Majesty in Council :

"Colonial law:"

An Act of Parliament, or any provision thereof, shall, in construing this Act, be said to extend to any Colony when it is made applicable to such Colony by the express words or necessary intendment of any Act of Parliament :

Act of Parliament, &c., to extend to Colony when made applicable to such Colony:

The term "Governor" shall mean the officer lawfully administering the Government of any Colony :

"Governor:"

The term "Letters Patent" shall mean letters patent under the great seal of the United Kingdom of Great Britain and Ireland.

"Letters patent."

2. Any colonial law which is or shall be in any respect repugnant to the provisions of any Act of Parliament extending to the Colony to which such law may relate, or repugnant to any order or regulation made under authority of such Act of Parliament, or having in the Colony the force and effect of such Act, shall be read subject to such Act, order, or regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.

Colonial law when void for repugnancy.

3. No colonial law shall be or be deemed to have been void or inoperative on the ground of repugnancy to the law of England, unless the same shall be repugnant to the provisions of some such Act of Parliament, order, or regulation as aforesaid.

Colonial law when not void for repugnancy.

4. No colonial law, passed with the concurrence of or assented to by the Governor of any Colony, or to be hereafter so passed or assented to, shall be or be deemed to have been void or inoperative by reason only of any instructions with reference to such law or the subject thereof which may have been given to such Governor by or on behalf of Her Majesty by any instrument other than the letters patent or instrument authorizing such Governor to concur in passing or to assent to laws for the peace, order and good government of

Colonial law not void for inconsistency with instructions.

A. D. 1865.

such Colony, even though such instructions may be referred to in such letters patent or last-mentioned instrument.

Colonial Legislature may establish, &c., Courts of law.

5. Every Colonial Legislature shall have, and be deemed at all times to have had, full power within its jurisdiction to establish Courts of Judicature, and to abolish and reconstitute the same, and to alter the constitution thereof, and to make provision for the administration of justice therein; and every representative Legislature shall, in respect to the Colony under its jurisdiction, have, and be deemed at all times to have had, full power to make laws respecting the constitution, powers, and procedure of such Legislature; provided that such laws shall have been passed in such manner and form as may from time to time be required by any Act of Parliament, letters patent, Order in Council, or colonial law for the time being in force in the said Colony.

Representative Legislature may alter constitution.

Certified copies of laws to be evidence that they are properly passed.

6. The certificate of the clerk or other proper officer of a Legislative body in any Colony to the effect that the document to which it is attached is a true copy of any colonial law assented to by the Governor of such Colony, or of any Bill reserved for the signification of Her Majesty's pleasure by the said Governor, shall be prima facie evidence that the document so certified is a true copy of such law or bill, and, as the case may be, that such law has been duly and properly passed and assented to, or that such Bill has been duly and properly passed and presented to the Governor; and any Proclamation purporting to be published by authority of the Governor in any newspaper in the Colony to which such law or bill shall relate, and signifying Her Majesty's disallowance of any such colonial law, or Her Majesty's assent to any such reserved Bill as aforesaid, shall be prima facie evidence of such disallowance or assent.

Proclamation to be evidence of assent and disallowance.

And whereas doubts are entertained respecting the validity of certain Acts enacted or reputed to be enacted by the Legislature of South Australia: Be it further enacted as follows:—

Certain Acts enacted by Legislature of South Australia to be valid.

7. All laws or reputed laws enacted or purporting to have been enacted by the said Legislature, or by persons or bodies of persons for the time being acting as such Legislature, which have received the assent of Her Majesty in Council, or which have received the assent of the Governor of the said Colony in the name and on behalf of Her Majesty, shall be and be deemed to have been valid and effectual from the date of such assent for all purposes whatever; provided that nothing herein contained shall be deemed to give effect to any law or reputed law which has been disallowed by Her Majesty, or has expired, or has been lawfully repealed, or to prevent the lawful disallowance or repeal of any law.

**No. 41.**

An Act to remove doubts respecting the validity of certain Marriages contracted in Her Majesty's Possessions abroad.

A. D. 1865.

[29th June, 1865.]

**W**HEREAS laws have from time to time been made by the Legislatures of divers of Her Majesty's possessions abroad for the purpose of establishing the validity of certain marriages previously contracted therein, but doubts are entertained whether such laws are in all respects effectual for the aforesaid purpose beyond the limits of such possessions: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. Every law made or to be made by the Legislature of any such possession as aforesaid for the purpose of establishing the validity of any marriage or marriages contracted in such possession shall have and be deemed to have had from the date of the making of such law the same force and effect for the purpose aforesaid within all parts of Her Majesty's dominions as such law may have had or may hereafter have within the possession for which the same was made: Provided that nothing in this law contained shall give any effect or validity to any marriage unless at the time of such marriage both of the parties thereto were, according to the law of England, competent to contract the same.

Colonial laws establishing validity of marriages to have effect throughout Her Majesty's dominions.

Not to give effect to marriages unless parties are competent to contract marriage.

2. In this Act the word "Legislature" shall include any authority competent to make laws for any of Her Majesty's possessions abroad, except the Parliament of the United Kingdom and Her Majesty in Council.

Definition of "Legislature."

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**No. 42.**

An Act to authorize Loans in aid of the construction of Docks in British Possessions.

A. D. 1865.

[5th July, 1865.]

**W**HEREAS with a view to secure accommodation for vessels of the Royal Navy in British possessions abroad it is expedient to authorize loans in aid of the formation there of Docks of dimensions greater than would be requisite for commercial or other private purposes only:

A. D. 1865.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. This Act may be cited as the "Colonial Docks Loans Act, 1865."

Interpretation of terms.

2. In this Act—

The term "the Admiralty" means the Lord High Admiral of the United Kingdom, or the commissioners for executing the office of Lord High Admiral:

The term "Dock" includes basin or other work for the reception of vessels:

The term "Colony" includes any plantation, island, or other possession within Her Majesty's Dominions, exclusive of the United Kingdom and its immediate dependencies, and exclusive of India as defined by the Act of Parliament of 1858 "for the better Government of India:—"

The term "person" includes any authority, and any body, corporate or unincorporate.

Power to Treasury to issue out of consolidated fund any sums not exceeding £300,000 to account of Admiralty.

3. For the purposes of loans under this Act, the Commissioners of Her Majesty's Treasury may from time to time, by warrant under the hands of any two or more of them, cause to be issued out of the consolidated fund of the United Kingdom, or the growing produce thereof, to the account of the Admiralty, any sums of money not exceeding in the whole the sum of Three hundred thousand pounds.

Account of Admiralty to be opened at Bank of England.

4. The Governor and Company of the Bank of England shall open in their books an account with the Admiralty under the title of "The Lord High Admiral or Commissioners of the Admiralty for the time being on account of Colonial Docks."

Money issued to be carried to account of Admiralty.

5. All money from time to time issued under this Act out of the consolidated fund shall be carried to the credit of the said account.

Loans for docks to be out of money issued.

6. Out of the money for the time being standing to the credit of the said account, the Admiralty may from time to time, if and as it seems fit, with the previous approval in each instance of the Commissioners of Her Majesty's Treasury, lend such sums of money as may be required to any person forming or enlarging any Dock in any Colony, and being willing to make the same of dimension sufficient to meet the requirements of Her Majesty's Naval Service, on such terms and conditions as may be agreed on between the Admiralty and the borrower, subject nevertheless and according to the following provisions:—

A. D. 1865.

- (1.) The money lent shall not exceed the sum of twenty thousand pounds, nor shall it exceed the estimated cost of increasing the dimensions of the Dock beyond those required for commercial or other private purposes :
- (2.) The amount agreed to be lent shall be made payable by instalments as the work connected with the formation or enlargement of the Dock progress :
- (3.) The money lent shall bear interest at not less than four pounds per centum per annum :
- (4.) All and every part of the money lent shall be made repayable by instalments within a period not exceeding twenty-one years from the respective dates of the payments on account of the loan :
- (5.) The borrower shall give security to the satisfaction of the Admiralty and of the Commissioners of Her Majesty's Treasury, by mortgage of the dock where practicable, or otherwise, for payment of interest and repayment of principal.

7. By virtue of this Act, any loan may be made, and any security may be given, by way of mortgage or otherwise, on any dues, rates, tolls, revenues, or property of the borrower, notwithstanding the absence of any power in the borrower so to borrow or give security, except by virtue of this Act, and notwithstanding any limitation of the amount authorized to be raised under any borrowing power.

Loan not restricted as to powers of borrower.

8. Every mortgage or other security in respect of a loan under this Act shall have priority to all other securities and charges whatever on or affecting the dues, rates, tolls, revenues, or property comprised in such mortgage or other security, except to a security or charge of prior date and execution, securing money actually lent before the date of the agreement for the loan under this Act.

Priority of mortgages under this Act.

9. In any agreement, deed, or instrument made or executed under this Act, the Admiralty may be styled "The Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral," without any name being expressed.

Style of admiralty in deeds, &c.

10. Any such agreement, deed, or instrument signed or executed by two of the Commissioners of the Admiralty shall be as valid and effectual as if signed or executed by the Commissioners for the time being.

Signatures, &c., of two Commissioners.

11. All the estate, interest, rights, and powers of the Admiralty under any mortgage or other security in respect of a loan under this Act shall by virtue of this Act go to and vest in the Lord High Admiral or Commissioners of the Admiralty for the time being in succession.

Mortgaged property to vest in Admiralty &c.

A. D. 1865.

Payment of interest  
and repayment of  
principal.

12. All interest from time to time payable, and all principal money from time to time repayable, in respect of any loan under this Act, shall be paid, under the direction of the Admiralty, to the cashiers of the Governor and Company of the Bank of England, and when so paid shall be carried to the credit of the account kept by them with Her Majesty's Exchequer.

Transfer back to  
consolidated fund.

13. Any money for the time being standing to the credit of the account opened with the Admiralty may from time to time, under the direction of the Commissioners of Her Majesty's Treasury, be transferred by the Governor and Company of the Bank of England to the account kept by them with Her Majesty's Exchequer, and when so transferred shall be carried to and made part of the consolidated fund of the United Kingdom.

Agreements for  
loans to be laid  
before Parliament.

14. Every agreement for a loan under this Act shall be laid before both Houses of Parliament within thirty days after the making thereof, if Parliament is then sitting, and if not, then within thirty days after the next meeting of Parliament.

Agreements before  
passing of this Act  
confirmed.

15. Any agreement made before the passing of this Act by the Admiralty, and approved by the Commissioners of Her Majesty's Treasury, for a loan for such a purpose as aforesaid, is hereby confirmed; and any money may be lent, and all interest agreed for shall be paid, and all instalments of principal money agreed for shall be repaid, as nearly as may be in all respects as if the agreement were made under this Act.

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**No. 43.**

A. D. 1866.

Proclamation by His Excellency Frederick Seymour, Governor and Commander-in-Chief of Her Majesty's Colony of British Columbia and its Dependencies, Vice-Admiral of the same, &c., &c., &c.

[17th November, 1866.]

WHEREAS by an Act of Parliament made and passed in the session of the Imperial Parliament holden in the 29th and 30th years of the reign of Her Majesty Queen Victoria, chapter 67, intituled "An Act for the Union of the Colony of Vancouver Island with the Colony of British Columbia," it was, among other things, enacted that from and immediately after the proclamation of the above-mentioned Act of Parliament by the Governor of British Columbia, the Colony of Vancouver Island should be united with

the Colony of British Columbia and form one Colony, in manner in such Act mentioned :

A. D. 1866.

Now, therefore, I, Frederick Seymour, Governor of the said Colony of British Columbia, do hereby proclaim and publish the said Act for the guidance of Her Majesty's subjects and all others whom it may concern, as follows:—

“ CAP. LXVII.

“ An Act for the Union of the Colony of Vancouver Island with the  
“ Colony of British Columbia.

“ [6th August, 1866.]

“ **B** E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

“ 1. This Act may be cited as the ‘British Columbia Act, 1866.’ Short Title.

“ 2. In this Act the term ‘Governor’ means any officer for the time being lawfully administering the Government. “ Governor.”

“ 3. From and immediately after the proclamation of this Act by the Governor of British Columbia, the Colony of Vancouver Island shall be and the same is hereby united with the Colony of British Columbia, and thenceforth those two Colonies shall form and be one Colony, with the name of British Columbia (which union is in this Act referred to as the union). On proclamation of this Act in British Columbia, Vancouver Island united therewith.

“ 4. On the union taking effect, the form of Government existing in Vancouver Island as a separate Colony shall cease, and the power and authority of the Executive Government and of the Legislature existing in British Columbia shall extend to and over Vancouver Island; but in order that provision may be made for the representation of Vancouver Island in the Legislature of British Columbia after the union the maximum number of Councillors in the Legislative Council of British Columbia after the union shall, until it is otherwise provided by lawful authority, be twenty-three instead of fifteen. As to Government of united Colony.

“ 5. After and notwithstanding the union the laws in force in the separate Colonies of British Columbia and Vancouver Island respectively at the time of the union taking effect shall, until it is otherwise provided by lawful authority, remain in force as if this Act had not been passed or proclaimed; save only that the laws relative to the Revenue of Customs in force in British Columbia at the time of the union taking effect shall, until it is otherwise provided by lawful authority, extend and apply to Vancouver Island; and, until it is otherwise provided by lawful authority, the Governor of British Columbia shall have, in relation to the territory for the time being under his Government, all the powers and authorities for the time being vested, in relation to the United Kingdom, in the Commissioners of Her Majesty's Treasury or in the Commissioners of Customs, Laws of the separate Colonies to continue except as to Revenue of Customs

A. D. 1866.

“with respect to the appointment of warehousing ports, and the approval  
“and appointment of warehouses or places of security in such ports,  
“and everything consequent thereon or relative thereto.

Nothing to restrict  
authority of Govern-  
or, &c.

“6. Nothing in this Act shall take away or restrict the authority of  
“the Governor of British Columbia, with the advice and consent of the  
“Legislative Council thereof, to make laws for the peace, order, and  
“good government of British Columbia, either before or after the union;  
“nor shall anything in this act interfere with the exercise of any power  
“that would have been exerciseable by Her Majesty in Council if this  
“Act had not passed.

Boundaries of  
British Columbia  
until union.

“7. Until the union British Columbia shall comprise all such territo-  
“ries within the dominions of Her Majesty as are bounded to the south  
“by the territories of the United States of America, to the west by the  
“Pacific Ocean and the frontier of the Russian territories in North  
“America, to the north by the sixtieth parallel of north latitude, and  
“to the east from the boundary of the United States northwards by the  
“Rocky Mountains and the one hundred and twentieth meridian of west  
“longitude, and shall include Queen Charlotte’s Island and all other  
“islands adjacent to the said territories, except Vancouver Island and  
“the islands adjacent thereto.

Boundaries of  
British Columbia  
after union.

“8. After the union British Columbia shall comprise all the territories  
“and islands aforesaid and Vancouver Island and the islands adjacent  
“thereto.

Acts in Schedule  
repealed.

“9. The Acts described in the Schedule to this Act are hereby repeal-  
“ed; but this repeal shall not invalidate any Order in Council or other  
“instrument issued under the authority of those Acts or either of them,  
“or any act done or right or title acquired by virtue of those Acts or  
“either of them or of any such order or instrument.

“SCHEDULE.

“*Acts repealed.*

“21 & 22 Vict. c. 99. An Act to provide for the Government of British  
“Columbia.

“26 & 27 Vict. c. 83. An Act to define the boundaries of the Colony  
“of British Columbia, and to continue an Act to provide for the Govern-  
“ment of the said Colony.”

And I, the said Frederick Seymour, as such Governor as afore-  
said, do hereby further proclaim and publish that the Colony of  
Vancouver Island shall, from the proclamation hereof, be and the  
same is hereby united with the Colony of British Columbia, and the  
said two Colonies shall, from the proclamation hereof, form and be  
one Colony, with the name of British Columbia.

And I, the said Governor, do hereby further proclaim and  
publish that, notwithstanding the union aforesaid, the laws in

A. D. 1866.

force at the proclamation hereof in the separate Colonies of British Columbia and Vancouver Island respectively, until it is otherwise provided by lawful authority, shall remain in force as if the said Act had not been passed or proclaimed; save only that the laws relating to the Revenue of Customs in force in British Columbia at the proclamation hereof shall, until otherwise provided by lawful authority, extend and apply to Vancouver Island; and until it is otherwise provided by lawful authority the Governor of British Columbia shall have, in relation to the territory for the time being under his Government, all the powers and authorities for the time being vested, in relation to the United Kingdom, in the Commissioners of Her Majesty's Treasury or in the Commissioners of Her Majesty's Customs, with respect to the appointment of warehousing ports, and the approval and appointment of warehouses or places of security in such ports, and everything consequent thereon or relative thereto.

And I, the said Governor, do hereby further proclaim and publish that all and singular other the clauses and provisions of the said Act shall take full effect in the said Colonies and dependencies so united as aforesaid, under the name of British Columbia, as and from the proclamation hereof.

This Proclamation may be cited as the "Union Proclamation, 1866."

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#### No. 44.

Proclamation by His Excellency Frederick Seymour, Esquire, Governor and Commander-in-Chief in and over the Colony of British Columbia and its Dependencies, Vice-Admiral and Ordinary of the same, &c., &c., &c.

A. D. 1868.

[25th May, 1868.]

**W**HEREAS under and by virtue of a Proclamation, made and issued on the fourteenth day of February, one thousand eight hundred and fifty-nine, the site of the present City of New Westminster was laid out as the Capital of the Colony of British Columbia as then defined and existing:

And whereas under and by virtue of an Act of Parliament, made and passed in the 29th and 30th years of the reign of Her Majesty Queen Victoria, intituled the "British Columbia Act, 1866," and the proclamation thereof made by the Governor of British Columbia upon the nineteenth day of November, one thousand eight hundred and sixty-six, the formerly separate Colony of Vancouver Island and

A. D. 1868.

its dependencies was united with the formerly separate Colony of British Columbia and its dependencies, under the name of the Colony of British Columbia :

And whereas it is expedient to declare the Capital and Seat of Government of the said united Colony :

Now know ye, and I do hereby declare as follows:—

From and after the date hereof, and until otherwise appointed by Her said Majesty Queen Victoria, Her heirs and successors, the City of Victoria, in the Colony of British Columbia, shall be and be deemed for all purposes whatsoever the Capital and Seat of Government of the united Colony of British Columbia.

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### No. 45.

A. D. 1867.

An Act for the union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for purposes connected therewith.

[29th March, 1867.]

**W**HEREAS the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their desire to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in principle to that of the United Kingdom:

And whereas such a union would conduce to the welfare of the Provinces and promote the interests of the British Empire:

And whereas on the establishment of the Union by authority of Parliament it is expedient, not only that the Constitution of the Legislative authority in the Dominion be provided for; but also that the nature of the Executive Government therein be declared:

And whereas it is expedient that provision be made for the eventual admission into the Union of other parts of British North America:

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

#### I. PRELIMINARY.

1. This Act may be cited as "The British North America Act, 1867."

Short Title.

2. The provisions of this Act referring to Her Majesty the Queen, extend also to the heirs and successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.

A. D. 1867.

Application of provisions referring to the Queen.

## II. UNION.

3. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being more than six months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be one Dominion under the name of Canada; and on and after that day, those three Provinces shall form and be one Dominion under that name accordingly.

Declaration of union.

4. The subsequent provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the day appointed for the Union taking effect in the Queen's Proclamation; and in the same provisions, unless it is otherwise expressed or implied, the name Canada shall be taken to mean Canada as constituted under this Act.

Construction of subsequent provisions of Act.

5. Canada shall be divided into four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

Four Provinces.

6. The parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate Provinces. The part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

Provinces of Ontario and Quebec.

7. The Provinces of Nova Scotia and New Brunswick shall have the same limits as at the passing of this Act.

Provinces of Nova Scotia and New Brunswick.

8. In the general census of the population of Canada which is hereby required to be taken in the year One thousand eight hundred and seventy-one, and in every tenth year thereafter, the respective populations of the four Provinces shall be distinguished.

Decennial census.

## III.—EXECUTIVE POWER.

9. The Executive Government and authority of and over Canada is hereby declared to continue and be vested in the Queen.

Declaration of Executive power in the Queen.

10. The provisions of this Act referring to the Governor-General extend and apply to the Governor-General for the time being of Canada, or other the Chief Executive Officer or Administrator for

Application of provisions referring to Governor-General.

A. D. 1867.

the time being carrying on the Government of Canada on behalf and in the name of the Queen, by whatever title he is designated.

Constitution of  
Privy Council for  
Canada.

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the persons who are to be members of that Council shall be from time to time chosen and summoned by the Governor-General and sworn in as Privy Councillors, and members thereof may be from time to time removed by the Governor-General.

All powers under  
Acts to be exercised  
by Governor-General  
with advice of  
Privy Council, or  
alone.

12. All powers, authorities, and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exerciseable by the respective Governors or Lieutenant-Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exerciseable by the Governor-General with the advice, or with the advice and consent of, or in conjunction with the Queen's Privy Council for Canada, or any members thereof, or by the Governor-General individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

Application of provisions referring to Governor-General in Council.

13. The provisions of this Act referring to the Governor-General in Council shall be construed as referring to the Governor-General acting by and with the advice of the Queen's Privy Council for Canada.

Power to Her Majesty to authorize Governor-General to appoint deputies.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor-General from time to time to appoint any person or any persons, jointly or severally, to be his deputy or deputies within any part or parts of Canada, and in that capacity to exercise, during the pleasure of the Governor-General, such of the powers, authorities, and functions of the Governor-General as the Governor-General deems it necessary or expedient to assign to him or them, subject to any limitations or directions expressed or given by the Queen; but the appointment of such a deputy or deputies shall not affect the exercise by the Governor-General himself of any power, authority or function.

15. The command-in-chief of the land and naval militia, and of all naval and military forces, of and in Canada, is hereby declared to continue to be vested in the Queen. A. D. 1867.  
Command of armed forces to continue to be vested in the Queen.

16. Until the Queen otherwise directs, the Seat of Government of Canada shall be Ottawa. Seat of Government of Canada.

#### IV.—LEGISLATIVE POWER.

17. There shall be one Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons. Constitution of Parliament of Canada.

18. The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the members thereof. Privileges, &c., of Houses.

19. The Parliament of Canada shall be called together not later than six months after the Union. First session of the Parliament of Canada.

20. There shall be a session of the Parliament of Canada once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session. Yearly session of the Parliament of Canada.

#### *The Senate.*

21. The Senate shall, subject to the provisions of this Act, consist of seventy-two members, who shall be styled Senators. Number of Senators

22. In relation to the constitution of the Senate, Canada shall be deemed to consist of three divisions,— Representation of Provinces in Senate

1. Ontario:

2. Quebec:

3. The Maritime Provinces, Nova Scotia, and New Brunswick; which three divisions shall (subject to the provisions of this Act) be equally represented in the Senate as follows:—Ontario, by twenty-four Senators; Quebec by twenty-four Senators; and the Maritime Provinces by twenty-four Senators, twelve thereof representing Nova Scotia, and twelve thereof representing New Brunswick.

In the case of Quebec each of the twenty-four Senators representing that Province shall be appointed for one of the twenty-four electoral divisions of Lower Canada specified in Schedule A. to chapter one of the Consolidated Statutes of Canada.

A. D. 1867.

Qualification of  
Senators.

23. The qualification of a Senator shall be as follows:—

- (1.) He shall be of the full age of thirty years:
- (2.) He shall be either a natural-born subject of the Queen, or a subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of one of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada after the Union:
- (3.) He shall be legally or equitably seised as of freehold for his own use and benefit of lands or tenements held in free and common socage, or seised or possessed for his own use and benefit of lands or tenements held in franc-alieu or in roture, within the Province for which he is appointed, of the value of four thousand dollars, over and above all rents, dues, debts, charges, mortgages, and incumbrances due or payable out of or charged on or affecting the same:
- (4.) His real and personal property shall be together worth four thousand dollars over and above his debts and liabilities:
- (5.) He shall be resident in the Province for which he is appointed:
- (6.) In the case of Quebec he shall have his real property qualification in the electoral division for which he is appointed, or shall be resident in that Division.

Summons of  
Senator.

24. The Governor-General shall from time to time, in the Queen's name by instrument under the Great Seal of Canada, summon qualified persons to the Senate; and subject to the provisions of this Act, every person so summoned shall become and be a member of the Senate and a Senator.

Summons of first  
body of Senators.

25. Such persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their names shall be inserted in the Queen's Proclamation of Union.

Addition of Sen-  
ators in certain  
cases.

26. If at any time, on the recommendation of the Governor-General, the Queen thinks fit to direct that three or six members be added to the Senate, the Governor-General may by summons to three or six qualified persons (as the case may be,) representing equally the three divisions of Canada, add to the Senate accordingly.

Reduction of Senate  
to normal number.

27. In case of such addition being at any time made the Governor-General shall not summon any person to the Senate, except on a further like direction by the Queen on the like recommendation,

until each of the three divisions of Canada is represented by twenty-four Senators and no more.

A. D. 1867.

28. The number of Senators shall not at any time exceed seventy-eight. Maximum number of Senators.

29. A Senator shall, subject to the provisions of this Act, hold his place in the Senate for life. Tenure of place in Senate.

30. A Senator may by writing under his hand, addressed to the Governor-General, resign his place in the Senate, and thereupon the same shall be vacant. Resignation of place in Senate.

31. The place of a Senator shall become vacant in any of the following cases:— Disqualification of Senators.

- (1.) If for two consecutive Sessions of the Parliament he fails to give his attendance in the Senate:
- (2.) If he takes an oath, or makes a declaration or acknowledgment of allegiance, obedience, or adherence to a Foreign Power, or does an act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen of a foreign power:
- (3.) If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter:
- (4.) If he is attainted of treason or convicted of felony or of any infamous crime:
- (5.) If he ceases to be qualified in respect of property or of residence; provided that a Senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at the Seat of the Government of Canada while holding an office under that Government requiring his presence there.

32. When a vacancy happens in the Senate by resignation, death, or otherwise, the Governor-General shall by summons to a fit and qualified person fill the vacancy. Summons of vacancy in Senate.

33. If any question arises respecting the qualification of a Senator, or a vacancy in the Senate, the same shall be heard and determined by the Senate. Questions as to qualifications and vacancies in Senate.

34. The Governor-General may from time to time, by instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his stead. Appointment of Speaker of Senate.

35. Until the Parliament of Canada otherwise provides, the presence of at least fifteen Senators, including the Speaker, shall be necessary to constitute a meeting of the Senate for the exercise of its powers. Quorum of Senate.

A. D. 1867.

Voting in Senate.

36. Questions arising in the Senate shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

*The House of Commons.*

Constitution of House of Commons in Canada.

37. The House of Commons shall, subject to the provisions of this Act, consist of one hundred and eighty-one members, of whom eighty-two shall be elected for Ontario, sixty-five for Quebec, nineteen for Nova Scotia, and fifteen for New Brunswick.

Summoning of House of Commons.

38. The Governor-General shall from time to time, in the Queen's name, by instrument under the great seal of Canada, summon and call together the House of Commons.

Senators not to sit in House of Commons.

39. A Senator shall not be capable of being elected or of sitting or voting as a member of the House of Commons.

Electoral districts of the four Provinces.

40. Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick, shall, for the purposes of the election of members to serve in the House of Commons, be divided into Electoral Districts as follows:—

I.—ONTARIO.

Ontario shall be divided into the counties, ridings of counties, cities, parts of cities, and towns enumerated in the First Schedule to this Act, each whereof shall be an Electoral District, each such district as numbered in that Schedule being entitled to return one member.

2.—QUEBEC.

Quebec shall be divided into sixty-five Electoral Districts, composed of the sixty-five Electoral Divisions into which Lower Canada is, at the passing of this Act, divided under chapter two of the Consolidated Statutes of Canada, chapter seventy-five of the Consolidated Statutes for Lower Canada, and the Act of the Province of Canada of the twenty-third year of the Queen, chapter one, or any other Act amending the same in force at the Union, so that each such Electoral Division shall be, for the purposes of this Act, an Electoral District entitled to return one member.

3.—NOVA SCOTIA.

Each of the eighteen counties of Nova Scotia shall be an Electoral District. The county of Halifax shall be entitled to return two members, and each of the other counties one member.

4.—NEW BRUNSWICK.

Each of the fourteen counties into which New Brunswick is divided, including the city and county of St. John, shall be an

Electoral District. The city of St. John shall also be a separate Electoral District. Each of those fifteen Electoral Districts shall be entitled to return one member.

— A. D. 1867.

41. Until the Parliament of Canada otherwise provides, all laws in force in the several Provinces at the Union relative to the following matters or any of them, namely:—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the House of Assembly or Legislative Assembly in the several Provinces; the voters at elections of such members; the oaths to be taken by voters; the Returning Officers, their powers and duties; the proceedings at elections; the periods during which elections may be continued; the trial of controverted elections, and proceedings incident thereto; the vacating of seats of members, and the execution of new writs in case of seats vacated otherwise than by dissolution,—shall respectively apply to elections of members to serve in the House of Commons for the same several Provinces. Provided that, until the Parliament of Canada otherwise provides, at any election for a member of the House of Commons for the District of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British subject, aged twenty-one years or upwards, being a householder, shall have a vote.

Continuance of existing election laws until Parliament of Canada otherwise provides.

42. For the first election of members to serve in the House of Commons, the Governor-General shall cause writs to be issued by such person, in such form, and addressed to such Returning Officers as he thinks fit.

Writs for first election.

The person issuing writs under this Section shall have the like powers as are possessed at the Union by the officers charged with the issuing of writs for the election of members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia, or New Brunswick; and the Returning Officers to whom writs are directed under this section shall have the like powers as are possessed at the Union by the officers charged with the returning of writs for the election of members to serve in the same respective House of Assembly or Legislative Assembly.

43. In case a vacancy in the representation in the House of Commons of any Electoral District happens before the meeting of the Parliament, or after the meeting of the Parliament before provision is made by the Parliament in this behalf, the provisions of the last foregoing Section of this Act shall extend and apply to the issuing and returning of a writ in respect of such vacant district.

As to casual vacancies.

44. The House of Commons on its first assembling after a general election shall proceed with all practicable speed, to elect one of its members to be Speaker.

As to election of Speaker of House of Commons.

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- As to filling up vacancy in office of Speaker.
- Speaker to preside.
- Provision in case of absence of Speaker.
- Quorum of House of Commons.
- Voting in House of Commons.
- Duration of House of Commons.
- Decennial re-adjustment of representation.
45. In case of a vacancy happening in the office of Speaker by death, resignation, or otherwise, the House of Commons shall, with all practicable speed, proceed to elect another of its members to be Speaker.
46. The Speaker shall preside at all meetings of the House of Commons.
47. Until the Parliament of Canada otherwise provides, in case of the absence for any reason of the Speaker from the chair of the House of Commons for a period of forty-eight consecutive hours, the House may elect another of its members to act as Speaker, and the member so elected shall, during the continuance of such absence of the Speaker, have and execute all the powers, privileges, and duties of Speaker.
48. The presence of at least twenty members of the House of Commons shall be necessary to constitute a meeting of the House for the exercise of its powers; and for that purpose the Speaker shall be reckoned as a member.
49. Questions arising in the House of Commons shall be decided by a majority of voices other than that of the Speaker, and when the voices are equal, but not otherwise, the Speaker shall have a vote.
50. Every House of Commons shall continue for five years from the day of the return of the writs for choosing the House (subject to be sooner dissolved by the Governor-General), and no longer.
51. On the completion of the census in the year one thousand eight hundred and seventy-one, and of each subsequent decennial census, the representation of the four Provinces shall be re-adjusted by such authority, in such manner, and for such time, as the Parliament of Canada from time to time provides, subject and according to the following rules:—
- (1.) Quebec shall have the fixed number of sixty-five members:
  - (2.) There shall be assigned to each of the other Provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number sixty-five bears to the number of the population of Quebec (so ascertained):
  - (3.) In the computation of the number of members for a Province a fractional part not exceeding one-half of the whole number requisite for entitling the Province to a member shall be disregarded; but a fractional part exceeding one-half of that number shall be equivalent to the whole number:
  - (4.) On any such re-adjustment the number of members for a Province shall not be reduced unless the proportion which

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the number of the population of the Province bore to the number of the aggregate population of Canada at the then last preceding re-adjustment of the number of members for the Province is ascertained at the then latest census to be diminished by one-twentieth part or upwards:

(5.) Such re-adjustment shall not take effect until the termination of the then existing Parliament.

52. The number of members of the House of Commons may be from time to time increased by the Parliament of Canada, provided the proportionate representation of the Provinces prescribed by this Act is not thereby disturbed.

Increase of number of House of Commons.

*Money Votes; Royal Assent.*

53. Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Commons.

Appropriation and tax Bills.

54. It shall not be lawful for the House of Commons to adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to that House by Message of the Governor-General in the Session in which such vote, resolution, address, or bill is proposed.

Recommendation of money votes.

55. Where a Bill passed by the Houses of the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either that he assents thereto in the Queen's name, or that he withholds the Queen's assent, or that he reserves the Bill for the signification of the Queen's pleasure.

Royal assent to Bills, &c.

56. Where the Governor-General assents to a Bill in the Queen's name, he shall, by the first convenient opportunity, send an authentic copy of the Act to one of Her Majesty's Principal Secretaries of State, and if the Queen in Council within two years after receipt thereof by the Secretary of State thinks fit to disallow the Act, such disallowance (with a certificate of the Secretary of State of the day on which the Act was received by him) being signified by the Governor-General, by Speech or Message to each of the Houses of the Parliament, or by Proclamation, shall annul the Act from and after the day of such signification.

Disallowance by Order in Council of Act assented to by Governor-General.

57. A Bill reserved for the signification of the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent, the Governor-General signifies by Speech or Message to each of the Houses of the Parliament, or by Proclamation, that it has received the assent of the Queen in Council.

Signification of Queen's pleasure on Bill reserved.

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An entry of every such Speech, Message, or Proclamation shall be made in the Journal of each House, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of Canada.

## V.—PROVINCIAL CONSTITUTIONS.

*Executive Power.*

Appointment of Lieutenant-Governors of Provinces.

58. For each Province there shall be an officer, styled the Lieutenant-Governor, appointed by the Governor-General in Council by instrument under the great seal of Canada.

Tenure of office of Lieutenant-Governor.

59. A Lieutenant-Governor shall hold office during the pleasure of the Governor-General; but any Lieutenant-Governor appointed after the commencement of the first session of the Parliament of Canada shall not be removeable within five years from his appointment, except for cause assigned, which shall be communicated to him in writing within one month after the order for his removal is made, and shall be communicated by message to the Senate and to the House of Commons within one week thereafter if the Parliament is then sitting, and if not, then within one week after the commencement of the next session of the Parliament.

Salaries of Lieutenant-Governors.

60. The salaries of the Lieutenant-Governors shall be fixed and provided by the Parliament of Canada.

Oaths, &c., of Lieutenant-Governor.

61. Every Lieutenant-Governor shall, before assuming the duties of his office, make and subscribe before the Governor-General, or some person authorized by him, oaths of allegiance and office similar to those taken by the Governor-General.

Application of provisions referring to Lieutenant-Governor.

62. The provisions of this Act referring to the Lieutenant-Governor extend and apply to the Lieutenant-Governor for the time being of each Province, or other the Chief Executive Officer or Administrator for the time being carrying on the Government of the Province, by whatever title he is designated.

Appointment of Executive Officers for Ontario and Quebec.

63. The Executive Council of Ontario and of Quebec shall be composed of such persons as the Lieutenant-Governor from time to time thinks fit, and in the first instance of the following officers, namely,—the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, with in Quebec the Speaker of the Legislative Council and the Solicitor-General.

Executive Government of Nova Scotia and New Brunswick.

64. The constitution of the Executive authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act.

65. All powers, authorities and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the Union vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the advice or with the advice and consent of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant-Governor of Ontario and Quebec respectively, with the advice or with the advice and consent of or in conjunction with the respective Executive Councils, or any members thereof, or by the Lieutenant-Governor individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be abolished or altered by the respective Legislatures of Ontario and Quebec.

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Powers to be exercised by Lieutenant-Governor of Ontario or Quebec with advice or alone.

66. The provisions of this Act referring to the Lieutenant-Governor in Council shall be construed as referring to the Lieutenant-Governor of the Province acting by and with the advice of the Executive Council thereof.

Application of provisions referring to Lieutenant-Governor in Council.

67. The Governor-General in Council may from time to time appoint an Administrator to exercise the office and functions of Lieutenant-Governor during his absence, illness, or other inability.

Administration in absence, &c., of Lieutenant-Governor.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the seats of Government of the Provinces shall be as follows, namely,—of Ontario, the City of Toronto; of Quebec, the City of Quebec; of Nova Scotia, the City of Halifax; and of New Brunswick, the City of Fredericton.

Seats of Provincial Governments.

### *Legislative Power.*

#### 1.—ONTARIO.

69. There shall be a Legislature for Ontario consisting of the Lieutenant-Governor and of one House, styled the Legislative Assembly of Ontario.

Legislature for Ontario.

70. The Legislative Assembly of Ontario shall be composed of eighty-two members, to be elected to represent the eighty-two Electoral Districts set forth in the First Schedule to this Act.

Electoral Districts.

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## 2.—QUEBEC.

Legislature for  
Quebec.

71. There shall be a Legislature for Quebec consisting of the Lieutenant-Governor and of two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

Constitution of  
Legislative Council.

72. The Legislative Council of Quebec shall be composed of twenty-four members, to be appointed by the Lieutenant-Governor, in the Queen's name, by instrument under the great seal of Quebec, one being appointed to represent each of the twenty-four Electoral Divisions of Lower Canada in this Act referred to, and each holding office for the term of his life, unless the Legislature of Quebec otherwise provides under the provisions of this Act.

Qualification of  
Legislative Councilors.

73. The qualifications of the Legislative Councilors of Quebec shall be the same as those of the Senators for Quebec.

Resignation, dis-  
qualification, &c.

74. The place of a Legislative Councilor of Quebec shall become vacant in the cases, *mutatis mutandis*, in which the place of Senator becomes vacant.

Vacancies.

75. When a vacancy happens in the Legislative Council of Quebec by resignation, death, or otherwise, the Lieutenant-Governor, in the Queen's name, by instrument under the great seal of Quebec, shall appoint a fit and qualified person to fill the vacancy.

Questions as to  
vacancies, &c.

76. If any question arises respecting the qualification of a Legislative Councilor of Quebec, or a vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council.

Speaker of Legis-  
lative Council.

77. The Lieutenant-Governor may from time to time, by instrument under the great seal of Quebec, appoint a member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his stead.

Quorum of Legis-  
lative Council.

78. Until the Legislature of Quebec otherwise provides, the presence of at least ten members of the Legislative Council, including the Speaker, shall be necessary to constitute a meeting for the exercise of its powers.

Voting in Legisla-  
tive Council.

79. Questions arising in the Legislative Council of Quebec shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

Constitution of  
Legislative Assem-  
bly of Quebec.

80. The Legislative Assembly of Quebec shall be composed of sixty-five members, to be elected to represent the sixty-five Electoral Divisions or Districts of Lower Canada in this Act referred to, subject to alteration thereof by the Legislature of Quebec: Provided that it shall not be lawful to present to the Lieutenant-

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Governor of Quebec for assent any Bill for altering the limits of any of the Electoral Divisions or Districts mentioned in the Second Schedule to this Act, unless the second and third readings of such Bill have been passed in the Legislative Assembly with the concurrence of the majority of the members representing all those Electoral Divisions or Districts, and the assent shall not be given to such Bill unless an address has been presented by the Legislative Assembly to the Lieutenant-Governor stating that it has been so passed.

### 3.—ONTARIO AND QUEBEC.

81. The Legislatures of Ontario and Quebec respectively shall be called together not later than six months after the Union.

First session of Legislatures.

82. The Lieutenant-Governor of Ontario and of Quebec shall, from time to time, in the Queen's name, by instrument under the great seal of the Province, summon and call together the Legislative Assembly of the Province.

Summoning of Legislative Assemblies.

83. Until the Legislature of Ontario or of Quebec otherwise provides, a person accepting or holding in Ontario or in Quebec any office, commission, or employment, permanent or temporary, at the nomination of the Lieutenant-Governor, to which an annual salary, or any fee, allowance, emolument, or profit of any kind or amount whatever from the Province is attached, shall not be eligible as a member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this section shall make ineligible any person being a member of the Executive Council of the respective Province, or holding any of the following offices, that is to say, the offices of Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in Quebec Solicitor-General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such office.

Restriction on election of holders of offices.

84. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all laws which at the Union are in force in those Provinces respectively, relative to the following matters, or any of them, namely,—the qualifications or disqualifications of persons to be elected or to sit or vote as members of the Assembly of Canada, the qualifications or disqualifications of voters, the oaths to be taken by voters, the Returning Officers, their powers and duties, the proceedings at elections, the periods during which such elections may be continued, and the trial of controverted elections and the proceedings incident thereto, the vacating of the seats of members and the issuing and execution of new writs in case of seats vacated otherwise than by dissolution—shall respectively apply to elections

Continuance of existing election laws.

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of members to serve in the respective Legislative Assemblies of Ontario and Quebec.

Provided that, until the Legislature of Ontario otherwise provides, at any election for a member of the Legislative Assembly of Ontario for the District of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British subject, aged twenty-one years or upwards, being a householder, shall have a vote.

Duration of Legislative Assemblies.

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for four years from the day of the return of the writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner dissolved by the Lieutenant-Governor of the Province), and no longer.

Yearly session of Legislature.

86. There shall be a session of the Legislature of Ontario and of that of Quebec once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in each Province in one session and its first sitting in the next session.

Speaker, quorum, &c.

87. The following provisions of this Act respecting the House of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the provisions relating to the election of a Speaker originally and on vacancies, the duties of the Speaker, the absence of the Speaker, the quorum, and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to each such Legislative Assembly.

#### 4.—NOVA SCOTIA AND NEW BRUNSWICK.

Constitutions of Legislatures of Nova Scotia and New Brunswick.

88. The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act; and the House of Assembly of New Brunswick existing at the passing of this Act shall, unless sooner dissolved, continue for the period for which it was elected.

#### 5.—ONTARIO, QUEBEC, AND NOVA SCOTIA.

First elections.

89. Each of the Lieutenant-Governors of Ontario, Quebec, and Nova Scotia shall cause writs to be issued for the first election of members of the Legislative Assembly thereof in such form and by such person as he thinks fit, and at such time and addressed to such Returning Officer as the Governor-General directs, and so that the first election of member of Assembly for any Electoral District or any subdivision thereof shall be held at the same time and at the same places as the election for a member to serve in the House of Commons of Canada for that Electoral District.

## 6.—THE FOUR PROVINCES.

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90. The following provisions of this Act respecting the Parliament of Canada, namely,—the provisions relating to Appropriation and Tax Bills, the recommendation of money votes, the assent to Bills, the disallowance of Acts, and the signification of pleasure on Bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those provisions were here re-enacted and made applicable in terms to the respective Provinces and the Legislatures thereof, with the substitution of the Lieutenant-Governor of the Province for the Governor-General, of the Governor-General for the Queen and for a Secretary of State, of one year for two years, and of the Province for Canada.

Application to  
Legislatures of  
provisions respect-  
ing money votes,  
&c.

## VI.—DISTRIBUTION OF LEGISLATIVE POWERS.

*Powers of the Parliament.*

91. It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order and good government of Canada, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative authority of the Parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated, that is to say:—

Legislative author-  
ity of Parliament  
of Canada.

1. The public debt and property:
2. The regulation of trade and commerce:
3. The raising of money by any mode or system of taxation:
4. The borrowing of money on the public credit:
5. Postal service:
6. The census and statistics:
7. Militia, military and naval service, and defence:
8. The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada:
9. Beacons, buoys, lighthouses and Sable Island:
10. Navigation and shipping:
11. Quarantine and the establishment and maintenance of marine hospitals:
12. Sea coast and inland fisheries:
13. Ferries between a Province and any British or foreign country or between two Provinces:
14. Currency and coinage:
15. Banking, incorporation of banks, and the issue of paper money:

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16. Savings banks:
17. Weights and measures:
18. Bills of exchange and promissory notes:
19. Interest:
20. Legal tender:
21. Bankruptcy and insolvency:
22. Patents of invention and discovery:
23. Copyrights:
24. Indians, and lands reserved for the Indians:
25. Naturalization and aliens:
26. Marriage and divorce:
27. The criminal law, except the constitution of Courts of criminal jurisdiction, but including the procedure in criminal matters:
28. The establishment, maintenance and management of penitentiaries:
29. Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces:

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

*Exclusive Powers of Provincial Legislatures.*

92. In each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say:—

1. The amendment from time to time, notwithstanding anything in this Act, of the constitution of the Province, except as regards the office of Lieutenant-Governor.
2. Direct taxation within the Province in order to the raising of a revenue for Provincial purposes:
3. The borrowing of money on the sole credit of the Province:
4. The establishment and tenure of Provincial offices, and the appointment and payment of Provincial officers:
5. The management and sale of the public lands belonging to the Province and of the timber and wood thereon:
6. The establishment, maintenance and management of public and reformatory prisons in and for the Province:
7. The establishment, maintenance and management of hospitals, asylums, charities, and eleemosynary institutions in and for the Provinces, other than marine hospitals:
8. Municipal institutions in the Province:
9. Shop, saloon, tavern, auctioneer, and other licences in order to

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the raising of a revenue for provincial, local or municipal purposes:

10. Local works and undertakings other than such as are of the following classes:—

- a. Lines of steam or other ships, railways, canals, telegraphs and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province:
- b. Lines of steam ships between the Province and any British or foreign country:
- c. Such works as, although wholly situate within the Province, are, before or after their execution, declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the Provinces.

11. The incorporation of companies with provincial objects:
12. The solemnization of marriage in the Province:
13. Property and civil rights in the Province:
14. The administration of justice in the Province, including the constitution, maintenance and organization of Provincial Courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts:
15. The imposition of punishment by fine, penalty or imprisonment for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section:
16. Generally all matters of a merely local or private nature in the Province.

#### *Education.*

93. In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions:—

Legislation respecting education.

- (1.) Nothing in any such law shall prejudicially affect any right or privilege with respect to Denominational Schools which any class of persons have by law in the Province at the Union:
- (2.) All the powers, privileges, and duties at the Union by law conferred and imposed in Upper Canada on the separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissident Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec:
- (3.) Where in any Province a system of separate or Dissident Schools exists by law at the Union or is thereafter established by the Legislature of the Province, an appeal shall lie to the

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Governor-General in Council from any act or decision of any Provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's Subjects in relation to Education :

- (4.) In case any such Provincial law as from time to time seems to the Governor-General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor-General in Council under this section.

*Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick.*

Legislation for uniformity of laws in three Provinces.

94. Notwithstanding anything in this Act, the Parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova Scotia, and New Brunswick, and of the procedure of all or any of the Courts in those three Provinces, and from and after the passing of any Act in that behalf, the power of the Parliament of Canada to make laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted ; but any Act of the Parliament of Canada making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof.

*Agriculture and Immigration.*

Concurrent powers of legislation respecting agriculture, &c.

95. In each Province the Legislature may make laws in relation to agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from time to time make laws in relation to agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any law of the Legislature of a Province relative to agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

VII.—JUDICATURE.

Appointment of Judges.

96. The Governor-General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

Selection of Judges in Ontario, &c.

97. Until the laws relative to property and civil rights in Ontario, Nova Scotia, and New Brunswick, and the procedure of the Courts

in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor-General shall be selected from the respective Bars of those Provinces.

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98. The Judges of the Courts of Quebec, shall be selected from the Bar of that Province.

Selection of Judges in Quebec.

99. The Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor-General on address of the Senate and House of Commons.

Tenure of office of Judges of Superior Courts.

100. The salaries, allowances, and pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick,) and of the Admiralty Courts in cases where the Judges thereof are for the time being paid by salary, shall be fixed and provided by the Parliament of Canada.

Salaries, &amp;c., of Judges.

101. The Parliament of Canada may, notwithstanding anything in this Act, from time to time, provide for the constitution, maintenance, and organization of a General Court of Appeal for Canada, and for the establishment of any additional Courts for the better administration of the laws of Canada.

General Court of Appeal, &amp;c.

#### VIII.—REVENUES ; DEBTS ; ASSETS ; TAXATION.

102. All Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and at the Union had and have power of appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one Consolidated Revenue Fund, to be appropriated for the public service of Canada in the manner and subject to the charges in this Act provided.

Creation of Consolidated Revenue Fund.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof, and the same shall form the first charge thereon, subject to be reviewed and audited in such manner as shall be ordered by the Governor-General in Council until the Parliament otherwise provides.

Expenses of collection, &amp;c.

104. The annual interest of the public debts of the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union shall form the second charge on the Consolidated Revenue Fund of Canada.

Interest of Provincial public debts.

105. Unless altered by the Parliament of Canada, the salary of the Governor-General shall be ten thousand pounds sterling money of the United Kingdom of Great Britain and Ireland, payable out of

Salary of Governor-General.

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the Consolidated Revenue Fund of Canada, and the same shall form the third charge thereon.

Appropriation from time to time.

106. Subject to the several payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the public service.

Transfer of stocks, &c.

107. All stocks, cash, banker's balances, and securities for money belonging to each Province at the time of the Union, except as in this Act mentioned, shall be the property of Canada, and shall be taken in reduction of the amount of the respective debts of the Provinces at the Union.

Transfer of property in Schedule.

108. The public works and property of each Province, enumerated in the Third Schedule to this Act, shall be the property of Canada.

Property in lands, mines, &c.

109. All lands, mines, minerals, and royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same.

Assets connected with Provincial debts.

110. All assets connected with such portions of the public debt of each Province as are assumed by that Province shall belong to that Province.

Canada to be liable to Provincial debts.

111. Canada shall be liable for the debts and liabilities of each Province existing at the Union.

Debts of Ontario and Quebec.

112. Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the debt of the Province of Canada exceeds at the Union sixty-two million five hundred thousand dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

Assets of Ontario and Quebec.

113. The assets enumerated in the Fourth Schedule to this Act, belonging at the Union to the Province of Canada, shall be the property of Ontario and Quebec conjointly.

Debt of Nova Scotia

114. Nova Scotia shall be liable to Canada for the amount (if any) by which its public debt exceeds at the Union eight million dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

Debt of New Brunswick.

115. New Brunswick shall be liable to Canada for the amount (if any) by which its public debt exceeds at the Union seven million dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

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116. In case the public debts of Nova Scotia and New Brunswick do not at the Union amount to eight million and seven million dollars respectively, they shall respectively receive, by half-yearly payments in advance from the Government of Canada, interest at five per centum per annum on the difference between the actual amounts of their respective debts and such stipulated amounts.

Payment of interest to Nova Scotia and New Brunswick.

117. The several Provinces shall retain all their respective public property not otherwise disposed of in this Act, subject to the right of Canada to assume any lands or public property required for fortifications or for the defence of the country.

Provincial public property.

118. The following sums shall be paid yearly by Canada to the several Provinces for the support of their Governments and Legislatures :—

Grants to Provinces

	Dollars.
Ontario . . . . .	Eighty Thousand.
Quebec . . . . .	Seventy Thousand.
Nova Scotia . . . . .	Sixty Thousand.
New Brunswick . . . . .	Fifty Thousand.

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Two Hundred and Sixty Thousand ;

and an annual grant in aid of each Province shall be made, equal to eighty cents per head of the population as ascertained by the census of one thousand eight hundred and sixty-one, and in the case of Nova Scotia and New Brunswick, by each subsequent decennial census until the population of each of those two Provinces amounts to four hundred thousand souls, at which rate such grant shall thereafter remain. Such grants shall be in full settlement of all future demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such grants, as against any Province, all sums chargeable as interest on the public debt of that Province in excess of the several amounts stipulated in this Act.

119. New Brunswick shall receive by half-yearly payments in advance from Canada for the period of ten years from the Union, an additional allowance of sixty-three thousand dollars per annum ; but as long as the public debt of that Province remains under seven million dollars, a deduction equal to the interest at five per centum per annum on such deficiency shall be made from that allowance of sixty-three thousand dollars.

Further grant to New Brunswick.

120. All payments to be made under this Act, or in discharge of liabilities created under any Act of the Provinces of Canada, Nova Scotia, and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such form and manner as may from time to time be ordered by the Governor-General in Council.

Form of payments.

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Canadian manufac-  
tures, &c.

121. All articles of the growth, produce, or manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

Continuance of  
customs and excise  
laws.

122. The customs and excise laws of each Province shall, subject to the provisions of this Act, continue in force until altered by the Parliament of Canada.

Exportation and  
importation as be-  
tween two Pro-  
vinces.

123. Where customs duties are, at the Union, leviable on any goods, wares, or merchandizes in any two Provinces, those goods, wares, and merchandizes may, from and after the Union, be imported from one of those Provinces into the other of them on proof of payment of the customs duty leviable thereon in the Province of exportation, and on payment of such further amount (if any) of customs duty as is leviable thereon in the Province of importation.

Lumber dues in  
New Brunswick.

124. Nothing in this Act shall affect the right of New Brunswick to levy the lumber dues provided in chapter fifteen of title three of the Revised Statutes of New Brunswick, or in any Act amending that Act before or after the Union, and not increasing the amount of such dues; but the lumber of any of the Provinces other than New Brunswick shall not be subject to such dues.

Exemption of public  
lands, &c.

125. No lands or property belonging to Canada or any Province shall be liable to taxation.

Provincial Consol-  
idated Revenue  
Fund.

126. Such portions of the duties and revenues over which the respective Legislatures of Canada, Nova Scotia and New Brunswick had before the Union power of appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all duties and revenues raised by them in accordance with the special powers conferred upon them by this Act, shall in each Province form one consolidated revenue fund to be appropriated for the public service of the Province.

## IX.—MISCELLANEOUS PROVISIONS.

*General.*As to Legislative  
Councillors of  
Provinces becoming  
Senators.

127. If any person being at the passing of this Act a member of the Legislative Council of Canada, Nova Scotia, or New Brunswick, to whom a place in the Senate is offered, does not within thirty days thereafter, by writing under his hand addressed to the Governor-General of the Province of Canada or to the Lieutenant-Governor of Nova Scotia or New Brunswick (as the case may be), accept the same, he shall be deemed to have declined the same; and any person who, being at the passing of this Act a member of the Legislative Council of Nova Scotia or New Brunswick, accepts a place in the Senate, shall thereby vacate his seat in such Legislative Council.

128. Every member of the Senate or House of Commons of Canada shall, before taking his seat therein, take and subscribe before the Governor-General or some person authorized by him, and every member of a Legislative Council or Legislative Assembly of any Province shall, before taking his seat therein, take and subscribe before the Lieutenant-Governor of the Province or some person authorized by him, the oath of allegiance contained in the Fifth Schedule to this Act; and every member of the Senate of Canada and every member of the Legislative Council of Quebec shall also, before taking his seat therein, take and subscribe before the Governor-General, or some person authorized by him, the declaration of qualification contained in the same Schedule.

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Oath of allegiance,  
&c.

129. Except as otherwise provided by this Act, all laws in force in Canada, Nova Scotia, or New Brunswick at the Union, and all Courts of civil and criminal jurisdiction, and all legal commissions, powers, and authorities, and all officers, judicial, administrative, and ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia, and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the authority of the Parliament or of that Legislature under this Act.

Continuance of  
existing laws,  
courts, officers, &c.

130. Until the Parliament of Canada otherwise provides, all officers of the several Provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be officers of Canada, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities, and penalties as if the Union had not been made.

Transfer of officers  
to Canada.

131. Until the Parliament of Canada otherwise provides, the Governor-General in Council may from time to time appoint such officers as the Governor-General in Council deems necessary or proper for the effectual execution of this Act.

Appointment of  
new officers.

132. The Parliament and Government of Canada shall have all powers necessary or proper for performing the obligations of Canada or of any Province thereof, as part of the British Empire, towards foreign countries, arising under treaties between the Empire and such foreign countries.

Treaty obligations.

133. Either the English or the French language may be used by any person in the debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those

Use of English and  
French languages.

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languages shall be used in the respective records and journals of those Houses; and either of those languages may be used by any person or in any pleading or process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those languages.

*Ontario and Quebec.*

Appointment of  
Executive Officers  
for Ontario and  
Quebec.

134. Until the Legislature of Ontario or of Quebec otherwise provides, the Lieutenant-Governors of Ontario and Quebec may each appoint, under the great seal of the Province, the following officers to hold office during pleasure, that is to say,—the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of crown lands, and the Commissioner of agriculture and public works, and in the case of Quebec the Solicitor-General; and may, by order of the Lieutenant-Governor in Council, from time to time prescribe the duties of those officers and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof; and may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of those officers and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof.

Powers, duties, &c.,  
of Executive Offi-  
cers.

135. Until the Legislature of Ontario or Quebec otherwise provides, all rights, powers, duties, functions, responsibilities or authorities at the passing of this Act vested in or imposed on the Attorney-General, Solicitor-General, Secretary and Registrar of the Province of Canada, Minister of finance, Commissioner of crown lands, Commissioner of public works, and Minister of agriculture and Receiver-General, by any law, statute or ordinance of Upper Canada, Lower Canada or Canada, and not repugnant to this Act, shall be vested in or imposed on any officer to be appointed by the Lieutenant-Governor for the discharge of the same or any of them; and the Commissioner of agriculture and public works shall perform the duties and functions of the office of Minister of agriculture at the passing of this Act imposed by the law of the Province of Canada, as well as those of the Commissioner of public works.

Great Seals.

136. Until altered by the Lieutenant-Governor in Council, the great seals of Ontario and Quebec respectively shall be the same, or of the same design as those used in the Provinces of Upper Canada and Lower Canada respectively before their union as the Province of Canada.

Construction of  
temporary Acts.

137. The words “and from thence to the end of the then next ensuing Session of the Legislature,” or words to the same effect,

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used in any temporary Act of the Province of Canada not expired before the union, shall be construed to extend and apply to the next Session of the Parliament of Canada, if the subject matter of the Act is within the powers of the same as defined by this Act, or to the next Sessions of the Legislatures of Ontario and Quebec respectively if the subject matter of the Act is within the powers of the same as defined by this Act.

138. From and after the union the use of the words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec," in any deed, writ, process, pleading, document, matter or thing, shall not invalidate the same.

As to errors in names.

139. Any proclamation under the great seal of the Province of Canada issued before the union to take effect at a time which is subsequent to the union, whether relating to that Province, or to Upper Canada, or to Lower Canada, and the several matters and things therein proclaimed shall be and continue of like force and effect as if the union had not been made.

As to issue of Proclamations before union, to commence after union.

140. Any proclamation which is authorized by any Act of the Legislature of the Province of Canada to be issued under the great seal of the Province of Canada, whether relating to that Province; or to Upper Canada, or to Lower Canada, and which is not issued before the union, may be issued by the Lieutenant-Governor of Ontario or of Quebec, as its subject matter requires, under the great seal thereof; and from and after the issue of such proclamation the same and the several matters and things therein proclaimed shall be and continue of the like force and effect in Ontario or Quebec as if the union had not been made.

As to issue of Proclamations after union.

141. The penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the penitentiary of Ontario and Quebec.

Penitentiary.

142. The division and adjustment of the debts, credits, liabilities, properties and assets of Upper Canada and Lower Canada shall be referred to the arbitrament of three arbitrators, one chosen by the Government of Ontario, one by the Government of Quebec, and one by the Government of Canada; and the selection of the arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the arbitrator chosen by the Government of Canada shall not be a resident either in Ontario or in Quebec.

Arbitration respecting debts, &c.

143. The Governor-General in Council may from time to time order that such and so many of the records, books, and documents of the Province of Canada as he thinks fit shall be appropriated

Division of records.

A. D. 1867.

and delivered either to Ontario or to Quebec, and the same shall thenceforth be the property of that Province; and any copy thereof or extract therefrom, duly certified by the officer having charge of the original thereof, shall be admitted as evidence.

Constitution of townships in Quebec.

144. The Lieutenant-Governor of Quebec may from time to time by proclamation under the great seal of the Province, to take effect from a day to be appointed therein, constitute townships in those parts of the Province of Quebec in which townships are not then already constituted, and fix the metes and bounds thereof.

#### X.—INTERCOLONIAL RAILWAY.

Duty of Government and Parliament of Canada to make Railway herein described.

145. Inasmuch as the Provinces of Canada, Nova Scotia and New Brunswick have joined in a declaration that the construction of the Intercolonial Railway is essential to the consolidation of the union of British North America, and to the assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that provision should be made for its immediate construction by the Government of Canada: Therefore, in order to give effect to that agreement, it shall be the duty of the Government and Parliament of Canada to provide for the commencement, within six months after the union, of a railway connecting the river St. Lawrence with the city of Halifax in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed.

#### XI.—ADMISSION OF OTHER COLONIES.

Power to admit Newfoundland, &c., into the union.

146. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island and British Columbia, to admit those Colonies or Provinces, or any of them, into the union, and on address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the union, on such terms and conditions in each case as are in the addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

As to representation of Newfoundland and Prince Edward Island in Senate.

147. In case of the admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a representation in the Senate of Canada of four members, and (notwithstanding anything in this Act) in case of the admission of Newfoundland the normal number of Senators shall be seventy-six and their maximum number shall be eighty-two; but Prince Edward Island

when admitted shall be deemed to be comprised in the third of the three divisions into which Canada is, in relation to the constitution of the Senate, divided by this Act, and accordingly after the admission of Prince Edward Island, whether Newfoundland is admitted or not, the representation of Nova Scotia and New Brunswick in the Senate shall, as vacancies occur, be reduced from twelve to ten members respectively, and the representation of each of those Provinces shall not be increased at any time beyond ten, except under the provisions of this Act for the appointment of three or six additional Senators under the direction of the Queen.

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## SCHEDULES.

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### THE FIRST SCHEDULE.

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#### *Electoral Districts of Ontario.*

#### A.

#### EXISTING ELECTORAL DIVISIONS.

#### COUNTIES

- |               |                   |
|---------------|-------------------|
| 1. Prescott.  | 6. Carleton.      |
| 2. Glengarry. | 7. Prince Edward. |
| 3. Stormont.  | 8. Halton.        |
| 4. Dundas.    | 9. Essex.         |
| 5. Russell.   |                   |

#### RIDINGS OF COUNTIES.

10. North Riding of Lanark.
11. South Riding of Lanark.
12. North Riding of Leeds and North Riding of Grenville.
13. South Riding of Leeds.
14. South Riding of Grenville.
15. East Riding of Northumberland.
16. West Riding of Northumberland (excepting therefrom the Township of South Monaghan).
17. East Riding of Durham.
18. West Riding of Durham.
19. North Riding of Ontario.
20. South Riding of Ontario.
21. East Riding of York.
22. West Riding of York.
23. North Riding of York.
24. North Riding of Wentworth.
25. South Riding of Wentworth.
26. East Riding of Elgin.
27. West Riding of Elgin.
28. North Riding of Waterloo.
29. South Riding of Waterloo.
30. North Riding of Brant.
31. South Riding of Brant.
32. North Riding of Oxford.
33. South Riding of Oxford.
34. East Riding of Middlesex.

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## CITIES, PARTS OF CITIES, AND TOWNS.

35. West Toronto.
36. East Toronto.
37. Hamilton.
38. Ottawa.
39. Kingston.
40. London.
41. Town of Brockville, with the Township of Elizabethtown thereto attached.
42. Town of Niagara, with the Township of Niagara thereto attached.
43. Town of Cornwall, with the Township of Cornwall thereto attached.

## B.

## NEW ELECTORAL DIVISIONS.

44. The Provisional Judicial District of Algoma.

The County of Bruce, divided into two Ridings, to be called respectively the North and South Ridings:—

45. The North Riding of Bruce to consist of the Townships of Bury, Lindsay, Eastnor, Albermarle, Amabel, Arran, Bruce, Elderslie, and Langeen; and the Village of Southampton.
46. The South Riding of Bruce to consist of the Townships of Kincardine (including the Village of Kincardine), Greenock, Brant, Huron, Kinross, Culross, and Carrick.

The County of Huron, divided into two Ridings, to be called respectively the North and South Ridings:—

47. The North Riding to consist of the Townships of Ashfield, Wawanosh, Turnberry, Howick, Morris, Grey, Colborne, Hullett, including Village of Clinton, and McKillop.
48. The South Riding to consist of the Town of Goderich and the Townships of Goderich, Tuckersmith, Stanley, Hay, Osborne, and Stephen.

The County of Middlesex, divided into Ridings, to be called respectively the North, West, and East Ridings:—

49. The North Riding to consist of the Townships of McGillivray and Biddulph, (taken from the County of Huron), and Williams East, Williams West, Adelaide and Lobo.
50. The West Riding to consist of the Townships of Delaware, Carradoc, Metcalfe, Mosa, and Ekfrid, and the Village of Strathroy.

[The East Riding to consist of the Townships now embraced therein, and to be bounded as it is at present.]

51. The County of Lambton to consist of the Townships of Bosanquet, Warwick, Plympton, Sarnia, Moore, Enniskillen, and Brooke, and the Town of Sarnia.
52. The County of Kent to consist of the Townships of Chatham, Dover, East Tilbury, Romney, Raleigh, and Harwich, and the Town of Chatham.

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53. The County of Bothwell to consist of the Townships of Sombra, Dawn, and Euphemia (taken from the County of Lambton), and the Townships of Zone, Camden with the Gore thereof, Orford, and Howard (taken from the County of Kent).

The County of Grey, divided into two Ridings, to be called respectively the South and North Ridings:—

54. The South Riding to consist of the Townships of Bentinck, Glenelg, Artemesia, Osprey, Normanby, Egremont, Proton, and Melancthon.
55. The North Riding to consist of the Townships of Collingwood, Euphrasia, Holland, Saint-Vincent, Sydenham, Sullivan, Derby, and Keppel, Sarawak and Brooke, and the Town of Owen Sound.

The County of Perth, divided into two Ridings, to be called respectively the South and North Ridings:—

56. The North Riding to consist of the Townships of Wallace, Elma, Logan, Ellice, Mornington, and North Easthope, and the Town of Stratford.
57. The South Riding to consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Hibbert, and the Villages of Mitchell and Ste. Marys.

The County of Wellington, divided into three Ridings, to be called respectively North, South, and Centre Ridings:—

58. The North Riding to consist of the Townships of Amaranth, Arthur, Luther, Minto, Maryborough, Peel, and the Village of Mount Forest.
59. The Centre Riding to consist of the Townships of Garafraxa, Erin, Eramosa, Nichol, and Pilkington, and the Villages of Fergus and Elora.
60. The South Riding to consist of the Town of Guelph, and the Townships of Guelph and Puslinch.

The County of Norfolk divided into two Ridings, to be called respectively the South and North Ridings:—

61. The South Riding to consist of the Townships of Charlotteville, Houghton, Walsingham, and Woodhouse, and with the Gore thereof.
62. The North Riding to consist of the Townships of Middleton, Townsend, and Windham, and the Town of Simcoe.
63. The County of Haldimand to consist of the Townships of Oneida, Seneca, Caguya North, Caguya South, Raynham, Walpole, and Dunn.
64. The County of Monck to consist of the Townships of Canborough and Moulton, and Sherbrooke, and the Village of Dunville (taken from the County of Haldimand), the Townships of Caistor and Gainsborough (taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland).
65. The County of Lincoln to consist of the Townships of Clinton, Grantham, Grimsby, and Louth, and the Town of St. Catherine's.
66. The County of Welland to consist of the Townships of Bertie, Crowland, Humberstone, Stamford, Thorold, and Willoughby, and the Villages of Chippewa, Clifton, Fort Erie, Thorold, and Welland.

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67. The County of Peel to consist of the Townships of Chingua-cousy, Toronto, and the Gore of Toronto, and the Villages of Brampton and Streetsville.

68. The County of Cardwell, to consist of the Townships of Albion and Caledon (taken from the County of Peel), and the Townships of Adjala and Mono (taken from the County of Simcoe).

The County of Simcoe, divided into two Ridings, to be called respectively the South and North Ridings:—

69. The South Riding to consist of the Townships of West Gwillimbury, Tecumseth, Innisfil, Essa, Tosorontio, Mulmur, and the Village of Bradford.

70. The North Riding to consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia and Matchedash, Tiny and Tay, Balaklava and Robinson, and the Towns of Barrie and Collingwood.

The County of Victoria, divided into two Ridings, to be called respectively the South and North Ridings:—

71. The South Riding to consist of the Township of Ops, Mariposa, Emily, Verulam, and the Town of Lindsay.

72. The North Riding to consist of the Townships of Anson, Bexley, Carden, Dalton, Digby, Eldon, Fenelon, Hindon, Laxton, Lutterworth, Macaulay and Draper, Sommerville and Morrison, Muskoka, Monck and Watt (taken from the County of Simcoe), and any other surveyed Townships lying to the North of the said North Riding.

The County of Peterborough divided into two Ridings, to be called respectively the West and East Ridings:—

73. The West Riding to consist of the Townships of South Monaghan (taken from the County of Northumberland) North Monaghan, Smith and Ennismore, and the Town of Peterborough.

74. The East Riding to consist of the Townships of Asphodel, Belmont, and Methuen, Duro, Dummer, Galway, Harvey, Minden, Stanhope and Dysart, Otonabee, and Snowden, and the Village of Ashburnham, and any other surveyed Townships lying to the North of the said East Riding.

The County of Hastings divided into Three Ridings, to be called respectively the West, East, and North Ridings:—

75. The West Riding to consist of the Town of Belleville, the Township of Sydney, and the Village of Trenton.

76. The East Riding to consist of the Townships of Thurlow, Tyendinaga, and Hungerford.

77. The North Riding to consist of the Townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Marmora, and Lake, and the Village of Sterling, and any other surveyed Townships lying to the North of the said North Riding.

78. The County of Lennox to consist of the Townships of Richmond, Adolphustown, North Fredericksburg, South Fredericksburg, Ernest Town, and Amherst Island, and the Village of Napanee.

79. The county of Addington to consist of the Townships of Camden, Portland, Sheffield, Hinchinbroke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, Canonto, Denbigh, Loughborough, and Bedford.

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80. The County of Frontenac to consist of the Townships of Kingstons, Wolf Island, Pittsburg and Howe Island, and Storrington.

The County of Renfrew, divided into Two Ridings, to be called respectively the South and North Ridings :—

81. The South Riding to consist of the Townships of McNab, Bagot, Blithfield, Brougham, Herton, Admaston, Gratton, Matawatcan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, and the Villages of Arnprior and Renfrew.

82. The North Riding to consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Alcona, North Alcona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, Haggerty, Sherwood, Burns, and Richards, and any other surveyed Townships lying North-westerly of the said North Riding.

Every Town and Incorporated Village existing at the Union, not specially mentioned in this Schedule, is to be taken as part of the County or Riding within which it is locally situate.

## THE SECOND SCHEDULE.

*Electoral Districts of Quebec specially fixed.*

### COUNTIES OF—

Pontiac.	Shefford.
Ottawa.	Stanstead.
Argenteuil.	Compton.
Huntingdon.	Wolfe and Richmond.
Missisquoi.	Megantic.
Brome.	Town of Sherbrooke.

## THE THIRD SCHEDULE.

*Provincial Public Works and Property to be the Property of Canada.*

1. Canals, with lands and water power connected therewith.
2. Public Harbours.
3. Lighthouses and Piers, and Sable Island.
4. Steamboats, Dredges, and Public Vessels.
5. Rivers and Lake Improvements.
6. Railways and Railway Stocks, Mortgages, and other debts due by Railway Companies.
7. Military Roads.
8. Custom Houses, Post Offices, and all other Public Buildings, except such as the Government of Canada appropriate for the use of the Provincial Legislatures and Governments.
9. Property transferred by the Imperial Government, and known as Ordnance Property.
10. Armouries, Drill Sheds, Military Clothing and Munitions of War, and Lands set apart for general public purposes.

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## THE FOURTH SCHEDULE.

*Assets to be the Property of Ontario and Quebec conjointly.*

Upper Canada Building Fund.  
 Lunatic Asylums.  
 Normal School.  
 Court Houses, }  
           in        } Lower Canada.  
 Aylmer,         }  
 Montreal,       }  
 Kamouraska.    }  
 Law Society, Upper Canada.  
 Montreal Turnpike Trust.  
 University Permanent Fund.  
 Royal Institution.  
 Consolidated Municipal Loan Fund, Upper Canada.  
 Consolidated Municipal Loan Fund, Lower Canada.  
 Agricultural Society, Upper Canada.  
 Lower Canada Legislative Grant.  
 Quebec Fire Loan.  
 Tamisconata Advance Account.  
 Quebec Turnpike Trust.  
 Education—East.  
 Building and Jury Fund, Lower Canada.  
 Municipalities Fund.  
 Lower Canada Superior Education Income Fund.

## THE FIFTH SCHEDULE.

## OATH OF ALLEGIANCE.

I, A. B., do swear, that I will be faithful and bear true Allegiance to Her Majesty Queen Victoria.

*Note.—The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time, with proper terms of reference thereto.*

## DECLARATION OF QUALIFICATION.

I, A. B., do declare and testify, that I am by Law duly qualified to be appointed a Member of the Senate of Canada [*or as the case may be*], and that I am legally or equitably seised as of Freehold for my own use and benefit of Lands or Tenements held in free and common Socage [*or seised or possessed for my own use and benefit of Lands or Tenements held in Franc-alleu or in Roture (as the case may be),*] in the Province of Nova Scotia [*or as the case may be*] of the value of four thousand dollars over and above all rents, dues, debts, mortgages, charges, and incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a title to or become possessed of the said Lands and Tenements, or any part thereof, for the purpose enabling me to become a Member of the Senate of Canada [*or as the case may be*], and that my real and personal property are together worth four thousand dollars over and above my debts and liabilities.

## No. 46.

An Act to extend and amend the Vice-Admiralty Courts Act, 1863. A. D. 1867.

[15th July, 1867.]

**B**E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited for all purposes as the "Vice-Admiralty Courts Act Amendment Act, 1867." Short Title.

2. This Act shall be read as one Act with the "Vice-Admiralty Courts Act, 1863." 26 & 27 Vict. c. 24.  
applied.

3. In the interpretation and for the purposes of this Act (if not inconsistent with the context or subject matter) the following terms shall have the respective meanings hereinafter assigned to them; that is to say, Interpretation of  
terms.

"Judge" shall mean the person lawfully appointed by the Admiralty to be Judge of any Vice-Admiralty Court, or, in default of such appointment, the Chief Justice or principal Judicial Officer, or the person for the time being lawfully authorized to act as the Chief Justice or principal Judicial Officer in the British possession in which such Court is established :

"Judicial powers" shall mean all powers and authorities which may be lawfully exercised by, and all duties by law imposed upon, any such Judge in the trial, hearing, or progress of any cause :

"Ministerial powers" shall mean all powers and authorities which may be lawfully exercised by, and all duties by law imposed upon, any such Judge, not included under the term "judicial powers:"

"Sit" or sitting shall mean sit or sitting for the exercise of judicial powers, whether in Court or in Chambers.

4. On the Governor of any British possession, who is also Vice-Admiral thereof, vacating the office of Governor of such possession, the office of Vice-Admiral of the same possession shall thereupon be deemed to be also vacant within the meaning of the third section of the "Vice-Admiralty Courts Act, 1863." Tenure of office of  
Vice-Admiral.

5. The Judge of any Vice-Admiralty Court may from time to time, with the approval in writing of the Governor of the British Judge may appoint  
Deputy Judges.

A. D. 1867.

possession in which the Court is established, appoint one or more Deputy Judge or Judges to assist or represent him in the execution of his judicial powers.

Judicial powers of Deputy Judges.

6. It shall be lawful for any such Deputy Judge to exercise all the judicial powers of the Judge; and all acts done by such Deputy Judge shall be as valid and effectual, to all intents and purposes, as if they had been done by the Judge; and all orders or decrees made by such Deputy Judge shall be subject to the same right of appeal in all respects as if they had been made by the Judge.

Deputy Judges may sit separately.

7. Any Deputy Judge may sit at the principal seat of Government or elsewhere in the possession at the same time that the Judge or any other Deputy Judge is sitting, and either at the same or at any other place in such possession, and whether the Judge is or is not at that time within the possession.

Judge may sit with Deputy Judges.

8. The Judge may, if he thinks fit, require any such Deputy Judge or Judges to sit with him in the same Court, and in such case the decision of the majority, or, if they are equally divided in opinion, the decision of the Judge, shall be the decision of the Court; and such decision shall be subject to the same right of appeal in all respects as if it had been made by the Judge alone.

Judge to regulate the proceedings.

9. The Judge may direct at what place and time any such Deputy Judge shall sit, and what causes shall be heard before him, and generally make such arrangements as to him shall seem proper as to the division and despatch of the business of the Court.

Tenure of office of Deputy Judges.

10. The Judge may, if he thinks fit, with the approval in writing of the Governor, at any time revoke the appointment of any such Deputy Judge or Judges, but the appointment shall not be determined by the occurrence of a vacancy in the office of the Judge.

Judge may delegate ministerial powers.

11. The Judge may, if he thinks fit, from time to time delegate all or any of his ministerial powers to any such Deputy Judge or Judges.

Judge may appoint Deputy Registrars and Marshals.

12. The Judge may from time to time, if he thinks fit, appoint any competent persons to act respectively as Deputy Registrars and Deputy Marshals of the Court, and may, if he thinks fit, at any time revoke any such appointment, but the appointment shall not be determined by the occurrence of a vacancy in the office of the Judge.

Admiralty may revoke appointments.

13. Notwithstanding anything contained in this Act, it shall be lawful for the Admiralty, if they think fit, at any time to revoke the appointment of any Deputy Judge, Deputy Registrar, or Deputy Marshal appointed under this Act.

Deputies to receive fees.

14. Any Deputy Judge, Deputy Registrar, or Deputy Marshal, appointed under this Act, shall be entitled to the same fees in

respect of any duty performed by him as would be lawfully payable to the Judge, Registrar, or Marshal respectively for the performance of the same duty.

A. D. 1867.

15. All persons entitled to practise as advocates, barristers-at-law, proctors, attorneys-at-law, or solicitors in the Superior Courts of a British possession, shall be entitled to practise in the same respective capacities in the Vice-Admiralty Court or Courts of such possession, and shall have therein all the rights and privileges respectively belonging to advocates, barristers-at-law, proctors, attorneys-at-law, and solicitors, and shall in like manner be subject to the authority of the person for the time being lawfully exercising the office of Judge of such Court.

Barristers and Solicitors entitled to practise in Vice-Admiralty Courts.

16. It shall be lawful for Her Majesty to empower the Admiralty, by commission under the great seal, to establish one or more Vice-Admiralty Courts in any British possession, notwithstanding that such possession may have previously acquired independent Legislative powers; and the jurisdiction and authority of all the existing Vice-Admiralty Courts are hereby declared to be confirmed, to all intents and purposes, notwithstanding that the possession in which any such Court has been established may at the time of its establishment have been in possession of Legislative powers.

Her Majesty may establish a Vice-Admiralty Court in a possession having<sup>7</sup> legislative powers.

17. The "Vice-Admiralty Courts Act, 1863," shall, together with this Act, apply to any Vice-Admiralty Court now established or hereafter to be established in the Straits Settlements.

Extended to the Straits Settlements.

18. The limitation of the time allowed for appeals contained in the twenty-third section of the "Vice-Admiralty Courts Act, 1863," shall be held to apply to all decrees or orders pronounced in any Vice-Admiralty Court now established or hereafter to be established in any of Her Majesty's possessions in India.

26 & 27 Vict. c. 24. s. 23. extended to appeals from Vice-Admiralty Courts in Indian possessions.

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### No. 47.

An Act to amend the Law relating to Documentary Evidence in certain cases.

A. D. 1868.

[25th June, 1868.]

**W**HEREAS it is expedient to amend the law relating to evidence: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

A. D. 1868.

Short Title.

Mode of proving  
certain documents.

1. This Act may be cited for all purposes as "The Documentary Evidence Act, 1868."

2. Prima facie evidence of any Proclamation, Order, or Regulation issued before or after the passing of this Act by Her Majesty, or by the Privy Council, also of any Proclamation, Order, or Regulation issued before or after the passing of this Act by or under the authority of any such department of the Government or officer as is mentioned in the first column of the Schedule hereto, may be given in all Courts of Justice, and in all legal proceedings whatsoever, in all or any of the modes hereinafter mentioned; that is to say:—

- (1.) By the production of a copy of the Gazette purporting to contain such Proclamation, Order, or Regulation:
- (2.) By the production of a copy of such Proclamation, Order, or Regulation purporting to be printed by the Government Printer, or, where the question arises in a Court in any British Colony or Possession, of a copy purporting to be printed under the authority of the Legislature of such British Colony or Possession:
- (3.) By the production, in the case of any Proclamation, Order, or Regulation issued by Her Majesty or by the Privy Council, of a copy or extract purporting to be certified to be true by the Clerk of the Privy Council or by any one of the Lords or others of the Privy Council, and, in the case of any Proclamation, Order, or Regulation issued by or under the authority of any of the said departments or officers, by the production of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the said Schedule in connection with such department or officer.

Any copy or extract made in pursuance of this Act may be in print or in writing, or partly in print and partly in writing.

No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any Proclamation, Order, or Regulation.

3. Subject to any law that may be from time to time made by the Legislature of any British Colony or Possession, this Act shall be in force in every such Colony and Possession.

4. If any person commits any of the offences following, that is to say,—

- (1.) Prints any copy of any Proclamation, Order, or Regulation which falsely purports to have been printed by the Government Printer, or to be printed under the authority of the Legislature of any British Colony or Possession, or tenders in evidence any copy of any Proclamation, Order, or Regu-

Act to be in force  
in Colonies.Punishment of  
forgery.

A. D. 1868.

lation which falsely purports to have been printed as aforesaid knowing that the same was not so printed; or,

- (2.) Forges or tenders in evidence, knowing the same to have been forged, any certificate by this Act authorized to be annexed to a copy of or extract from any Proclamation, Order, or Regulation ;

he shall be guilty of felony, and shall on conviction be liable to be sentenced to penal servitude for such term as is prescribed by the "Penal Servitude Act, 1864," as the least term to which an offender can be sentenced to penal servitude, or to be imprisoned for any term not exceeding two years, with or without hard labour.

5. The following words shall in this Act have the meaning hereinafter assigned to them, unless there is something in the context repugnant to such construction; that is to say,—

"British Colony and Possession" shall, for the purposes of this Act, include the Channel Islands, the Isle of Man, and such Territories as may for the time being be vested in Her Majesty by virtue of any Act of Parliament for the Government of India and all other Her Majesty's Dominions : "British Colony and possession"

"Legislature" shall signify any authority other than the Imperial Parliament or Her Majesty in Council competent to make laws for any Colony or Possession : "Legislature."

"Privy Council" shall include Her Majesty in Council and the Lords and others of Her Majesty's Privy Council, or any of them, and any Committee of the Privy Council that is not specially named in the Schedule hereto : "Privy Council."

"Government Printer" shall mean and include the Printer to Her Majesty and any Printer purporting to be the Printer authorized to print the Statutes, Ordinances, Acts of State, or other public Acts of the Legislature of any British Colony or Possession, or otherwise to be the Government Printer of such Colony or Possession : "Government Printer."

"Gazette" shall include the London Gazette, the Edinburgh Gazette, and the Dublin Gazette, or any of such Gazettes. "Gazette."

6. The provisions of this Act shall be deemed to be in addition to, and not in derogation of, any powers of proving documents given by any existing Statute or existing at Common Law. Act to be cumulative.

A. D. 1868.

## SCHEDULE.

Column 1. Names of Department or Officer. _____	Column 2. Name of Certifying Officers. _____
The Commissioners of the Treasury.	Any Commissioner, Secretary, or Assistant Secretary of the Treasury.
The Commissioners for executing the Office of Lord High Admiral.	Any of the Commissioners for executing the office of Lord High Admiral, or either of the Secretaries to the said Commissioners.
Secretaries of State.	Any Secretary or Under Secretary of State.
Committee of Privy Council for Trade.	Any Member of the Committee of Privy Council for Trade or any Secretary or Assistant Secretary of the said Committee.
The Poor Law Board.	Any Commissioner of the Poor Law Board or any Secretary or Assistant Secretary of the said Board.

## No. 48.

A. D. 1868.

An Act for enabling Her Majesty to accept a surrender upon terms of the lands, privileges, and rights of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and for admitting the same into the Dominion of Canada.

[31st July, 1868.]

Recital of Charter  
of Hudson's Bay  
Company, 22 Car. 2.

WHEREAS by certain Letters Patent granted by His late Majesty King Charles the Second in the twenty-second year of His reign, certain persons therein named were incorporated by the name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and certain lands and territories, rights of Government, and other rights, privileges, liberties,

franchises, powers, and authorities, were thereby granted, or purported to be granted, to the said Governor and Company in His Majesty's Dominions in North America :

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And whereas by the "British North America Act, 1867," it was (amongst other things) enacted that it should be lawful for Her Majesty, by and with the advice of Her Majesty's most Honourable Privy Council, on Address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-western Territory, or either of them, into the Union on such terms and conditions as are in the Address expressed and as Her Majesty thinks fit to approve, subject to the provisions of the said Act :

And whereas for the purpose of carrying into effect the provisions of the said "British North America Act, 1867," and of admitting Rupert's Land into the said Dominion as aforesaid, upon such terms as Her Majesty thinks fit to approve, it is expedient that the said lands, territories, rights, privileges, liberties, franchises, powers, and authorities, so far as the same have been lawfully granted to the said Company, should be surrendered to Her Majesty, Her heirs and successors, upon such terms and conditions as may be agreed upon by and between Her Majesty and the said Governor and Company as hereinafter mentioned :

Recital of agreement to surrender.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as "Rupert's Land Act, 1868."

Short Title.

2. For the purposes of this Act the term "Rupert's Land" shall include the whole of the lands and territories held or claimed to be held by the said Governor and Company.

Definition of "Rupert's Land."

3. It shall be competent for the said Governor and Company to surrender to Her Majesty, and for Her Majesty by any Instrument under Her sign manual and signet to accept a surrender of all or any of the lands, territories, rights, privileges, liberties, franchises, powers and authorities whatsoever granted or purported to be granted by the said letters patent to the said Governor and company within Rupert's Land, upon such terms and conditions as shall be agreed upon by and between Her Majesty and the said Governor and company; provided, however, that such surrender shall not be accepted by Her Majesty until the terms and conditions upon which Rupert's Land shall be admitted into the said Dominion of Canada shall have been approved of by Her Majesty and embodied in an address to Her Majesty from both the Houses of the Parliament of Canada in pursuance of the one hundred and forty-sixth section of the "British North America Act, 1867;" and that the said surren-

Power to Her Majesty to accept surrender of lands, &amp;c., of the company upon certain terms.

A. D. 1868.

der and acceptance thereof shall be null and void unless within a month from the date of such acceptance Her Majesty does by Order in Council under the provisions of the said last recited Act admit Rupert's Land into the said Dominion; provided further that no charge shall be imposed by such terms upon the consolidated fund of the United Kingdom.

Extinguishment of all rights of the company.

4. Upon the acceptance by Her Majesty of such surrender all rights of Government and proprietary rights, and all other privileges, liberties, franchises, powers and authorities whatsoever, granted or purported to be granted by the said letters patent to the said Governor and company within Rupert's Land, and which shall have been so surrendered, shall be absolutely extinguished; provided that nothing herein contained shall prevent the said Governor and company from continuing to carry on in Rupert's Land or elsewhere trade and commerce.

Power to Her Majesty by Order in Council to admit Rupert's Land into and form part of the Dominion of Canada

5. It shall be competent to Her Majesty by any such Order or Orders in Council as aforesaid, on address from the Houses of the Parliament of Canada to declare that Rupert's Land shall, from a date to be therein mentioned, be admitted into and become part of the Dominion of Canada; and thereupon it shall be lawful for the Parliament of Canada from the date aforesaid to make, ordain and establish within the land and territory so admitted as aforesaid all such laws, institutions and ordinances, and to constitute such courts and officers as may be necessary for the peace, order and good government of Her Majesty's subjects and others therein: provided that until otherwise enacted by the said Parliament of Canada, all the powers, authorities and jurisdiction of the several Courts of Justice now established in Rupert's Land, and of the several officers thereof, and all magistrates and justices now acting within the said limits, shall continue in full force and effect therein.

Jurisdiction of present Courts and officers continued.

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### No. 49.

A. D. 1870.

An Act to amend the Law relating to the legal condition of Aliens and British Subjects.

[12th May, 1870.]

**W**HEREAS it is expedient to amend the law relating to the legal condition of aliens and British subjects :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited for all purposes as "The Naturalization Act, 1870."

*Status of Aliens in the United Kingdom.*

2. Real and personal property of every description may be taken, acquired, held, and disposed of by an alien in the same manner in all respects as by a natural-born British subject; and a title to real and personal property of every description may be derived through, from, or in succession to an alien in the same manner in all respects as through, from, or in succession to a natural-born British subject: Provided,—

Capacity of an alien as to property.

- (1.) That this section shall not confer any right on an alien to hold real property situate out of the United Kingdom, and shall not qualify an alien for any office, or for any municipal, parliamentary, or other franchise :
- (2.) That this section shall not entitle an alien to any right or privilege as a British subject, except such rights and privileges in respect of property as are hereby expressly given to him :
- (3.) That this section shall not affect any estate or interest in real or personal property to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before the passing of this Act, or in pursuance of any devolution by law on the death of any person dying before the passing of this Act.

3. Where Her Majesty has entered into a convention with any foreign state to the effect that the subjects or citizens of that state who have been naturalized as British subjects may divest themselves of their status as such subjects, it shall be lawful for Her Majesty, by Order in Council, to declare that such convention has been entered into by Her Majesty; and from and after the date of such Order in Council, any person being originally a subject or citizen of the state referred to in such Order, who has been naturalized as a British subject, may, within such limit of time as may be provided in the convention, make a declaration of alienage, and from and after the date of his so making such declaration such person shall be regarded as an alien, and as a subject of the state to which he originally belonged as aforesaid.

Power of naturalized aliens to divest themselves of their status in certain cases.

A declaration of alienage may be made as follows, that is to say,— If the declarant be in the United Kingdom, in the presence of any Justice of the Peace; if elsewhere in Her Majesty's dominions, in the presence of any Judge of any Court of civil or criminal jurisdiction, of any Justice of the Peace, or of any other officer for the time being authorized by law in the place in which the declarant is to

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administer an oath for any judicial or other legal purpose ; if out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

How British-born subject may cease to be such.

4. Any person who by reason of his having been born within the dominions of Her Majesty is a natural-born subject, but who also at the time of his birth became under the law of any foreign state a subject of such state, and is still such subject, may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration of alienage such person shall cease to be a British subject. Any person who is born out of Her Majesty's dominions of a father being a British subject may, if of full age, and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration shall cease to be a British subject.

Alien not entitled to jury de medietate linguæ.

5. From and after the passing of this Act, an alien shall not be entitled to be tried by a jury de medietate linguæ, but shall be triable in the same manner as if he were a natural-born subject.

#### *Expatriation.*

Capacity of British subject to renounce allegiance to Her Majesty.

6. Any British subject who has at any time before, or may at any time after the passing of this Act, when in any foreign state and not under any disability, voluntarily become naturalized in such state, shall, from and after the time of his so having become naturalized in such foreign state, be deemed to have ceased to be a British subject and be regarded as an alien : Provided,—

(1.) That where any British subject has before the passing of this Act voluntarily become naturalized in a foreign state and yet is desirous of remaining a British subject, he may, at any time within two years after the passing of this Act, make a declaration that he is desirous of remaining a British subject; and upon such declaration, hereinafter referred to as a declaration of British nationality, being made, and upon his taking the oath of allegiance, the declarant shall be deemed to be and to have been continually a British subject; with this qualification, that he shall not, when within the limits of the foreign state in which he has been naturalized, be deemed to be a British subject, unless he has ceased to be a subject of that state in pursuance of the laws thereof, or in pursuance of a treaty to that effect :

(2.) A declaration of British nationality may be made, and the oath of allegiance be taken as follows; that is to say,—If the declarant be in the United Kingdom, in the presence of a Justice of the Peace; if elsewhere in Her Majesty's dominions, in the presence of any Judge of any Court of civil or

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criminal jurisdiction, of any Justice of the Peace, or of any other officer for the time being authorized by law in the place in which the declarant is to administer an oath for any judicial or other legal purpose; if out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

*Naturalization and resumption of British Nationality.*

7. An alien who, within such limited time before making the application hereinafter mentioned as may be allowed by one of Her Majesty's Principal Secretaries of State, either by general order or on any special occasion, has resided in the United Kingdom for a term of not less than five years, or has been in the service of the Crown for a term of not less than five years, and intends, when naturalized, either to reside in the United Kingdom, or to serve under the Crown, may apply to one of Her Majesty's Principal Secretaries of State for a certificate of naturalization.

Certificate of naturalization.

The applicant shall adduce in support of his application such evidence of his residence or service, and intention to reside or serve, as such Secretary of State may require. The said Secretary of State, if satisfied with the evidence adduced, shall take the case of the applicant into consideration, and may, with or without assigning any reason, give or withhold a certificate as he thinks most conducive to the public good, and no appeal shall lie from his decision, but such certificate shall not take effect until the applicant has taken the oath of allegiance.

An alien to whom a certificate of naturalization is granted shall in the United Kingdom be entitled to all political and other rights, powers, and privileges, and be subject to all obligations, to which a natural-born British subject is entitled or subject in the United Kingdom, with this qualification, that he shall not, when within the limits of the foreign state of which he was a subject previously to obtaining his certificate of naturalization, be deemed to be a British subject, unless he has ceased to be a subject of that state in pursuance of the laws thereof, or in pursuance of a treaty to that effect.

The said Secretary of State may in manner aforesaid grant a special certificate of naturalization to any person with respect to whose nationality as a British subject a doubt exists, and he may specify in such certificate that the grant thereof is made for the purpose of quieting doubts as to the right of such person to be a British subject, and the grant of such special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a British subject.

An alien who has been naturalized previously to the passing of this Act may apply to the Secretary of State for a certificate of

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naturalization under this Act, and it shall be lawful for the said Secretary of State to grant such certificate to such naturalized alien upon the same terms and subject to the same conditions in and upon which such certificate might have been granted if such alien had not been previously naturalized in the United Kingdom.

Certificate of re-admission to British nationality.

8. A natural-born British subject who has become an alien in pursuance of this Act, and is in this Act referred to as a statutory alien, may, on performing the same conditions and adducing the same evidence as is required in the case of an alien applying for a certificate of nationality, apply to one of Her Majesty's Principal Secretaries of State for a certificate hereinafter referred to as a certificate of re-admission to British nationality, re-admitting him to the status of a British subject. The said Secretary of State shall have the same discretion as to the giving or withholding of the certificate as in the case of a certificate of naturalization, and an oath of allegiance shall in like manner be required previously to the issuing of the certificate.

A statutory alien to whom a certificate of re-admission to British nationality has been granted shall, from the date of the certificate of re-admission, but not in respect of any previous transaction, resume his position as a British subject; with this qualification, that within the limits of the foreign state of which he became a subject he shall not be deemed to be a British subject unless he has ceased to be a subject of that foreign state according to the laws thereof, or in pursuance of a treaty to that effect.

The jurisdiction by this Act conferred on the Secretary of State in the United Kingdom in respect of the grant of a certificate of re-admission to British nationality, in the case of any statutory alien being in any British possession, may be exercised by the governor of such possession; and residence in such possession shall, in the case of such person, be deemed equivalent to residence in the United Kingdom.

Form of oath of allegiance.

9. The oath in this Act referred to as the oath of allegiance shall be in the form following; that is to say,

“ I do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law. So help me GOD.”

*National status of married women and infant children.*

National status of married women and infant children.

10. The following enactments shall be made with respect to the national status of women and children:

(1.) A married woman shall be deemed to be a subject of the state of which her husband is for the time being a subject:

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- (2.) A widow being a natural-born British subject, who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may as such at any time during widowhood obtain a certificate of re-admission to British nationality in manner provided by this Act :
- (3.) Where the father being a British subject, or the mother being a British subject and a widow, becomes an alien in pursuance of this Act, every child of such father or mother who during infancy has become resident in the country where the father or mother is naturalized, and has, according to the laws of such country, become naturalized therein, shall be deemed to be a subject of the state of which the father or mother has become a subject, and not a British subject :
- (4.) Where the father, or the mother being a widow, has obtained a certificate of re-admission to British nationality, every child of such father or mother who during infancy has become resident in the British dominions with such father or mother, shall be deemed to have resumed the position of a British subject to all intents :
- (5.) Where the father, or the mother being a widow, has obtained a certificate of naturalization in the United Kingdom, every child of such father or mother who during infancy has become resident with such father or mother in any part of the United Kingdom, shall be deemed to be a naturalized British subject.

*Supplemental Provisions.*

11. One of Her Majesty's Principal Secretaries of State may by regulation provide for the following matters :—

Regulations as to  
registration.

- (1.) The form and registration of declarations of British nationality :
- (2.) The form and registration of certificates of naturalization in the United Kingdom :
- (3.) The form and registration of certificates of re-admission to British nationality :
- (4.) The form and registration of declarations of alienage :
- (5.) The registration by officers in the diplomatic or consular service of Her Majesty of the births and deaths of British subjects who may be born or die out of Her Majesty's dominions, and of the marriages of persons married at any of Her Majesty's embassies or legations :
- (6.) The transmission to the United Kingdom for the purpose of registration or safe keeping, or of being produced as evidence,

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of any declarations or certificates made in pursuance of this Act out of the United Kingdom, or of any copies of such declarations or certificates, also of copies of entries contained in any register kept out of the United Kingdom in pursuance of or for the purpose of carrying into effect the provisions of this Act:

- (7.) With the consent of the Treasury the imposition and application of fees in respect of any registration authorized to be made by this Act, and in respect of the making any declaration or the grant of any certificate authorized to be made or granted by this Act.

The said Secretary of State, by a further regulation, may repeal, alter, or add to any regulation previously made by him in pursuance of this section.

Any regulation made by the said Secretary of State in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if it had been enacted in this Act, but shall not so far as respects the imposition of fees be in force in any British possession, and shall not, so far as respects any other matter, be in force in any British possession in which any Act or Ordinance to the contrary of or inconsistent with any such direction may for the time being be in force.

Regulations as to  
evidence.

12. The following regulations shall be made with respect to evidence under this Act:—

- (1.) Any declaration authorized to be made under this Act may be proved in any legal proceeding by the production of the original declaration, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such declaration, and the production of such declaration or copy shall be evidence of the person therein named as declarant having made the same at the date in the said declaration mentioned:
- (2.) A certificate of naturalization may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate:
- (3.) A certificate of re-admission to British nationality may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of

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State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate :

- (4.) Entries in any register authorized to be made in pursuance of this Act shall be proved by such copies and certified in such manner as may be directed by one of Her Majesty's Principal Secretaries of State, and the copies of such entries shall be evidence of any matters by this Act or by any regulation of the said Secretary of State authorized to be inserted in the register :
- (5.) The " Documentary Evidence Act, 1868," shall apply to any regulation made by a Secretary of State, in pursuance of or for the purpose of carrying into effect any of the provisions of this Act.

*Miscellaneous.*

13. Nothing in this Act contained shall affect the grant of letters of denization by Her Majesty. Saving of letters of denization.

14. Nothing in this Act contained shall qualify an alien to be the owner of a British ship. Saving as to British ships.

15. Where any British subject has in pursuance of this Act become an alien, he shall not thereby be discharged from any liability in respect of any acts done before the date of his so becoming an alien. Saving of allegiance prior to expatriation.

16. All laws, statutes and ordinances which may be duly made by the legislature of any British possession for imparting to any person the privileges or any of the privileges of naturalization, to be enjoyed by such person within the limits of such possession, shall within such limits have the authority of law, but shall be subject to be confirmed or disallowed by Her Majesty in the same manner and subject to the same rules in and subject to which Her Majesty has power to confirm or disallow any other laws, statutes or ordinances in that possession. Power of colonies to legislate with respect to naturalization.

17. In this Act if not inconsistent with the context or subject matter thereof,— Definition of terms.

" Disability " shall mean the status of being an infant, lunatic, idiot, or married woman.

" British possession " shall mean any colony, plantation, island, territory or settlement within Her Majesty's dominions, and not within the United Kingdom, and all territories and places under one legislature are deemed to be one British possession for the purposes of this Act:

" The Governor of any British possession " shall include any person exercising the chief authority in such possession:

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“Officer in the Diplomatic Service of Her Majesty” shall mean any ambassador, minister or charge d’affaires, or secretary of legation or any person appointed by such ambassador, minister, charge d’affaires or secretary of legation to execute any duties imposed by this Act on an officer in the diplomatic service of Her Majesty:

“Officer in the Consular Service of Her Majesty” shall mean and include consul-general, consul, vice-consul and consular agent, and any person for the time being discharging the duties of consul-general, consul, vice-consul and consular agent.

*Repeal of Acts mentioned in Schedule.*

Repeal of Acts.

18. The several Acts set forth in the first and second parts of the Schedule annexed hereto shall be wholly repealed, and the Acts set forth in the third part of the said Schedule shall be repealed to the extent therein mentioned; provided that the repeal enacted in this Act shall not affect—

- (1.) Any right acquired or thing done before the passing of this Act:
- (2.) Any liability accruing before the passing of this Act:
- (3.) Any penalty, forfeiture or other punishment incurred or to be incurred in respect of any offence committed before the passing of this Act:
- (4.) The institution of any investigation or legal proceeding or any other remedy for ascertaining or enforcing any such liability, penalty, forfeiture or punishment as aforesaid.

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SCHEDULES.

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**NOTE.**—Reference is made to the repeal of the “whole Act” where portions have been repealed before, in order to preclude henceforth the necessity of looking back to previous Acts.

This Schedule, so far as respects Acts prior to the reign of George the Second, other than Acts of the Irish Parliament, refers to the edition prepared under the direction of the Record Commission, intituled “The Statutes of the Realm; printed by command of His Majesty King George the Third, in pursuance of an Address of the House of Commons of Great Britain. From original Records and authentic Manuscripts.”

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## PART I.

A. D. 1870.

## ACTS WHOLLY REPEALED, OTHER THAN ACTS OF THE IRISH PARLIAMENT.

<u>Date.</u>	<u>Title.</u>
7 Jas. 1. c. 2 .....	An Act that all such as are to be naturalized or restored in blood shall first receive the sacrament of the Lord's Supper, and the oath of allegiance, and the oath of supremacy.
11 Will. 3. c. 6 (a.) ...	An Act to enable His Majesty's natural-born subjects to inherit the estate of their ancestors, either lineal or collateral, notwithstanding their father or mother were aliens.
13 Geo. 2. c. 7 .....	An Act for naturalizing such foreign Protestants and others therein mentioned, as are settled or shall settle in any of His Majesty's Colonies in America.
20 Geo. 2. c. 44 .....	An Act to extend the provisions of An Act made in the thirteenth year of His present Majesty's reign, intituled "An Act for naturalizing foreign Protestants and others therein mentioned, as are settled or shall settle in any of His Majesty's Colonies in America, to other foreign Protestants who conscientiously scruple the taking of an oath."
13 Geo. 3. c. 25 .....	An Act to explain two Acts of Parliament, one of the thirteenth year of the reign of His late Majesty, "for naturalizing such foreign Protestants and others, as are settled or shall settle in any of His Majesty's Colonies in America," and the other of the second year of the reign of His present Majesty, "for naturalizing such foreign protestants as have served or shall serve as officers or soldiers in His Majesty's Royal American Regiment, or as engineers in America.
14 Geo. 3. c. 84 .....	An Act to prevent certain inconveniences that may happen by bills of naturalization.
16 Geo. 3. c. 52 .....	An Act to declare His Majesty's natural-born subjects inheritable to the estates of their ancestors, whether lineal or collateral, in that part of Great Britain called Scotland, notwithstanding their father or mother were aliens.
6 Geo. 4. c. 67 .....	An Act to alter and amend an Act passed in the seventh year of the reign of His Majesty King James the First, intituled "An Act that all such as are to be naturalized or restored in blood shall first receive the sacrament of the Lord's Supper and the oath of allegiance and the oath of supremacy."
7 & 8 Vict. c. 66 .....	An Act to amend the laws relating to aliens.
10 & 11 Vict. c. 83 .....	An Act for the naturalization of aliens.

A. D. 1870.

PART II.

ACTS OF THE IRISH PARLIAMENT WHOLLY REPEALED.

- 14 & 15 Chas 2. c. 13...An Act for encouraging Protestant strangers and other to inhabit and plant in the Kingdom of Ireland.
- 2 Anne, c. 14 .....An Act for naturalizing of all Protestant strangers in this Kingdom.
- 19 & 20 Geo. 3. c. 29...An Act for naturalizing such foreign merchants, traders, artificers, artizans, manufacturers, workmen, seamen, farmers and others as shall settle in this Kingdom.
- 23 & 24 Geo. 3. c. 38...An Act for extending the provisions of an Act passed in this Kingdom in the nineteenth and twentieth years of His Majesty's reign, intituled "An Act for naturalizing such foreign merchants, traders, artificers, artizans, manufacturers, workmen, seamen, farmers, and "and others as shall settle in this Kingdom."
- 36 Geo.'3. c. 48 .....An Act to explain and amend an Act, intituled "An Act for naturalizing such foreign merchants, traders, artificers, artizans, manufacturers, workmen, seamen, farmers, and "others who shall settle in this Kingdom."

PART III.

ACTS PARTIALLY REPEALED.

- |   |  | Extent of Repeal.                                  |
|---|--|--|
| 4 Geo. 1. c. 9 .....An Act for reviving, continuing, (Act of Irish Parliament.)                               | and amending several statutes made in this Kingdom heretofore temporary. | So far as makes perpetual the Act of 2 Anne c. 14. |
| 6 Geo. 4. c 50.....An Act for consolidating and amending the laws relative to Jurors and Juries.              |  | The whole of sec. 47.                              |
| 3 & 4 Will. 4. c. 91.....An Act consolidating and amending the laws relating to Jurors and Juries in Ireland. |  | The whole of sec. 37.                              |

No. 50.

A. D. 1870.

An Act to amend the Law relating to the taking of Oaths of Allegiance on Naturalization.

[10th August, 1870.]

WHEREAS it is expedient to amend the law relating to the taking of oaths of allegiance under the "Naturalization Act, 1870."

A. D. 1870.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, as follows:—

1. The power of making regulations vested in one of Her Majesty's Principal Secretaries of State by the "Naturalization Act, 1870," shall extend to prescribing as follows:—

Regulations as to oaths of allegiance.

- (1.) The persons by whom the oaths of allegiance may be administered under that Act:
- (2.) Whether or not such oaths are to be subscribed as well as taken, and the form in which such taking and subscription are to be attested:
- (3.) The registration of such oaths:
- (4.) The persons by whom certified copies of such oaths may be given:
- (5.) The transmission to the United Kingdom for the purpose of registration, or safe keeping, or of being produced as evidence of any oaths taken in pursuance of the said Act out of the United Kingdom, or of any copies of such oaths, also of copies of entries of such oaths contained in any register kept out of the United Kingdom in pursuance of this Act:
- (6.) The proof in any legal proceeding of such oaths:
- (7.) With the consent of the Treasury, the imposition and application of fees in respect of the administration or registration of any such oath.

The two last paragraphs in the eleventh section of the "Naturalization Act, 1870" shall apply to regulations made under this Act.

2. Any person wilfully and corruptly making or subscribing any declaration under the "Naturalization Act, 1870," knowing the same to be untrue in any material particular, shall be guilty of a misdemeanor, and be liable to imprisonment, with or without hard labour, for any term not exceeding twelve months,

Penalty on making false declaration.

3. This Act shall be termed the "Naturalization Oath Act, 1870," and shall be construed as one with the "Naturalization Act, 1870," and may be cited together with that Act as the "Naturalization Acts, 1870."

Construction and short title of Act.

## No. 51.

A. D. 1870. An Act to make further provision for the Government of  
British Columbia.

[9th August, 1870.]

Preamble.

21 & 22 Vict. c. 99.

WHEREAS in pursuance of the powers vested in Her Majesty by an Act passed in the session holden in the twenty-first and twenty-second years of Her Majesty's reign, intituled "An Act to provide for the Government of British Columbia," Her Majesty did, by an Order in Council bearing date the eleventh day of June, one thousand eight hundred and sixty-three, constitute a Legislature consisting of the Governor and a Legislative Council in the said colony of British Columbia:

And whereas by the "British Columbia Act of 1866," Vancouver Island was united to British Columbia and made subject to the said Legislature, and the number of the Legislative Council was increased so as to provide for the representation of Vancouver Island:

And whereas it is expedient to alter the constitution of the said Legislature:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the "British Columbia Government Act, 1870."

Interpretation of term "Governor."

2. For the purposes of this Act the term "Governor" shall mean the officer for the time being administering the government of British Columbia.

Power to Her Majesty by Order in Council to constitute a Legislature.

3. Her Majesty may, by any Order or Orders in Council, revoke the said recited Order in Council, and may from time to time make, and when made revoke or alter, Orders in Council for constituting a Legislature consisting of the Governor and a Legislative Council for the said colony, and may by any such Order make such provisions and regulations respecting the constitution, powers and proceedings of the said Legislature or either branch thereof, the number, the appointment and election of the members of the Legislative Council, their tenure of office and generally in respect to such Legislature or either branch thereof, as may seem to her expedient.

Power to Her Majesty to delegate certain powers to Governor of British Columbia.

4. Her Majesty may from time to time, by any such Order or Orders in Council, empower the Governor of the said colony, with or without any conditions or restrictions, by proclamations to deter-

mine the qualification of electors and of elective members of the Legislative Council and to make provision for the division of the said colony into convenient electoral districts; for the registration of persons qualified to vote, and the compilation and revision of lists of all such persons; for the appointment of returning officers; for the issuing, executing and returning the necessary writs for the election of members to the said Legislative Council; for taking the poll thereat, and determining the validity of all disputed returns; and generally for securing the orderly, effective and impartial conduct of such elections, and to revoke any proclamation previously made.

A. D. 1870.

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**No. 52.**

Draft of an Order passed by the Queen in Council for constituting a Legislative Council for the Colony of British Columbia.

A. D. 1870.

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*At the Court at Osborne House, Isle of Wight, the 9th day of August, 1870.*

**PRESENT:**

The QUEEN'S Most Excellent Majesty,

Lord President,  
Lord Privy Seal,  
Mr. Gladstone,

Mr. Chancellor of the Exchequer,  
Sir William Heathcote, Bart.,  
Lord Justice Mellish.

[Dated 9th August, 1870.]

**WHEREAS** by the "British Columbia Government Act, 1870,"

Her Majesty was empowered by Order or Orders in Council to constitute a Legislature consisting of the Governor and a Legislative Council for the Colony of British Columbia, and to make such provisions and regulations in respect of such Legislature, or either branch thereof, as might seem to be expedient, and further to delegate certain powers therein mentioned to the Governor of the said Colony:

It is hereby ordered by Her Majesty, by and with the advice of Her Privy Council, and in pursuance and exercise of the powers vested in Her Majesty by the said Act of Parliament, as follows, that is to say:—

1. In this Order in Council the term "Governor" shall mean the officer for the time being lawfully administering the Government of the Colony of British Columbia.

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2. The Order in Council of the eleventh day of June, 1863, referred to in the said Act, shall be, and the same is hereby revoked, except that the Legislative Council constituted by the said Order shall, "unless first dissolved by the Governor," retain all the powers thereby granted to it in like manner as if the said Order had not been revoked until the return of the first writs of the future Legislative Council constituted under this Order.

Legislative Council appointed.

3. There shall be in the said Colony a Legislative Council constituted as hereinafter mentioned.

Governor's power to make laws.

4. It shall be lawful for the Governor, with the advice and consent of the said Council, to make laws for the peace, order, and good government of the said Colony.

Constitution of Legislative Council.

5. The said Council shall consist of fifteen members, of whom nine shall be elective, and six non-elective.

Non-elective members.

6. The non-elective members shall consist of such persons or officers as shall from time to time be named or designated by the Governor by instruments to be passed under the public seal of the said Colony: Provided that every such appointment or designation shall be provisional only until the same shall have been confirmed by Warrant under Her Majesty's Sign Manual and Signet; and that such appointment or designation shall be during Her Majesty's pleasure only, and may be revoked by like Warrant.

Elective members and electoral districts.

7. Subject to any re-arrangement and redistribution of the present Electoral Districts by the Governor under the powers hereinafter vested in him, the elective members shall be chosen by the electors of the present Electoral Districts.

Qualification of electors and elective members.

8. Subject to any alteration of franchise or qualification by the Governor under the powers hereinafter vested in him, every male of the full age of twenty-one years, being entitled within the said Colony to the privileges of a natural-born British subject, and being able to read English, shall be qualified to vote at any such election, and to be elected a member of such Legislative Council, unless he shall have been convicted of any treason, felony, or other infamous offence, and shall not have received a free or conditional pardon for such offence, or have undergone the sentence passed upon him for such offence.

Powers of Governor

9. Until the first meeting of the said Council, it shall be lawful for the Governor from time to time by Proclamation to determine the qualification of electors and of elective members, and to make provision for divisions of the said Colony into convenient Electoral Districts; for the registration of persons qualified to vote, and the compilation and revision of lists of all such persons; for the appoint-

ment of Returning Officers; for the issuing, executing, and returning the necessary writs for the election of members to the said Council; for taking the poll thereat and determining the validity of all disputed returns, and generally for securing the orderly, effective, and impartial conduct of such elections.

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10. The Governor shall, by Proclamation as aforesaid, fix the time and place or places for holding the meetings of the said Council. Provided that the said Council shall be convoked within six months after the publication of this Order in the said Colony, and once at least in every subsequent year.

Convoking of Council.

Proviso.

11. The Governor may, by Proclamation as aforesaid, prorogue or dissolve the said Council when he shall think fit; and, in the absence of such dissolution, the elected members of the said Council shall hold their seats for four years from the day of the returning of the first writs for the election of members to the said Council, and no longer.

Prorogation, dissolution, and duration of Council.

12. If any member of the Council shall, without the permission of the Governor first obtained, fail during a whole Session to give his attendance in the said Council, or shall take any oath, or make any declaration or acknowledgment of allegiance, obedience, or adherence to any Foreign State or Power; or shall do, concur in, or adopt any act whereby he may become the subject or citizen of any such State or Power, or shall become a bankrupt or an insolvent debtor, or a public defaulter, or be attainted of treason, or be convicted of felony or any infamous crime, or shall for the period of one month remain party to any contract with the Government, or, not being an ex officio member of the Council, shall by writing under his hand, addressed to the Governor, resign his seat therein; or if any elective member shall accept any office of emolument from the Government, his seat in the said Council shall thereupon become vacant.

Seats of members, how vacated.

13. If any non-elective member shall be incapable of acting or be absent from the Colony, the Governor may, by an Instrument to be passed under the public seal of the Colony, appoint a substitute to act during such incapacity or absence.

Appointment of substitute for non-elective member.

14. Whenever it shall be established to the satisfaction of the Governor that the seat of any elected member of the Council has become vacant, the Governor shall forthwith issue a writ for the election of a new member to serve in the place so vacated during the remainder of the term of the continuance of such Council; but if any question shall arise respecting the fact of such vacancy, it shall be referred by the Governor to the said Council, and shall be heard and determined by them.

Vacant seats, how to be filled up.

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Oath of allegiance  
to be administered  
to Legislative  
Councillors.

15. No member of the Council shall vote or sit therein until he shall have taken and subscribed the following oath before the Governor or some person authorized by him to administer such oath:—

“I, A. B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors, according to Law. So help me God.”

Affirmation or  
declaration.

But every person authorized by law to make a solemn affirmation or declaration, instead of taking an oath, may make such affirmation or declaration in lieu of the said oath.

Speaker to be  
elected.

16. The Council shall, on their first meeting, before proceeding to the dispatch of any other business, elect one of their members to be Speaker, which election, being confirmed by the Governor, shall be valid and effectual during the continuance of the Council, or until the said Speaker shall die or resign his office by writing under his hand, addressed to the Governor, or shall cease to be a member of the Council; and in case of vacancy in the said office, another Speaker shall be elected in manner and subject to such confirmation aforesaid.

Vacant office of  
Speaker, how to  
be filled up.

Acting Speaker to  
preside during the  
Speaker's absence.

17. The Speaker, or, in his absence, some member elected by the Council, shall preside at the meetings thereof.

Quorum for busi-  
ness.

18. The Council shall not be competent to proceed to the dispatch of any business, except that of adjournment, unless six members be present.

Voting, and Speak-  
er's casting vote.

19. All questions shall be determined by a majority of votes of the members present other than the Speaker or Presiding Member. When the votes are equal, the Speaker or Presiding Member shall have a casting vote.

Standing Rules  
and Orders.

20. The Council shall at its first meeting, and from time to time afterwards as occasion may require, adopt Standing Rules and Orders for the orderly conduct of business, which Rules and Orders shall become valid and effectual when confirmed by the Governor.

Revenue Bills.

21. The Council shall not pass, nor shall the Governor assent to, any Bill appropriating any part of the public revenue for any purpose which shall not first have been recommended to the Council by the Governor during the session in which such Bill was proposed, and no part of the said revenue shall be issued, except in pursuance of warrant under the hand of the Governor directed to the public Treasurer of the Colony.

Initiation of laws  
by the Governor.

22. The Governor may transmit by message to the Council the draft of any laws which it may appear to him desirable to introduce, and all such drafts shall be taken into consideration by the Council

in such convenient manner as shall be by the rules and orders provided for that purpose.

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23. Whenever any Bill shall be presented to the Governor for his assent thereto, he may return the same by message, for the reconsideration of the Council, with such amendments as he may think fitting.

Governor may return Bills passed by the Legislative Council.

24. No law shall take effect until the Governor shall have assented to the same on behalf of Her Majesty, and shall have signed the same in token of such assent.

No law to take effect until assented to.

25. Her Majesty may, by Order in Council or through one of Her Principal Secretaries of State, disallow any law passed by the said Governor and Council, at any time within two years after such law shall have been received by the Secretary of State; and every law so disallowed shall become null and void so soon as the disallowance thereof shall be published in the Colony by authority of the Governor.

Disallowance of laws by Her Majesty.

26. Nothing herein contained shall be taken to limit the powers conferred upon such Council by an Act passed in the session holden in the twenty-eighth and twenty-ninth years of the reign of Her Majesty, intituled "An Act to remove doubts as to the validity of Colonial Laws."

Powers of Legislative Council.

28 & 29 Vict. c. 63.

And the Right Honourable the Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(Signed) ARTHUR HELPS.

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No. 53.

At the Court at Osborne House, Isle of Wight, the 19th day of July, 1862.

A. D. 1862.

PRESENT:—The QUEEN'S Most Excellent Majesty in Council.

WHEREAS, by an Act passed in the sixth year of the Reign of Her Majesty intituled "An Act to enable Her Majesty to provide for the government of Her settlements on the Coast of Africa and in the Falkland Islands," it was enacted that it should be lawful for Her Majesty, by any Order or Orders to be by Her made with the advice of Her Privy Council, to establish all such laws, institutions, and ordinances, and to constitute such courts and offices, and to make such provisions and regulations for the proceedings in

A. D. 1862.

such courts and for the administration of justice as might be necessary for the peace, order and good government of Her Majesty's subjects and others within the said settlements. And whereas by an Act passed in the 24th year of the reign of Her Majesty, intituled "An Act to amend an Act passed in the 6th year of Her Majesty Queen Victoria, intituled 'An Act to enable Her Majesty to provide for the government of Her settlements on the coast of Africa and in the Falkland Islands,'" it was enacted that the provisions of the said first recited Act should extend to all possessions of Her Majesty not having been acquired by cession or conquest, nor (except in virtue of the latter Act) being within the jurisdiction of the Legislative authority of any of Her Majesty's possessions abroad, and that it should be lawful for Her Majesty, by any Order or Orders in Council, to authorize and acquire the supreme or other principal court of judicature in any of Her possessions to be specified in such Order, subject always to such conditions and limitations as in the said Order or Orders should be mentioned, to take cognizance of all or any suits, actions or prosecutions for treason or felony which might arise in respect of any act or matter occurring within any possession of Her Majesty, to which either of the above recited Acts should extend, and by such Order or Orders to make regulations respecting the attendance of witnesses in any such suit, action or prosecution, and the mode of enforcing such attendance, and respecting the custody and conveyance of any person charged with the commission of any such crime within such last mentioned possessions, and respecting such other matters as may be requisite for the due trial of such person by such court as aforesaid. And whereas it is necessary to provide for the government of certain territories adjacent to our colony of British Columbia, but not being within the jurisdiction of the Legislative authority of any of Her Majesty's possessions abroad, hereinafter called the *Stickeen territories*.

Her Majesty, by virtue of the powers vested in Her by the said recited Acts, and of all other powers appertaining to Her is pleased to order, with the advice of Her Privy Council, and it is hereby ordered accordingly, that the said *Stickeen territories* shall comprise so much of the dominions of Her Majesty as are bounded to the west and south-west by the frontier of Russian America, to the south and south-east by the boundary of British Columbia, to the east by the 125th meridian of west longitude, and to the north by the 62nd parallel of north latitude. And it is further ordered that the Governor for the time being of British Columbia shall be Administrator of the Government of the said territories.

And it is further ordered that the said Administrator shall have full power under the public seal of the colony of British Columbia

to constitute and appoint in the said territories judges, and in cases requisite commissioners of oyer and terminer, justices of the peace, sheriffs and other necessary officers and ministers for the due and impartial administration of justice and putting the laws into execution, and to administer or cause to be administered unto them such oath or oaths as are usually given for the due execution and performance of offices and places and for the clearing of truth in judicial matters. Provided that no such appointment shall be made otherwise than provisionally until Her Majesty shall have signified Her approval thereof, nor in any case otherwise than during Her pleasure. And it is hereby ordered that the said Administrator shall have full power and authority to suspend from his office within the said territories any person exercising any office or place by virtue either of any appointment as aforesaid or of any commission or warrant granted or which may be granted by Her Majesty, or in Her name, or under Her authority, which suspension shall continue and have effect only until Her Majesty's pleasure therein shall be made known and signified to the said Administrator.

It is further ordered that the said Administrator shall have full power and authority, as he shall see occasion, in Her Majesty's name and on Her behalf, to grant to any offender convicted of any crime in any court or before any judge, justice or magistrate within the said territories, a pardon either free or subject to lawful conditions, or any respite of the execution of any such offender for such period as to the said Administrator may seem fit, and to remit any fines, penalties or forfeitures which may become due and payable to Her Majesty.

And it is further ordered that the said Administrator shall have power and authority from time to time to make, alter and repeal regulations respecting the use and occupation of lands belonging to Her Majesty within the said territories, and by such regulations to authorize persons to seek or take away gold, silver or other minerals in or from any part of the said territories, and to require from such persons such fee or other payment as to him shall seem fit.

And it is further ordered that all persons infringing any such regulation or regulations, or neglecting to pay such fee, or make such other payment as aforesaid shall be liable to such penalty, not exceeding fifty pounds for any such infringement or non-payment, as in the said regulations may be from time to time declared.

And it is further ordered that the law in force in the said territories shall be the law of England as it existed on the 1st day of January, 1862, so far as the same is applicable to the circumstances of those territories.

And it is ordered that the supreme court of civil justice in British

A. D. 1862.

Columbia shall and may take cognizance of all or any suits, actions, or prosecutions for treason or felony which may arise in respect of any act or matter occurring within the said territories, and the said court and all officers thereof or of the Government of British Columbia, shall have and exercise, whether in the colony of British Columbia or in the said territories, the same powers in respect of the mode of enforcing the attendance of witnesses in any such suit, action or prosecution, and respecting the custody and conveyance of any person charged with the commission of felony or treason within the said territories, and respecting such other matters as may be requisite for the due trial of such person by the said supreme court as if the act or matter out of which such suit, action or prosecution had arisen had occurred within the colony of British Columbia.

And it is further ordered that the judge of the said supreme court may make general rules of court to regulate the proceedings of any justice of the peace or officer of court appointed under authority of this Order in Council.

And it is further ordered that every such justice, unless otherwise provided by the instrument appointing him, shall have authority to try and determine any civil action or suit in which the cause of such suit or action shall not exceed in value the amount of fifty pounds, and in case the cause of such suit or action shall exceed in value the amount of ten pounds it shall be competent for either party to the same to appeal from the decision of the said justice to the said supreme court.

And it is further ordered that every such justice of the peace may try any person charged with any offence not being treason or felony or with any felony which by the law of England is not punishable by death or transportation, provided that no such justice shall sentence any such person to a fine of more than fifty pounds, nor to imprisonment for more than two months. Provided also that in case any person shall be charged before any such justice with any felony which in the opinion of such justice will not be adequately punished by such fine or imprisonment as aforesaid, it shall be lawful for such justice to direct that the person so charged shall be tried before the supreme court of justice of British Columbia.

And it is ordered that all sheriffs, gaolers, constables and other officers appointed under authority of this Order in Council shall have and exercise the same powers in respect to the apprehension and committal of offenders, the recovery of penalties, and all other matters affecting the administration of justice as are exercisable by corresponding officers in England, and every justice of the peace so appointed shall have and exercise all such powers for the above purpose as would be exercisable by two justices of the peace in England.

It is hereby ordered that all powers herein conferred on the Governor of British Columbia shall be exercisable by him so long as he shall be in the said territories, or in the colony of British Columbia, or in the colony of Vancouver Island. But in case of his absence from all of the said colonies all such powers shall be exercisable by the officer administering the Government of British Columbia.

A. D. 1862.

And the Most Noble the Duke of Newcastle, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(Signed)                      ARTHUR HELPS.

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**No. 54.**

At the Court at Windsor, the 16th day of May, 1871.

A. D. 1871.

PRESENT:

The QUEEN'S Most Excellent Majesty,

His Royal Highness Prince ARTHUR,

Lord Privy Seal,  
Earl Cowper,  
Earl of Kimberley,

Lord Chamberlain,  
Mr. Secretary Cardwell,  
Mr. Ayrton.

**WHEREAS** by the "British North America Act, 1867," provision was made for the union of the Provinces of Canada, Nova Scotia and New Brunswick into the Dominion of Canada, and it was (amongst other things) enacted that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and of the Legislature of the Colony of British Columbia, to admit that Colony into the said Union on such terms and conditions as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act. And it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

And whereas by Addresses from the Houses of the Parliament of Canada and from the Legislative Council of British Columbia respectively, of which Addresses copies are contained in the Schedule to this Order annexed, Her Majesty was prayed, by and with the advice of Her Most Honourable Privy Council, under the one hundred and forty-sixth section of the hereinbefore recited Act, to

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admit British Columbia into the Dominion of Canada, on the terms and conditions set forth in the said Addresses.

And whereas Her Majesty has thought fit to approve of the said terms and conditions. It is hereby ordered and declared by Her Majesty, by and with the advice of Her Privy Council, in pursuance and exercise of the powers vested in Her Majesty by the said Act of Parliament, that from and after the twentieth day of July, one thousand eight hundred and seventy-one, the said Colony of British Columbia shall be admitted into and become part of the Dominion of Canada, upon the terms and conditions set forth in the hereinbefore recited Addresses. And, in accordance with the terms of the said Addresses relating to the electoral districts in British Columbia, for which the first election of members to serve in the House of Commons of the said Dominion shall take place, it is hereby further ordered and declared that such electoral districts shall be as follows:—

“New Westminster District,” and the “Coast District,” as defined in a public notice issued from the Lands and Works Office in the said Colony on the fifteenth day of December, one thousand eight hundred and sixty-nine, by the desire of the Governor, and purporting to be in accordance with the provisions of the thirty-ninth clause of the “Mineral Ordinance, 1869,” shall constitute one district, to be designated “New Westminster District,” and return one member.

“Cariboo District” and “Lillooet District,” as specified in the said public notice, shall constitute one district, to be designated “Cariboo District,” and return one member.

“Yale District” and “Kootenay District,” as specified in the said public notice, shall constitute one district, to be designated “Yale District,” and return one member.

Those portions of Vancouver Island, known as “Victoria District,” “Esquimalt District,” and “Metchosin District,” as defined in the official maps of those districts which are in the Land Office, Victoria, and are designated respectively “Victoria District Official Map, 1858,” “Esquimalt District Official Map, 1858,” and “Metchosin District Official Map, A. D. 1858,” shall constitute one district, to be designated “Victoria District,” and return two members.

All the remainder of Vancouver Island, and all such islands adjacent thereto as were formerly dependencies of the late Colony of Vancouver Island District, shall constitute one district, to be designated “Vancouver Island District,” and return one member.

And the Right Honourable Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

A. D. 1871.

(Signed)                      ARTHUR HELPS.

—

SCHEDULE.

*Address of the Senate of Canada.*

To the Queen's Excellent Majesty.

*Most Gracious Sovereign,—*

We, your Majesty's most dutiful and loyal subjects, the Senate of Canada in Parliament assembled, humbly approach your Majesty for the purpose of representing:—

That by a despatch from the Governor of British Columbia, dated 23rd January, 1871, with other papers laid before this House by message from His Excellency the Governor-General, of the 27th February last, this House learns that the Legislative Council of that Colony, in Council assembled, adopted, in January last, an Address representing to your Majesty that British Columbia was prepared to enter into Union with the Dominion of Canada, upon the terms and conditions mentioned in the said Address, which is as follows:—

To the Queen's most Excellent Majesty.

*Most Gracious Sovereign,—*

We, your Majesty's most dutiful and loyal subjects, the members of the Legislative Council of British Columbia in Council assembled, humbly approach your Majesty for the purpose of representing:—

That, during the last session of the late Legislative Council, the subject of the admission of the Colony of British Columbia into the Union or Dominion of Canada was taken into consideration, and a resolution on the subject was agreed to, embodying the terms upon which it was proposed that this Colony should enter the Union;

That after the close of the session, delegates were sent by the Government of this Colony to Canada to confer with the Government of the Dominion with respect to the admission of British Columbia into the Union upon the terms proposed;

That after considerable discussion by the delegates with the members of the Government of the Dominion of Canada, the terms and conditions hereinafter specified were adopted by a Committee of the Privy Council of Canada, and were by them reported to the Governor-General for his approval;

That such terms were communicated to the Government of this Colony by the Governor-General of Canada, in a despatch dated July 7th, 1870, and are as follows:—

A. D. 1871.

1. Canada shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.

2. British Columbia not having incurred debts equal to those of the other Provinces now constituting the Dominion, shall be entitled to receive, by half-yearly payments, in advance from the General Government, interest at the rate of five per cent. per annum on the difference between the actual amount of its indebtedness at the date of the Union and the indebtedness per head of the population of Nova Scotia and New Brunswick (27.77 dollars), the population of British Columbia being taken at 60,000.

3. The following sums shall be paid by Canada to British Columbia for the support of its Government and Legislature, to wit, an annual subsidy of 35,000 dollars, and an annual grant equal to 80 cents per head of the said population of 60,000, both half-yearly in advance, such grant of 80 cents per head to be augmented in proportion to the increase of population, as may be shown by each subsequent decennial census, until the population amounts to 400,000, at which rate such grant shall thereafter remain, it being understood that the first census be taken in the year 1881.

4. The Dominion will provide an efficient mail service, fortnightly, by steam communication between Victoria and San Francisco, and twice a week between Victoria and Olympia; the vessels to be adapted for the conveyance of freight and passengers.

5. Canada will assume and defray the charges for the following services:—

- A. Salary of the Lieutenant-Governor;
- B. Salaries and allowances of the Judges of the Superior Courts and the County or District Courts;
- C. The charges in respect to the Department of Customs;
- D. The postal and telegraphic services;
- E. Protection and encouragement of fisheries;
- F. Provision for the militia;
- G. Lighthouses, buoys, and beacons, shipwrecked crews, quarantine and marine hospitals, including a marine hospital at Victoria;
- H. The geological survey;
- I. The penitentiary;

And such further charges as may be incident to and connected with the services which by the "British North America Act of 1867" appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government, shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony whose position and emoluments derived therefrom would be affected by political changes on the admission of British Columbia into the Dominion of Canada,

7. It is agreed that the existing customs tariff and excise duties shall continue in force in British Columbia until the railway from the Pacific coast and the system of railways in Canada are connected, unless the

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Legislature of British Columbia should sooner decide to accept the tariff and excise laws of Canada. When customs and excise duties are, at the time of the union of British Columbia with Canada, leviable on any goods, wares, or merchandizes in British Columbia, or in the other Provinces of the Dominion, those goods, wares, and merchandizes may, from and after the Union, be imported into British Columbia from the Provinces now composing the Dominion, or from either of those Provinces into British Columbia, on proof of payment of the customs or excise duties leviable thereon in the Province of exportation, and on payment of such further amount (if any) of customs or excise duties as are leviable thereon in the Province of importation. This arrangement to have no force or effect after the assimilation of the tariff and excise duties of British Columbia with those of the Dominion.

8. British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of the "British North America Act, 1867."

9. The influence of the Dominion Government will be used to secure the continued maintenance of the naval station at Esquimalt.

10. The provisions of the "British North America Act, 1867," shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to and only affect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this Minute) be applicable to British Columbia, in the same way and to the like extent as they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act.

11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia, not to exceed, however, twenty (20) miles on each side of said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the north-west territories and the Province of Manitoba. Provided, that the quantity of land which may be held under pre-emption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous

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public lands; and, provided further, that until the commencement, within two years, as aforesaid, from the date of the Union, of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption, requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway, the Dominion Government agree to pay to British Columbia from the date of the Union, the sum of 100,000 dollars per annum, in half-yearly payments in advance.

12. The Dominion Government shall guarantee the interest for ten years from the date of the completion of the works, at the rate of five per centum per annum, on such sum, not exceeding £100,000 sterling, as may be required for the construction of a first-class graving dock at Esquimalt.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

14. The constitution of the Executive Authority and of the Legislature of British Columbia shall, subject to the provisions of the "British North America Act, 1867," continue as existing at the time of the Union until altered under the authority of the said Act, it being at the same time understood that the Government of the Dominion will readily consent to the introduction of responsible government when desired by the inhabitants of British Columbia, and it being likewise understood that it is the intention of the Governor of British Columbia, under the authority of the Secretary of State for the Colonies, to amend the existing constitution of the Legislature by providing that a majority of its members shall be elective.

The Union shall take effect according to the foregoing terms and conditions on such day as Her Majesty, by and with the advice of Her Most Honourable Privy Council, may appoint (on addresses from the Legislature of the Colony of British Columbia and of the Houses of Parliament of Canada, in the terms of the 146th section of the "British North America Act, 1867,") and British Columbia may in its address specify the electoral districts for which the first election of members to serve in the House of Commons shall take place.

That such terms have proved generally acceptable to the people of this Colony.

That this Council is, therefore, willing to enter into Union with the Dominion of Canada upon such terms, and humbly submit that, under the circumstances, it is expedient that the admission of this Colony into such Union, as aforesaid, should be effected at as early a date as may be found practicable under the provisions of the 146th section of the "British North America Act, 1867."

We therefore humbly pray that Your Majesty will be graciously pleased, by and with the advice of Your Majesty's Most Honourable Privy Council, under the provisions of the 146th section of the "British North America Act, 1867," to admit British Columbia into the Union or Dominion of Canada, on the basis of the terms and conditions offered to this Colony by the Government of the Dominion of Canada, hereinbefore set forth; and inasmuch as by the said terms British Columbia is empowered in its address to specify the electoral districts for which the first election of members to serve in the House of Commons shall take place, we humbly pray that such electoral districts may be declared, under the Order in Council, to be as follows:—

That "New Westminster District," and the "Coast District," as defined in a public notice issued from the Lands and Works Office on the 15th day of December, 1869, by the desire of the Governor, and purporting to be in accordance with the provisions of the 39th clause of the "Mineral Ordinance, 1869," shall constitute one district, to be designated "New Westminster District," and return one member.

That "Cariboo District," and "Lillooet District," as specified in the said public notice, shall constitute one district, to be designated "Cariboo District," and return one member.

That "Yale District," and "Kootenay District," as specified in the said public notice, shall constitute one district, to be designated "Yale District," and return one member.

That those portions of Vancouver Island known as "Victoria District," "Esquimalt District," and "Metchosin District," as defined in the official maps of those districts in the Land Office, Victoria, and which maps are designated respectively "Victoria District Official Map, 1858," "Esquimalt District Official Map, 1858," and "Metchosin District Official Map, 1858," shall constitute one district, to be designated "Victoria District," and return two members.

And, that all the remainder of Vancouver Island, and all such islands adjacent thereto as were formerly dependencies of the late Colony of Vancouver Island District, shall constitute one district, to be designated "Vancouver Island District," and return one member.

We further humbly represent that the proposed terms and conditions of Union of British Columbia with Canada, as stated in the said

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address, are in conformity with those preliminarily agreed upon between delegates from British Columbia and the members of the Government of the Dominion of Canada, and embodied in a Report of a Committee of the Privy Council, approved by His Excellency the Governor-General in Council, on the 1st July, 1870, which approved report is as follows :—

*Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council, on the 1st of July, 1870.*

The Committee of the Privy Council have had under consideration a despatch, dated the 7th May, 1870, from the Governor of British Columbia, together with certain resolutions submitted by the Government of that Colony to the Legislative Council thereof—both hereunto annexed—on the subject of the proposed union of British Columbia with the Dominion of Canada; and after several interviews between them and the Honourable Messrs. Trutch, Helmcken, and Carrall, the delegates from British Columbia, and full discussion with them of the various questions connected with that important subject, the Committee now respectfully submit for your Excellency's approval the following terms and conditions to form the basis of a political union between British Columbia and the Dominion of Canada.

1. Canada shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.

2. British Columbia not having incurred debts equal to those of the other Provinces now constituting the Dominion, shall be entitled to receive by half-yearly payments in advance from the General Government, interest at the rate of five per cent. per annum on the difference between the actual amount of its indebtedness at the date of the Union and the indebtedness per head of the population of Nova Scotia and New Brunswick (27.77 dollars), the population of British Columbia being taken at 60,000.

3. The following sums shall be paid by Canada to British Columbia for the support of its Government and Legislature, to wit, an annual subsidy of 35,000 dollars, and an annual grant equal to 80 cents per head of the said population of 60,000, both half-yearly in advance, such grant of 80 cents per head to be augmented in proportion to the increase of population, as may be shown by each subsequent decennial census, until the population amounts to 400,000, at which rate such grant shall thereafter remain, it being understood that the first census shall be taken in the year 1881.

4. The Dominion will provide an efficient mail service fortnightly by steam communication between Victoria and San Francisco, and twice a week between Victoria and Olympia, the vessels to be adapted for the conveyance of freight and passengers.

5. Canada will assume and defray the charges for the following services :—

A. Salary of the Lieutenant-Governor.

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- B. Salaries and allowances of the Judges of the Superior Courts and the County or District Courts.
- C. The charges in respect of the Department of Customs.
- D. The postal and telegraphic services.
- E. Protection and encouragement of fisheries.
- F. Provision for militia.
- G. Lighthouses, buoys and beacons, shipwrecked crews, quarantine and marine hospitals, including a marine hospital at Victoria.
- H. The geological survey.
- I. The penitentiary.

And such further charges as may be incident to and connected with the services which by the British North America Act of 1867 appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government, shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony whose position and emoluments derived therefrom would be affected by political changes on the admission of British Columbia into the Dominion of Canada.

7. It is agreed that the existing customs tariff and excise duties shall continue in force in British Columbia until the railway from the Pacific Coast and the system of railways in Canada are connected, unless the Legislature of British Columbia shall sooner decide to accept the tariff and excise laws of Canada. When customs and excise duties are, at the time of the Union of British Columbia with Canada, leviable on any goods, wares, or merchandizes in British Columbia, or in the other Provinces of the Dominion, these goods, wares, and merchandizes may, from and after the Union, be imported into British Columbia from the Provinces now composing the Dominion, or from either of those Provinces into British Columbia, on proof of payment of the customs or excise duties leviable thereon in the Province of exportation, and on payment of such further amount (if any) of customs or excise duties as are leviable thereon in the Province of importation. This arrangement to have no force or effect after the assimilation of the tariff and excise duties of British Columbia with those of the Dominion.

8. British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of the "British North America Act, 1867."

9. The influence of the Dominion Government will be used to secure the continued maintenance of the naval station at Esquimalt.

10. The provisions of the "British North America Act, 1867," shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to, and only affect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this minute) be applicable to British Columbia, in the same way and to the like extent as

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they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act.

11. The Government of the Dominion undertake to secure the commencement, simultaneously, within two years from the date of the Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected east of the Rocky Mountains towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia, not to exceed, however, twenty (20) miles on each side of said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the north-west territories and the Province of Manitoba. Provided that the quantity of land which may be held under pre-emption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government, shall be made good to the Dominion from contiguous lands; and, provided further, that until the commencement, within two years as aforesaid from the date of the Union, of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portion of the public lands of British Columbia, in any other way than under right of pre-emption, requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway, the Dominion Government agree to pay to British Columbia, from the date of the Union, the sum of 100,000 dollars per annum, in half-yearly payments in advance.

12. The Dominion Government shall guarantee the interest for ten years from the date of the completion of the works at the rate of five per centum per annum on such sum, not exceeding £100,000 sterling, as may be required for the construction of a first-class graving dock at Esquimalt.

13. The charge of the Indians and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government, shall be continued by the Dominion Government after the Union. To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians, on application of the Dominion Government, and in case of disagreement between the

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two Governments respecting the quantity of such tracts of land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

14. The constitution of the Executive authority and of the Legislature of British Columbia, shall, subject to the provisions of the "British North America Act, 1867," continue as existing at the time of the Union until altered under the authority of the said Act, it being at the same time understood that the Government of the Dominion will readily consent to the introduction of responsible government when desired by the inhabitants of British Columbia, and it being likewise understood that it is the intention of the Governor of British Columbia, under the authority of the Secretary of State for the Colonies, to amend the existing constitution of the Legislature by providing that a majority of its members shall be elective.

The Union shall take effect, according to the foregoing terms and conditions, on such day as Her Majesty, by and with the advice of Her most Honourable Privy Council, may appoint (on addresses from the Legislature of the Colony of British Columbia, and of the Houses of the Parliament of Canada in the terms of the 146th section of the "British North America Act, 1867"), and British Columbia may in its Address specify the electoral districts for which the first election of members to serve in the House of Commons shall take place.

(Certified)

WM. H. LEE,

*Clerk Privy Council.*

We further humbly represent that we concur in the terms and conditions of Union set forth in the said Address, and approved Report of the Committee of the Privy Council above mentioned; and most respectfully pray that your Majesty will be graciously pleased, by and with the advice of your Majesty's most Honourable Privy Council, under the 146th clause of the "British North America Act, 1867," to unite British Columbia with the Dominion of Canada, on the terms and conditions above set forth.

The Senate, Wednesday, April 5th, 1871.

(Signed)

JOSEPH CAUCHON,

*Speaker.*

*Address of the Commons of Canada.*

To the Queen's most Excellent Majesty.

*Most Gracious Sovereign,—*

We, your Majesty's most dutiful and loyal subjects, the Commons of Canada in Parliament assembled, humbly approach your Majesty for the purpose of representing:—

That by a despatch from the Governor of British Columbia, dated 23rd January, 1871, with other papers laid before this House by message from His Excellency the Governor-General, of the 27th February last, this House learns that the Legislative Council of that Colony, in Council assembled, adopted in January last an Address

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representing to your Majesty that British Columbia was prepared to enter into Union with the Dominion of Canada, upon the terms and conditions mentioned in the said Address, which is as follows :—

To the Queen's most Excellent Majesty.

*Most Gracious Sovereign,—*

We, your Majesty's most dutiful and loyal subjects, the members of the Legislative Council of British Columbia in Council assembled, humbly approach your Majesty for the purpose of representing :—

That during the last session of the late Legislative Council, the subject of the admission of the Colony of British Columbia into the Union or Dominion of Canada was taken into consideration, and a Resolution on the subject was agreed to, embodying the terms upon which it was proposed that this Colony should enter the Union ;

That after the close of the session, delegates were sent by the Government of this Colony to Canada, to confer with the Government of the Dominion with respect to the admission of British Columbia into the Union upon the terms proposed ;

That after considerable discussion by the delegates with the members of the Government of the Dominion of Canada, the terms and conditions hereinafter specified were adopted by a Committee of the Privy Council of Canada, and were by them reported to the Governor-General for his approval ;

That such terms were communicated to the Government of this Colony by the Governor-General of Canada, in a despatch, dated 7th July, 1870, and are as follows :—

1. Canada shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.

2. British Columbia not having incurred debts equal to those of the other Provinces now constituting the Dominion, shall be entitled to receive, by half-yearly payments, in advance from the General Government, interest at the rate of five per cent. per annum on the difference between the actual amount of its indebtedness at the date of the Union and the indebtedness per head of the population of Nova Scotia and New Brunswick (27.77 dollars), the population of British Columbia being taken at 60,000.

3. The following sums shall be paid by Canada to British Columbia for the support of its Government and Legislature, to wit, an annual subsidy of 35,000 dollars, and an annual grant equal to 80 cents per head of the said population of 60,000, both half-yearly in advance, such grant of 80 cents per head to be augmented in proportion to the increase of population, as may be shown by each subsequent decennial census, until the population amounts to 400,000, at which rate such grant shall thereafter remain, it being understood that the first census be taken in the year 1881.

4. The Dominion will provide an efficient mail service, fortnightly, by steam communication, between Victoria and San Francisco, and

twice a week between Victoria and Olympia; the vessels to be adapted for the conveyance of freight and passengers.

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5. Canada will assume and defray the charges for the following services :—

- A. Salary of the Lieutenant-Governor ;
- B. Salaries and allowances of the Judges of the Superior Courts and the County or District Courts ;
- C. The charges in respect to the Department of Customs ;
- D. The Postal and Telegraphic Services ;
- E. Protection and encouragement of Fisheries ;
- F. Provision for the Militia ;
- G. Lighthouses, buoys, and beacons, shipwrecked crews, quarantine and marine hospital, including a marine hospital at Victoria ;
- H. The Geological Survey ;
- I. The Penitentiary ;

And such further charges as may be incident to and connected with the services which by the "British North America Act, 1867," appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government, shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony whose position and emoluments derived therefrom would be affected by political changes on the admission of British Columbia into the Dominion of Canada.

7. It is agreed that the existing customs tariff and excise duties shall continue in force in British Columbia until the railway from the Pacific Coast and the system of railways in Canada are connected, unless the Legislature of British Columbia should sooner decide to accept the tariff and excise laws of Canada. When customs and excise duties are, at the time of the Union of British Columbia with Canada, leviable on any goods, wares or merchandizes in British Columbia, or in the other Provinces of the Dominion, these goods, wares, and merchandizes may, from and after the Union, be imported into British Columbia from the Provinces now composing the Dominion, or from either of those Provinces into British Columbia, on proof of payment of the customs or excise duties leviable thereon in the Province of exportation, and on payment of such further amount (if any) of customs and excise duties as are leviable thereon in the Province of importation. This arrangement to have no force or effect after the assimilation of the tariff and excise duties of British Columbia with those of the Dominion.

8. British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of the "British North America Act, 1867."

9. The influence of the Dominion Government will be used to secure the continued maintenance of the naval station at Esquimalt.

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10. The provisions of the "British North America Act, 1867," shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to and only affect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this Minute) be applicable to British Columbia in the same way and to the like extent as they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act.

11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia, not to exceed however, twenty (20) miles on each side of said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the north-west territories and the Province of Manitoba. Provided that the quantity of land which may be held under pre-emption right or by crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and provided further, that until the commencement, within two years as aforesaid, from the date of the Union, of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption, requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway, the Dominion Government agree to pay to British Columbia from the date of the Union, the sum of 100,000 dollars per annum, in half-yearly payments in advance.

12. The Dominion Government shall guarantee the interest for ten years from the date of the completion of the works, at the rate of five per centum per annum, on such sum not exceeding £100,000 sterling, as may be required for the construction of a first-class graving dock at Esquimalt.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued

by the British Columbia Government shall be continued by the Dominion Government after the Union.

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To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

14. The constitution of the executive authority and of the Legislature of British Columbia shall, subject to the provisions of the "British North America Act, 1867," continue as existing at the time of the Union until altered under the authority of the said Act, it being at the same time understood that the Government of the Dominion will readily consent to the introduction of responsible government when desired by the inhabitants of British Columbia, and it being likewise understood that it is the intention of the Governor of British Columbia, under the authority of the Secretary of State for the Colonies, to amend the existing Constitution of the Legislature by providing that a majority of its members shall be elective.

The Union shall take effect according to the foregoing terms and conditions on such day as Her Majesty by and with the advice of Her Most Honourable Privy Council may appoint (on addresses from the Legislature of the Colony of British Columbia and of the Houses of Parliament of Canada, in the terms of the 146th section of the "British North America Act, 1867,") and British Columbia may in its address specify the electoral districts for which the first election of members to serve in the House of Commons shall take place.

That such terms have proved generally acceptable to the people of this Colony.

That this Council is, therefore, willing to enter into Union with the Dominion of Canada upon such terms, and humbly submit that, under the circumstances, it is expedient that the admission of this Colony into such Union, as aforesaid, should be effected at as early a date as may be found practicable under the provisions of the 146th section of the "British North America Act, 1867."

We therefore humbly pray that Your Majesty will be graciously pleased, by and with the advice of Your Majesty's Most Honourable Privy Council, under the provisions of the 146th section of the "British North America Act, 1867," to admit British Columbia into the Union or Dominion of Canada, on the basis of the terms and conditions offered to this Colony by the Government of the Dominion of Canada, hereinbefore set forth; and inasmuch as by the said terms British Columbia is empowered in its address to specify the electoral districts for which the first election of members to serve in the House of Commons shall take place, we humbly pray that such electoral districts may be declared, under the Order in Council, to be as follows:—

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That "New Westminster District," and the "Coast District," as defined in a public notice issued from the Lands and Works Office on the 15th day of December, 1869, by the desire of the Governor, and purporting to be in accordance with the provisions of the 39th clause of the "Mineral Ordinance, 1869," shall constitute one district, to be designated "New Westminster District," and return one member.

That "Cariboo District," and "Lillooet District," as specified in the said public notice, shall constitute one district, to be designated "Cariboo District," and return one member.

That "Yale District," and "Kootenay District," as specified in the said public notice shall constitute one district, to be designated "Yale District," and return one member.

That those portions of Vancouver Island known as "Victoria District," "Esquimalt District," and "Metchosin District," as defined in the official maps of those districts in the Land Office, Victoria, and which maps are designated respectively "Victoria District Official Map, 1858," "Esquimalt District Official Map, 1858," and "Metchosin District Official Map, 1858," shall constitute one district, to be designated "Victoria District," and return two members.

And that all the remainder of Vancouver Island, and all such Islands adjacent thereto as were formerly dependencies of the late Colony of Vancouver Island District shall constitute one district, to be designated "Vancouver Island District," and return one member.

We further humbly represent that the proposed terms and conditions of Union of British Columbia with Canada, as stated in the said address are in conformity with those preliminarily agreed upon between delegates from British Columbia and the members of the Government of the Dominion of Canada, and embodied in a Report of a Committee of the Privy Council, approved by His Excellency the Governor-General in Council, on the 1st July, 1870, which approved report is as follows:—

*Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council on the 1st of July, 1870.*

The Committee of the Privy Council have had under consideration a despatch, dated the 7th May, 1870, from the Governor of British Columbia, together with certain resolutions submitted by the Government of that Colony to the Legislative Council thereof—both hereunto annexed—on the subject of the proposed Union of British Columbia with the Dominion of Canada; and after several interviews between them and the Honourable Messrs. Trutch, Helmcken, and Carrall, the Delegates from British Columbia, and full discussion with them of the various questions connected with that important subject, the Committee now respectfully submit for Your Excellency's approval the following terms and conditions to form the basis of a political union between British Columbia and the Dominion of Canada:—

A. D. 1871.

1. Canada shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.

2. British Columbia not having incurred debts equal to those of the other Provinces now constituting the Dominion, shall be entitled to receive, by half-yearly payments, in advance from the General Government, interest at the rate of five per cent. per annum on the difference between the actual amount of its indebtedness at the date of the Union and the indebtedness per head of the population of Nova Scotia and New Brunswick (27.77 dollars), the population of British Columbia being taken at 60,000.

3. The following sums shall be paid by Canada to British Columbia for the support of its Government and Legislature, to wit, an annual subsidy of 35,000 dollars, and an annual grant equal to 80 cents per head of the said population of 60,000, both half-yearly in advance, such grant of 80 cents per head to be augmented in proportion to the increase of population, as may be shown by each subsequent decennial census, until the population amounts to 400,000, at which rate such grant shall thereafter remain, it being understood that the first census be taken in the year 1881.

4. The Dominion will provide an efficient mail service, fortnightly, by steam communication between Victoria and San Francisco, and twice a week between Victoria and Olympia; the vessels to be adapted for the conveyance of freight and passengers.

5. Canada will assume and defray the charges for the following services:—

- A. Salary of the Lieutenant-Governor;
- B. Salaries and allowances of the Judges of the Superior Courts and the County or District Courts;
- C. The charges in respect to the Department of Customs;
- D. The postal and telegraphic services;
- E. Protection and encouragement of fisheries;
- F. Provision for the militia;
- G. Lighthouses, buoys, and beacons, shipwrecked crews, quarantine and marine hospitals, including a marine hospital at Victoria;
- H. The geological survey;
- I. The penitentiary;

And such further charges as may be incident to and connected with the services which by the "British North America Act of 1867" appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government, shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony whose position and emoluments derived therefrom would be affected by political changes on the admission of British Columbia into the Dominion of Canada.

7. It is agreed that the existing customs tariff and excise duties shall continue in force in British Columbia until the railway from the Pacific coast and the system of railways in Canada are connected, unless the

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Legislature of British Columbia should sooner decide to accept the tariff and excise laws of Canada. When customs and excise duties are, at the time of the union of British Columbia with Canada, leviable on any goods, wares, or merchandizes in British Columbia, or in the other Provinces of the Dominion, those goods, wares, and merchandizes may, from and after the Union, be imported into British Columbia from the Provinces now composing the Dominion, or from either of those Provinces into British Columbia, on proof of payment of the customs or excise duties leviable thereon in the Province of exportation, and on payment of such further amount (if any) of customs or excise duties as are leviable thereon in the Province of importation. This arrangement to have no force or effect after the assimilation of the tariff and excise duties of British Columbia with those of the Dominion.

8. British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of the "British North America Act, 1867."

9. The influence of the Dominion Government will be used to secure the continued maintenance of the naval station at Esquimalt.

10. The provisions of the "British North America Act, 1867," shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to and only affect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this Minute) be applicable to British Columbia, in the same way and to the like extent as they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act.

11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia, not to exceed, however, twenty (20) miles on each side of said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the north-west territories and the Province of Manitoba. Provided, that the quantity of land which may be held under pre-emption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion

Government shall be made good to the Dominion from contiguous public lands; and, provided further, that until the commencement, within two years, as aforesaid, from the date of the Union; of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption, requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway, the Dominion Government agree to pay to British Columbia from the date of the Union, the sum of 100,000 dollars per annum, in half-yearly payments in advance.

12. The Dominion Government shall guarantee the interest for ten years from the date of the completion of the works, at the rate of five per centum per annum, on such sum, not exceeding £100,000 sterling, as may be required for the construction of a first-class graving dock at Esquimalt.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

14. The constitution of the Executive Authority and of the Legislature of British Columbia shall, subject to the provisions of the "British North America Act, 1867," continue as existing at the time of the Union until altered under the authority of the said Act, it being at the same time understood that the Government of the Dominion will readily consent to the introduction of responsible government when desired by the inhabitants of British Columbia, and it being likewise understood that it is the intention of the Governor of British Columbia, under the authority of the Secretary of State for the Colonies, to amend the existing constitution of the Legislature by providing that a majority of its members shall be elective.

The Union shall take effect according to the foregoing terms and conditions on such day as Her Majesty, by and with the advice of Her Most Honourable Privy Council, may appoint (on addresses from the Legislature of the Colony of British Columbia and of the Houses of Parliament of Canada, in the terms of the 146th section of the "British North America Act, 1867,") and British Columbia may in its address

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specify the electoral districts for which the first election of members to serve in the House of Commons shall take place.

(Certified)

WM. H. LEE,

*Clerk Privy Council.*

We further humbly represent that we concur in the terms and conditions of Union set forth in the said Address, and approved Report of the Committee of the Privy Council above mentioned; and most respectfully pray that your Majesty will be graciously pleased, by and with the advice of your Majesty's most Honourable Privy Council, under the 146th clause of the "British North America Act, 1867," to unite British Columbia with the Dominion of Canada, on the terms and conditions above set forth.

(Signed)

JOSEPH COCKBURN,

*Speaker.*

House of Commons, Saturday, April 1st, 1871.

*Address of the Legislative Council of British Columbia.*

To the Queen's most Excellent Majesty.

*Most Gracious Sovereign,—*

We, your Majesty's most dutiful and loyal subjects, the members of the Legislative Council of British Columbia in Council assembled, humbly approach your Majesty for the purpose of representing:—

That, during the last session of the late Legislative Council, the subject of the admission of the Colony of British Columbia into the Union or Dominion of Canada was taken into consideration, and a resolution on the subject was agreed to, embodying the terms upon which it was proposed that this Colony should enter the Union;

That after the close of the session, delegates were sent by the Government of this Colony to Canada to confer with the Government of the Dominion with respect to the admission of British Columbia into the Union upon the terms proposed;

That after considerable discussion by the delegates with the members of the Government of the Dominion of Canada, the terms and conditions hereinafter specified were adopted by a Committee of the Privy Council of Canada, and were by them reported to the Governor-General for his approval;

That such terms were communicated to the Government of this Colony by the Governor-General of Canada, in a despatch dated July 7th, 1870, and are as follows:—

1. Canada shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.

2. British Columbia not having incurred debts equal to those of the other Provinces now constituting the Dominion, shall be entitled to receive, by half-yearly payments, in advance from the General Government, interest at the rate of five per cent. per annum on the difference

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between the actual amount of its indebtedness at the date of the Union and the indebtedness per head of the population of Nova Scotia and New Brunswick (27.77 dollars), the population of British Columbia being taken at 60,000.

3. The following sums shall be paid by Canada to British Columbia for the support of its Government and Legislature, to wit, an annual subsidy of 35,000 dollars, and an annual grant equal to 80 cents per head of the said population of 60,000, both half-yearly in advance, such grant of 80 cents per head to be augmented in proportion to the increase of population, as may be shown by each subsequent decennial census, until the population amounts to 400,000, at which rate such grant shall thereafter remain, it being understood that the first census be taken in the year 1881.

4. The Dominion will provide an efficient mail service, fortnightly, by steam communication, between Victoria and San Francisco, and twice a week between Victoria and Olympia; the vessels to be adapted for the conveyance of freight and passengers.

5. Canada will assume and defray the charges for the following services :—

- A. Salary of the Lieutenant-Governor ;
- B. Salaries and allowances of the Judges of the Superior Courts and the County or District Courts ;
- C. The charges in respect to the Department of Customs ;
- D. The Postal and Telegraphic Services ;
- E. Protection and encouragement of Fisheries ;
- F. Provision for the Militia ;
- G. Lighthouses, buoys, and beacons, shipwrecked crews, quarantine and marine hospital, including a marine hospital at Victoria ;
- H. The Geological Survey;
- I. The Penitentiary;

And such further charges as may be incident to and connected with the services which by the "British North America Act, 1867," appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government, shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony whose position and emoluments derived therefrom would be affected by political changes on the admission of British Columbia into the Dominion of Canada.

7. It is agreed that the existing customs tariff and excise duties shall continue in force in British Columbia until the railway from the Pacific Coast and the system of railways in Canada are connected, unless the Legislature of British Columbia should sooner decide to accept the tariff and excise laws of Canada. When customs and excise duties are, at the time of the Union of British Columbia with Canada, leviable on any goods, wares or merchandizes in British Columbia, or in the other

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Provinces of the Dominion, these goods, wares, and merchandizes may, from and after the Union, be imported into British Columbia from the Provinces now composing the Dominion, or from either of those Provinces into British Columbia, on proof of payment of the customs or excise duties leviabie thereon in the Province of exportation, and on payment of such further amount (if any) of customs and excise duties as are leviabie thereon in the Province of importation. This arrangement to have no force or effect after the assimilation of the tariff and excise duties of British Columbia with those of the Dominion.

8. British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of the "British North America Act, 1867."

9. The influence of the Dominion Government will be used to secure the continued maintenance of the naval station at Esquimalt.

10. The provisions of the "British North America Act, 1867," shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to and only affect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this Minute) be applicable to British Columbia in the same way and to the like extent as they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act.

11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia, not to exceed however, twenty (20) miles on each side of said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the north-west territories and the Province of Manitoba. Provided that the quantity of land which may be held under pre-emption right or by crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and provided further, that until the commencement, within two years as aforesaid, from the date of the Union, of the construction of the said railway, the Government of British Columbia shall not sell or alienate

any further portions of the public lands of British Columbia in any other way than under right of pre-emption, requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway, the Dominion Government agree to pay to British Columbia from the date of the Union, the sum of 100,000 dollars per annum, in half-yearly payments in advance.

12. The Dominion Government shall guarantee the interest for ten years from the date of the completion of the works, at the rate of five per centum per annum, on such sum not exceeding £100,000 sterling, as may be required for the construction of a first-class graving dock at Esquimalt.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

14. The constitution of the executive authority and of the Legislature of British Columbia shall, subject to the provisions of the "British North America Act, 1867," continue as existing at the time of the Union until altered under the authority of the said Act, it being at the same time understood that the Government of the Dominion will readily consent to the introduction of responsible government when desired by the inhabitants of British Columbia, and it being likewise understood that it is the intention of the Governor of British Columbia, under the authority of the Secretary of State for the Colonies, to amend the existing Constitution of the Legislature by providing that a majority of its members shall be elective.

The Union shall take effect according to the foregoing terms and conditions on such day as Her Majesty by and with the advice of Her Most Honourable Privy Council may appoint (on addresses from the Legislature of the Colony of British Columbia and of the Houses of Parliament of Canada, in the terms of the 146th section of the "British North America Act, 1867,") and British Columbia may in its address specify the electoral districts for which the first election of members to serve in the House of Commons shall take place.

That such terms have proved generally acceptable to the people of this Colony.

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That this Council is, therefore, willing to enter into Union with the Dominion of Canada upon such terms, and humbly submit that, under the circumstances, it is expedient that the admission of this Colony into such Union, as aforesaid, should be effected at as early a date as may be found practicable under the provisions of the 146th section of the "British North America Act, 1867."

We therefore humbly pray that Your Majesty will be graciously pleased, by and with the advice of Your Majesty's Most Honourable Privy Council, under the provisions of the 146th section of the "British North America Act, 1867," to admit British Columbia into the Union or Dominion of Canada, on the basis of the terms and conditions offered to this Colony by the Government of the Dominion of Canada, hereinbefore set forth; and inasmuch as by the said terms British Columbia is empowered in its address to specify the electoral districts for which the first election of members to serve in the House of Commons shall take place, we humbly pray that such electoral districts may be declared, under the Order in Council, to be as follows:—

That "New Westminster District," and the "Coast District," as defined in a public notice issued from the Lands and Works Office on the 15th day of December, 1869, by the desire of the Governor, and purporting to be in accordance with the provisions of the 39th clause of the "Mineral Ordinance, 1869," shall constitute one district, to be designated "New Westminster District," and return one member.

That "Cariboo District," and "Lillooet District," as specified in the said public notice, shall constitute one district, to be designated "Cariboo District," and return one member.

That "Yale District," and "Kootenay District," as specified in the said public notice shall constitute one district, to be designated "Yale District," and return one member.

That those portions of Vancouver Island known as "Victoria District," "Esquimalt District," and "Metchosin District," as defined in the official maps of those districts in the Land Office, Victoria, and which maps are designated respectively "Victoria District Official Map, 1858," "Esquimalt District Official Map, 1858," and "Metchosin District Official Map, 1858," shall constitute one district, to be designated "Victoria District," and return two members.

And that all the remainder of Vancouver Island, and all such Islands adjacent thereto as were formerly dependencies of the late Colony of Vancouver Island District shall constitute one district, to be designated "Vancouver Island District," and return one member.

(Signed)

PHILIP J. HANKIN,

*Speaker.*

## No. 55.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

A. D. 1849.

To all to whom these presents shall come—Greeting.

**W**HEREAS by the Royal Charter or letters patent of His late Majesty King Charles the Second, bearing date the second day of May, in the twenty-second year of His reign, His said late Majesty did (amongst other things) ordain and declare that the Governor and Company of Adventurers of England trading into Hudson's Bay, thereby incorporated in their successors by that name, should at all times thereafter be personable and capable in law to have, purchase, receive, possess, and enjoy and retain lands, rents, privileges, liberties, jurisdictions, franchises, and hereditaments of what nature or kind soever they were to them or their successors; and also to give grant, demise, alien, assign, and dispose lands, tenements, and hereditaments, and to do and execute all and singular other things by the same name that to them should or might appertain to do. And His said late Majesty did thereby, for himself, His heirs, and successors, give, grant, and confirm unto the said Governor and company, and their successors, the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks, and sounds, in whatsoever latitude they should be, that lay within the entrance of the straits commonly called Hudson's Straits; together with all the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid that were not already actually possessed by or granted to any of His said late Majesty's subjects, or possessed by the subjects of any other Christian Prince or State, with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes, in the seas, bays, inlets, and rivers within the premises, and the fish therein taken, together with the royalty of the seas upon the coasts within the limits aforesaid, and all mines royal, as well then discovered as not then discovered, of gold, silver, coins, and precious stones to be found or discovered within the territories, limits, and places aforesaid, and that the said land should be from thenceforth reckoned and reputed as one of His late Majesty's plantations or colonies in America. And further, His said late Majesty did thereby, for himself, his heirs, and successors, make, create, and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits, and places aforesaid, and of all other the premises (saving always the faith, allegiance, and sovereign dominion due to His said late Majesty, His heirs and successors) for the

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same to hold, possess, and enjoy the said territory, limits, and places, and all and singular other the premises thereby granted as aforesaid, with their and every of their' rights, members, jurisdictions, prerogatives, royalties, and appurtenances whatsoever to them, the said Governor and Company, and their successors, for ever, to be holden of His said late Majesty, His heirs and successors, as of His manor of East Greenwich, in the county of Kent, in free and common socage, and not in capite or by knight's service, yielding and paying yearly to His said late Majesty, His heirs and successors, for the same, two elks and two black beavers, whensoever and as often as His said late Majesty, His heirs and successors, should happen to enter into the said countries, territories and regions thereby granted :

And whereas by an Act passed in the session of Parliament held in the forty-third year of the reign of His late Majesty King George the Third, intituled "An Act for extending the jurisdiction of the "Courts of Justice in the Provinces of Lower and Upper Canada to "the trial and punishment of persons guilty of crimes and offences "within certain parts of North America adjoining to the said Pro- "vinces," it was enacted that from and after the passing of that Act all offences committed within any of the Indian territories or parts of America not within the limits of either of the said Provinces of Lower or Upper Canada, or of any Civil Government of the United States of America, should be and be deemed to be offences of the same nature and should be tried in the same manner and subject to the same punishment as if the same had been committed within the Provinces of Upper or Lower Canada, and provisions were contained in the said Act regulating the committal and trial of the offenders :

And whereas by an Act passed in the session of Parliament holden in the first and second years of the reign of His late Majesty King George the Fourth, intituled "An Act for regulating the fur "trade and establishing a criminal and civil jurisdiction within cer- "tain parts of North America," after reciting (among other things) that doubts had been entertained whether provisions of said Act of the forty-third George the Third extended to the territories granted by charter to the said Governor and Company, and that it was expedient that such doubts should be removed, and that the said Act should be further extended; it was enacted (amongst other things) that from and after the passing of said last-mentioned Act, it should be lawful for His then Majesty, His heirs and successors, to make grants or give His royal license, under the hand and seal of one of His Majesty's Principal Secretaries of State, to any body corporate or company, or person or persons, of or for the exclusive privilege of trading with the Indians in all such parts of North America as should be specified in any such grants or licenses respectively, not being part of the lands or territories theretofore

granted to the said Governor and Company of Adventurers of England trading into Hudson's Bay, and not being part of any of His Majesty's Provinces in North America, or of any lands or territories belonging to the United States of America, subject to the provisions and restrictions in the said Act mentioned; and it was thereby further enacted that the said Act of the forty-third of George the Third, and all the clauses and provisoes therein contained, should be deemed and construed and was and were thereby respectively declared to extend to and over and to be in full force in and through all the territories theretofore granted to the said Company of Adventurers trading to Hudson's Bay :

And whereas by Our grant or royal license, bearing date the thirteenth day of May, one thousand eight hundred and thirty-eight, under the hand and seal of one of Our then Principal Secretaries of State, We granted and gave Our license to the said Governor and Company, and their successors, for the exclusive privilege of trading with the Indians in all such parts of North America to the northward and westward of the lands and territories belonging to the United States of America as should not form part of any of Our Provinces in North America, or of any lands or territories belonging to the United States of America, or to any European Government, State, or power, subject nevertheless as therein mentioned. And We did thereby give and grant and secure to the said Governor and Company, and their successors, the sole and exclusive privilege, for the full period of twenty-one years from the date thereof, of trading with the Indians in all such parts of North America as aforesaid, except as therein mentioned, at the rent therein reserved, and upon the terms and subject to the qualification and power of revocation therein contained :

And whereas by a treaty between Ourselves and the United States of America, for the settlement of the Oregon Boundary, signed at Washington, on the fifteenth day of June, one thousand eight hundred and forty-six, it was agreed upon and concluded (amongst other things) as follows:—That from the point of the forty-ninth parallel of north latitude where the boundary laid down in existing treaties and conventions between Great Britain and the said United States terminated, the line of boundary between Our territories and those of the United States should be continued westward along the said parallel of north latitude to the middle of the channel which separates the continent from Vancouver Island, and thence southerly through the middle of the said channel and of DeFuca's Straits to the Pacific Ocean: Provided, however that the navigation of the whole of the said channel and straits south of the forty-ninth parallel of north latitude should remain free and open to both parties :

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And whereas certain of Our lands and territories in North America lie to the westward and also to the northward of the territory granted to the said Governor and Company by the herein-before recited grant or letters patent of His said late Majesty King Charles the Second, and which is, pursuant to the direction in that behalf contained in such grant or letters patent, called or known as Rupert's Land, and to the eastward of the territories the boundary line of which is defined by the hereinbefore recited treaty with the United States of North America :

And whereas under the said last-mentioned grant or letters patent, and also under Our herein-before recited grant or license of the thirteenth day of May, one thousand eight hundred and thirty-eight, the said Governor and Company have traded as well within as beyond the limits of the lands and territories granted to them by the said grant or letters patent of His said late Majesty King Charles the Second, and have in connection with and for the protection of their trade beyond the said limits been in the habit of erecting forts and other isolated establishments without the said limits, and some of such forts and establishments of the said Governor and Company are now existing in that part of Our said territories in North America, including Vancouver Island, the boundary line between which and the territories of the said United States is determined by the herein-before recited treaty between Ourselves and the said United States :

And whereas it would induce greatly to the maintenance of peace, justice, and good order, and to the advancement of colonization and to the promotion and encouragement of trade and commerce in and also to the protection and welfare of the native Indians residing within that portion of Our territories in North America called Vancouver Island, if such island were colonized by settlers from the British dominions, and if the property in the land of such island were vested for the purpose of such colonization in the said Governor and Company of Adventurers of England trading into Hudson's Bay, but nevertheless upon the condition that the said Governor and Company should form on the said island a settlement or settlements as herein after mentioned, for the purpose of colonizing the said island, and also should defray the entire expense of any civil and military establishments which may be required for the protection and government of such settlement or settlements (except nevertheless during the time of hostilities between Great Britain and any foreign, European, or American power) :

And now know ye, that We being moved by the reasons before mentioned, do by these presents, for Us, Our heirs and successors, give, grant, and confirm unto the said Governor and Company of

A. D. 1849

Adventurers of England trading into Hudson's Bay, and their successors, all that the said island called Vancouver Island, together with all royalties of the seas upon these coasts within the limits aforesaid, and all mines royal thereto belonging. And further, We do by these presents, for Us, Our heirs and successors, make, create, and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territories, limits, and places, and of all other the premises (saving always the faith, allegiance, and sovereign dominion due to Us, Our heirs and successors for the same), to have, hold, possess, and enjoy the said territories, limits, and places, and all and singular other the premises hereby granted as aforesaid, with their and every of their rights, members, royalties, and appurtenances whatsoever to them the said Governor and Company, and their successors for ever, to be holden of Us, Our heirs and successors, in free and common socage, at the yearly rent of seven shillings, payable to Us and Our successors for ever, on the first day of January in every year: Provided always, and We declare that this present grant is made to the intent that the said Governor and Company shall establish upon the said island a settlement or settlements of resident colonists, emigrants from Our United Kingdom of Great Britain and Ireland, or from other Our dominions, and shall dispose of the land there as may be necessary for the purposes of colonization; and to the intent that the said company shall, with a view to the aforesaid purposes, dispose of all lands hereby granted to them at a reasonable price, except so much thereof as may be required for public purposes, and that all moneys which shall be received by the said company for the purchase of such land, and also from all payments which may be made to them for or in respect of the coal or other minerals to be obtained in the said island, or the right of searching for and getting the same, shall, after deduction of such sums by way of profit as shall not exceed a deduction of ten per cent. from the gross amount received by the said company from the sale of such lands and in respect of such coal or other minerals as aforesaid, be applied toward the colonization and improvement of the island; and that the company shall reserve for the use of Us, Our heirs and successors, all such lands as may be required for the formation of naval establishments, We, Our heirs and successors paying a reasonable price for the same; and that the said company should once in every two years at the least certify, under the seal of the said Governor and Company, to one of Our Principal Secretaries of State, what colonists shall have been from time to time settled in the said island, and what land shall have been disposed of as aforesaid. And we further declare that this present grant is made upon this condition, that if the said Governor and Company shall not, within the term of five years from the date

A. D. 1849.

of these presents, have established upon the said island a settlement of resident colonists, emigrants from the United Kingdom of Great Britain and Ireland, or from other Our dominions, and it shall at any time after the expiration of such term of five years, be certified to Us, Our heirs and successors, by any person who shall be appointed by Us, Our heirs or successors to enquire into the condition of such Island, that such settlement has not been established according to the intent of this Our grant, or that the provisions hereinbefore mentioned respecting the disposal of land and the price of lands and minerals have not been respectively fulfilled, it shall be lawful for Us, Our heirs and successors, to revoke this present grant and to enter upon and resume the said Island, and premises hereby granted, without prejudice nevertheless to such dispositions as may have been made in the meantime by the said Governor and Company of any land in the said Island for the actual purpose of colonization and settlement, and as shall have been certified as aforesaid to one of Our Principal Secretaries of State. And We hereby declare that this present grant is and shall be deemed and taken to be made upon this further condition, that We, Our heirs and successors shall have, and We accordingly reserve unto Us and them full power, at the expiration of the said Governor and Company's grant or license of or for the exclusive privilege of trading with the Indians, to repurchase and take of and from the said Governor and Company the said Vancouver Island and premises hereby granted, in consideration of payment being made by Us, Our heirs and successors, to the said Governor and Company of the sum or sums of money theretofore laid out and expended by them in and upon the said Island and premises, and of the value of their establishments, property, and effects then being thereon.

IN WITNESS whereof we have caused these Our letters to be made patent: WITNESS Ourselves at Our Palace at Westminster, this thirteenth day of January, in the twelfth year of Our reign.

By Writ of Privy Seal.

(Signed) EDMUNDS.

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No. 56.

A. D. 1867.

THIS INDENTURE made this third day of April, one thousand eight hundred and sixty-seven, between the Governor and Company of Adventurers of England, trading into Hudson's Bay, (who with their successors are hereinafter called "the said Company") of the one part and Her most Gracious Majesty Queen Victoria of the other part.

A. D. 1867.  
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Whereas previous to January, one thousand eight hundred and forty-nine, the said Company had occupied certain portions of land in Vancouver Island for the purposes of carrying on their trading and commercial operations, under a Royal Charter of Incorporation granted to them by His late Majesty King Charles the second and dated the second day of May, in the twenty-second year of His reign:

And whereas by a Royal License bearing date the thirteenth day of May, one thousand eight hundred and thirty-eight, the said Company were invested for the full period of twenty-one years from the date thereof, with the sole and exclusive privilege of trading with the Indians in such part of North America to the northward and westward of the territories of the United States as did not form part of any of Her said Majesty's provinces in North America, or of any territories belonging to the United States or to any European Government, State or Power, subject nevertheless as therein mentioned.

And whereas by letters patent dated the thirteenth day of January, one thousand eight hundred and forty-nine, Her said Majesty was pleased to grant unto the said Company and their successors the said Vancouver Island, together with all royalties of the seas upon the coasts within the limits therein mentioned, and all mines royal thereto belonging, to be holden of Her said Majesty, Her heirs and successors, in free and common socage, at the yearly rent of seven shillings, and upon the condition and for the purpose of colonizing the said Island as therein mentioned, and in the said letters patent Her said Majesty reserved to Herself and Her successors full power, at the expiration of the said Company's hereinbefore recited license for the exclusive privilege of trading with the Indians, to repurchase and take from the said Company the said Vancouver Island and premises thereby granted, on payment by Her said Majesty to the said Company, of the sum or sums of money theretofore laid out and expended by them in and upon the said Island and premises and of the value of their establishments, property and effects then being thereon.

And whereas after the said hereinbefore recited license of the thirteenth day of May, one thousand eight hundred and thirty-eight, had come to an end, it seemed fit to Her said Majesty to exercise the power reserved to Her in the said letters patent of repurchasing the said Vancouver Island, whereupon an investigation of accounts and a negotiation with the said Company took place, and finally the said Company agreed to accept the sum of fifty-seven thousand five hundred pounds in full discharge of all their claims in respect of the said Island under the said letters patent of the thirteenth day of January, one thousand eight hundred and forty-nine.

A. D. 1867.

And whereas the said sum of fifty-seven thousand five hundred pounds hath accordingly been paid to the said Company by or on behalf of Her said Majesty, in two instalments of twenty-five thousand pounds and thirty-two thousand five hundred pounds, on the twenty-ninth day of June, one thousand eight hundred and sixty, and the sixth day of October, one thousand eight hundred and sixty-two, as the said Company do hereby admit and acknowledge.

And whereas the said Company have agreed to reconvey to Her said Majesty, Her heirs and successors, the said Vancouver Island and premises, except such portions thereof as may have been sold by the said Company previous to the first day of January, one thousand eight hundred and sixty-two, and except also such other portions thereof as are hereinafter mentioned, which last mentioned portions are, with the assent of Her said Majesty to remain the property of the said Company and their successors.

Now this Indenture witnesseth that in pursuance of such agreement and in consideration of the sum of fifty-seven thousand five hundred pounds so paid by or on behalf of Her said Majesty to the said Company as aforesaid, in full discharge of all the claims of the said Company in respect of all sums expended by them in and upon the said Vancouver Island and premises, and of the value of their establishments, property and effects now being thereon, and of all other their claims under the said letters patent of the thirteenth day of January, one thousand eight hundred and forty-nine in respect of the said Island, they, the said Company, do for themselves and their successors by these presents grant, convey, yield up and surrender unto Her said Majesty, Her heirs and successors, all that the said Island called Vancouver Island, together with all royalties of the seas upon the coasts thereof, and all mines royal, and all rights, members and appurtenances whatsoever to the said Island and hereditaments belonging, and which were conveyed or passed to and are now vested in the said Company, under or by virtue of the said hereinbefore recited letters patent of the thirteenth day of January, one thousand eight hundred and forty-nine, or otherwise howsoever, and also the said letters patent of the thirteenth day of January, one thousand eight hundred and forty-nine: And all the estate, right, title, interest and property whatsoever of the said Company in, to and out of the same premises, except and always reserved out of the grant and surrender hereby made as follows, that is to say:

1. Certain pieces or parcels of land in the town of Victoria, containing in the whole twenty-two acres and forty-one hundredth parts of an acre and known as the Church Reserve, which lands have lately been conveyed by the said Company to Trustees for certain ecclesiastical and scholastic purposes: And also all land situate in the Victoria

district which may have been sold by the said Company previous to the first day of January, one thousand eight hundred and sixty-two, together with the water frontages and spaces between high and low water mark, abutting on any portions of such lands, provided such water frontages and spaces were also sold by the said Company before the first day of January, one thousand eight hundred and sixty-two, but not otherwise.

2. The farm known as the Uplands Farm, containing about one thousand one hundred and forty-four acres, and being section thirty-one on the colonial official plan of the said Victoria district.

3. The farm known as the North Dairy Farm, containing about four hundred and sixty acres, being section thirty-two on the said official plan.

4. The Old Spring and adjoining land, (except one well set apart and appropriated to public use,) and marked 68, 69, 70, 71, 72,  $\frac{78}{2078}$  in section eighteen of the plan of the town of Victoria heretofore delivered to the Colonial Government by the said Company.

5. All that portion of land in the said Victoria district heretofore known as the Fort Property, including the site of the fort and the adjoining land yet unsold, with the water frontage and foreshore immediately in front of the fort, but not including the several lots marked respectively H, harbour master's lot, No. 15, block 70, situated at the foot of Broughton street; V, police barracks, and numbers 1603, 1605, and 1607, post office, coloured green, on the said last mentioned plan, on which lots the harbour master's office, the police barracks and the post office are respectively situated, and which lots are hereby (among other things) granted and conveyed to Her said Majesty and Her successors.

6. Eight lots or parcels of land numbered on the said last mentioned plan 3, 4, 5, 8, 10, 14, 17 and 20, containing in the whole fifty acres, more or less, recently selected by the said Company out of a certain farm lying to the south and west of James Bay, and heretofore known as "Beckley" or "Dutnell's" Farm, all which said excepted lands (save the lands comprised under the said first head of exceptions) are and are to remain the absolute property of the said Company and their successors, free and discharged from any rent, trusts or conditions contained in the said letters patent of the thirteenth day of January, one thousand eight hundred and forty-nine, and as regards the lands comprised under the foregoing heads of exceptions numbered 4, 5 and 6 are coloured pink and marked on the several blocks and lots into which the same are divided with the letters H. B. C. on the map or plan thereof hereunto annexed, to have and to hold the said Vancouver Island and all and singular

A. D. 1867.

other the hereditaments and premises hereinbefore granted, conveyed and surrendered or intended so to be, with their appurtenances (except as aforesaid) unto Her said Majesty, Her heirs and successors, as of Her former estate and dominion therein, freed and absolutely discharged from any title, rights or claims of the said Company and their successors.

And the said Company do hereby for themselves and their successors, covenant with Her said Majesty, Her heirs and successors, in manner following, that is to say, that they, the said Company, have not at any time heretofore made, done, committed, or executed, or willingly suffered any act, deed, matter, or thing whatsoever, whereby the said hereditaments and premises hereby granted, conveyed, and surrendered, or intended so to be, or any part thereof, are or is in anywise charged, affected, or encumbered, or by reason whereof the said Company are in anywise prevented from granting the said hereditaments and premises in manner aforesaid.

And further, that they, the said Company, and their successors, will at any time or times hereafter, upon the request and at the cost of Her said Majesty, Her heirs and successors, make, do, and execute, or cause to be made, done, and executed, all such further and other lawful acts, deeds, and assurances for more perfectly and absolutely conveying the said Island, hereditaments, and premises, with their appurtenances (except as aforesaid), unto Her said Majesty, her heirs and successors, as Her said Majesty or Her successors shall require.

In witness whereof, the said Governor and Company of Adventurers of England trading into Hudson's Bay have caused their corporate seal to be hereunto affixed, and Thomas William Clinton Murdoch and Stephen Walcott, Esquires, Her Majesty's Emigration Commissioners, have hereunto set their hands and seals on behalf of Her Majesty, the day and year first above written.

By order of the Governor, Deputy Governor, and Committee of the said Company.

(Signed) W. G. SMITH,  
*Secretary.*

(Signed) T. W. C. MURDOCH, [L.S.]  
S. WALCOTT. [L.S.]

The corporate seal of the within named Company was hereunto affixed in the presence of

(Signed) W. ARMIT,  
*of Hudson's Bay House, London, Gentleman.*

Signed, sealed and delivered by the within named Thomas William Clinton Murdoch and Stephen Walcott, as such Emigration Commissioners as within mentioned, in the presence of

A. D. 1862.

(Signed) CHRISTOPHER SIMNER CARTWRIGHT,  
*Clerk at the Government Emigration Board.*

8, Park Street, Westminster.

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[The three following Proclamations should have appeared at page 53, but were accidentally omitted.]

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No. 57. (126)

Proclamation by His Excellency JAMES DOUGLAS, Governor of Vancouver Island and its Dependencies, Commander-in-Chief and Vice-Admiral of the same, &c.

A. D. 1858.

[15th September, 1858.]

**WHEREAS** it has been made to appear to me that certain persons in Victoria and elsewhere have attempted to delude the public, by making pretended sales of certain lands on Fraser River ;

Now I do hereby warn all persons whom it may concern, that no lands at or near Langley, or elsewhere on Fraser River, have been in any manner encumbered or sold, and that the title to all such lands is vested in the Crown, and that any person found occupying the same, without due authority from me, will be summarily ejected; and all persons fraudulently selling the same will be prosecuted and punished as the law directs.

No. 58. (127)

A. D. 1858.

Proclamation by His Excellency JAMES DOUGLAS, Governor and Commander-in-Chief of Her Majesty's Colony of Vancouver Island and its Dependencies.

[3rd November, 1858.]

WHEREAS Her Majesty has been pleased, by an instrument made under Her sign manual, to revoke the Crown Grant dated the 30th day of May, in the year of Our Lord, 1838, to the Hudson's Bay Company, for exclusive trading with the Indians, in so far as the said grant embraces or extends to the territories comprised within the Colony of British Columbia.

I, James Douglas, Governor of the Colony, now proclaim and publish this instrument revoking the said grant, for the information and guidance of all persons interested therein.

L. S.

VICTORIA, R.

REVOCATION

Of License of 30th May, 1838, to Hudson's Bay Company, for exclusive Trading with the Indians, in so far as the same embraces the territories comprised in British Columbia.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith. To all whom these presents shall come, greeting :

WHEREAS, by an instrument under the hand and seal of the Right Honourable Lord Glenelg, then one of Our principal Secretaries of State, and dated the 30th day of May, one thousand eight hundred and thirty-eight, We did, for the reasons and considerations therein recited, grant and give Our license to the Governor and Company of Adventurers trading to Hudson's Bay, and their successors, for the exclusive privilege of trading with the Indians in all such parts of North America to the northward and to the westward of the lands and territories belonging to the United States of America as should not form any part of Our Provinces in North America, or of any lands or territories belonging to the said United States of America, or to any European Government, State or Power, but subject nevertheless, as hereinafter mentioned; and did give, grant and secure to the said Governor and Company and their successors, the sole and exclusive privilege, for the full period of twenty-one years from the date of Our said grant, of trading with the Indians in all such parts of North America as aforesaid (except as hereinafter mentioned): Provided,

nevertheless, and We did thereby declare Our pleasure to be, that nothing therein contained should extend or be construed to prevent the establishment by Us, Our heirs or successors, within the territories aforesaid, or any of them, of any Colony or Colonies, Province or Provinces, or the annexing any part of the aforesaid territories to any existing Colony or Colonies to Us in right of Our Imperial Crown belonging; or constituting any such form of Civil Government as to Us might seem meet, within any such Colony or Colonies, Province or Provinces. And We did thereby reserve to Us, Our heirs and successors, full power and authority to revoke Our said grant, or any part thereof, in so far as the same might embrace or extend to any of the territories aforesaid, which might thereafter be comprised within any Colony or Colonies, Province or Provinces, as aforesaid.

And whereas, We have by Our commission, under the great seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster this second day of September, one thousand eight hundred and fifty-eight, in the twenty-second year of Our reign, and in virtue as well of the powers vested in Us by an Act entitled "An Act to provide for the Government of British Columbia," as of all other powers and authorities belonging to Us in that behalf, established within the territories aforesaid a Colony, under the title of "British Columbia," bounded as in the said recited Act is mentioned, to the south by the frontier of the United States of America, to the east by the main chain of the Rocky Mountains, to the north by Simpson's River and the Finlay Branch of the Peace River, and to the west by the Pacific Ocean; and including Queen Charlotte's Island, and all other islands adjacent to the said territories, except as thereafter excepted.

And whereas, it has appeared to Us expedient that the right of exclusive trade with the Indians given by Us, in manner aforesaid, to the Governor and Company of Adventurers trading to Hudson's Bay, and their successors, within the territories in the said instrument described, should no longer be exercised by them within so much of those territories as is comprised within the said Colony of British Columbia.

Now, know ye, that We do hereby revoke Our said grant contained in the hereinbefore recited instrument of the thirtieth day of May, one thousand eight hundred and thirty-eight, in so far as the same embraces or extends to the territories comprised within the said Colony of British Columbia;

And We do hereby declare that this present revocation of Our said grant shall take effect within the said Colony as soon as it shall have been proclaimed there by the officer administering the Government thereof.

Given at Our Court at Osborne House, Isle of Wight, this second day of September, 1858, in the twenty-second year of Our Reign.

By Her Majesty's command.

No. 59. (128)

A. D. 1858.

Proclamation by His Excellency JAMES DOUGLAS, Governor and Commander-in-Chief of Her Majesty's Colony of British Columbia and its Dependencies. Proclamation having the force of Law to Indemnify the Governor and other Officers for acts done before the establishment of any legitimate authority in British Columbia.

[19th November, 1858.]

**W**HEREAS large numbers of Her Majesty's subjects and others, have resorted to and settled on the territory now comprised within the limits of this Colony, before the establishment of any settled form of government therein, and it has been necessary to take steps for the establishment and maintenance of peace, order, and good government, and for the protection of the rights of Her Majesty, and for the collection of a revenue from lands belonging to Her Majesty; some of which steps may not have been fully authorized in point of law :

And whereas by a commission under the great seal of the United Kingdom of Great Britain and Ireland, I, James Douglas, Governor of the Colony of British Columbia, have been authorized, by Proclamation issued under the public seal of the Colony, to make laws, institutions, and ordinances for the peace, order, and good government of the same :

Be it therefore known to all whom it may concern, that I, the said James Douglas, Governor of British Columbia, do hereby, in virtue of the authority aforesaid, enact and proclaim that every act, matter, or thing bona fide done and performed for any of the purposes aforesaid before the date of this Proclamation, by me the said James Douglas, or any other person or persons acting under my authority or direction, shall be deemed to be and to have been valid in law, and that I, the said James Douglas, and the said other persons, shall be and hereby are severally and jointly indemnified, freed, and discharged from and against all actions, suits, prosecutions, and penalties whatever, in respect of any such act, matter, or thing, and that the same shall not be questioned in any of Her Majesty's Courts of civil or criminal jurisdiction in this Colony.

And I do further enact and proclaim that any declaration in writing under the hand of the Governor, or Officer administering the Government of British Columbia, to the effect that any act, matter, or thing specified therein, was done or performed for any of such purposes, or under any such direction or authority as aforesaid

shall, for the purposes of this Proclamation, be conclusive evidence of the matters stated therein, and shall be a sufficient discharge and indemnity to all persons mentioned in the said declaration in respect of the act, matter, or thing specified therein.

A. D. 1858.

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[The following Order in Council was accidentally omitted at page 104.]

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No. 60.

At the Court at Windsor, the 11th day of June, 1863.

A. D. 1863.

PRESENT :

The QUEEN'S Most Excellent Majesty,  
 Lord President, Earl Russell,  
 Lord Privy Seal, Mr. Milner Gibson.

WHEREAS by an Act passed in the 22nd year of the reign of Her Majesty, entitled "An Act to provide for the Government of British Columbia," it was declared lawful for Her Majesty, by Order in Council, to authorize and empower such officer as she might from time to time appoint to administer the Government of British Columbia, to make provision for the administration of justice therein, and generally to make, ordain, and establish such laws, institutions, and ordinances as might be necessary for the peace, order, and good government of Her Majesty's subjects and others therein: Provided that it should be lawful for Her Majesty, so soon as she might deem it convenient, by any such Order in Council as aforesaid, to constitute or to authorize and empower such officer to constitute a Legislature, to make laws for the peace, order, and good government of British Columbia; such Legislature to consist of the Governor, or officer administering the Government of the Colony, and a Council, or Council and Assembly, to be composed of such and so many persons, and to be appointed or elected in such manner, and for such periods, and subject to such regulations as to Her Majesty might seem expedient:

And whereas by an Order in Council bearing date on the 2nd day of September, in the year 1858, Her Majesty was pleased to authorize such Governor, or officer as aforesaid, to make provision for the administration of justice, and, as therein mentioned, to make laws and ordinances for the peace, order, and good government of Her Majesty's subjects and others in the said Colony:

A. D. 1893.

And whereas it is expedient to revoke the said Order in Council and to constitute a Legislature for the said Colony, consisting of the Governor or officer administering the government thereof, and the Legislative Council hereinafter established.

1. It is hereby ordered by Her Majesty, by and with the advice of Her Privy Council, and in pursuance and exercise of the powers vested in Her Majesty by the said Act of Parliament, or otherwise in that behalf, that the said recited Order in Council shall be and the same is hereby revoked: Provided always that nothing herein contained shall be held to invalidate any act or thing done, nor any appointment made in pursuance or under authority of the said Order in Council, but that every such act, thing, and appointment shall remain of the same force and effect as if the said Order in Council were still in operation.

And it is hereby further ordered as follows, that is to say:—

2. In this Order in Council the term "Governor" shall mean the Officer for the time being lawfully administering the Government of the Colony of British Columbia.

3. There shall be in the said Colony a Legislative Council, constituted as hereinafter mentioned.

4. It shall be lawful for the Governor, with the advice and consent of the said Legislative Council, to make laws for the peace, order, and good government of the said Colony.

5. The said Council shall consist of such public officers within the said Colony as shall from time to time be designated, and of such persons as shall from time to time be named by or in pursuance of any instructions or warrant under the royal sign manual and signet, and of such other persons as may be from time to time appointed by the Governor by instruments to be passed under the public seal of the said Colony: Provided that every such last mentioned appointment shall be provisional only until the same shall have been approved by Her Majesty through one of Her Principal Secretaries of State, and may be made to determine at a period named in the instrument making the same, and that the total number of Councillors shall not by any such appointment be raised above the number of fifteen: Provided also that every member of the said Council shall hold office during Her Majesty's pleasure only.

6. The precedence of the members of the said Council may be from time to time determined by any such instructions as aforesaid. In the absence of such determination, the members shall take rank according to the order of their appointments, or if appointed by the same instrument according to the order in which they are named therein.

A. D. 1863.

7. The Governor, or in his absence any member of the Council appointed by him in writing, or in default of such appointment, the member present who shall stand first in order of precedence shall preside at every meeting of the said Council. All questions brought before the Council shall be decided by the majority of the votes given, and the Governor or Presiding Member shall have an original vote on all such questions, and also a casting vote if the votes shall be equally divided.

8. No business (except that of adjournment) shall be transacted unless there shall be present four members of Council besides the Governor or Presiding Member.

9. The Council shall, in the transaction of business and passing of laws, conform as nearly as may be to the directions conveyed in that behalf to the Governor of British Columbia in certain instructions under the sign manual and signet, bearing date the 2nd day of September, 1858, until otherwise provided by Us, and to such further instructions under the said sign manual and signet as may hereafter be addressed to the Governor in that behalf.

10. Subject to such instructions, the Council may make standing rules and orders for the regulation of their own proceedings.

11. No law shall take effect until the Governor shall have assented to the same on behalf of Her Majesty, and shall have signed the same in token of such assent.

12. Her Majesty may, by Order in Council or through one of Her Principal Secretaries of State, disallow any law passed by the said Governor and Council at any time within two years after such law shall have been received by the Secretary of State, and every law so disallowed shall become null and void so soon as the disallowance thereof shall be published in the Colony by authority of the Governor.

13. If any Councillor shall become bankrupt or insolvent, or shall be convicted of any criminal offence, or shall absent himself from British Columbia for more than three months without leave from the Governor, the Governor may declare in writing that his seat at the Council is vacant, and immediately on the publication of such declaration he shall cease to be a member of the Council.

14. The Governor may, by writing under his hand and seal, suspend any Legislative Councillor from the exercise of his office, proceeding therein in such manner as may from time to time be enjoined by any such instructions as aforesaid, and until otherwise ordered according to such directions respecting the suspension of public officers, as are contained in the above mentioned instructions

A. D. 1863.  
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bearing date the 2nd day of September, 1858. And the Most Noble the Duke of Newcastle, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(Signed) ARTHUR HELPS.

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VICTORIA: Printed by RICHARD WOLFENDEN, Government Printer,  
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