K B7 L7
SPAM 19569

THE LAND LAWS

OF

BRITISH COLUMBIA:

TOGETHER WITH

LAND OFFICE FORMS & REGULATIONS.

1873.

VICTORIA, B. C.:
PRINTED BY RICHARD WOLFENDEN, GOVERNMENT PRINTER.
1873.

K B T L
SPAM 19569

THE LAND LAWS

OF

BRITISH COLUMBIA:

TOGETHER WITH

LAND OFFICE FORMS & REGULATIONS.

1873.

VICTORIA, B. C.:
PRINTED BY RICHARD WOLFENDEN, GOVERNMENT PRINTER.
1873.

CONTENTS.

LAND LAWS.

PAGE.

The Land Ordinance, 1870 1
The Land Ordinance Amendment Act, 1872 16
The Land Ordinance Amendment Act, 1873 18

ORDERS IN COUNCIL.

Railway Reserve of strip of land 20 miles wide between Seymous Narrows and Esquimalt 27
Fixing price of Unsurveyed and Unoccupied Land..... 27
Fixing price of Mineral Land 28
Enabling Pre-emptors in error to complete purchase..... 28
Enabling Pre-emptors of Prairie Land to locate 20 acres of Timbered Land 29
Setting apart certain lands for Free Grants 29
Regulations respecting the acquisition of Free Grants 30

APPENDIX.

Land Office Forms and Regulations.

Form of application for permission to pre-empt 35
,, application for Government Survey 35
,, notice of application for Lease..... 36
,, notice of application to record a 20 acre Timbered Lot 37
,, application to record a 20 acre Timbered Lot 37
Regulations to be observed by persons desirous of purchasing Unsurveyed Lands 38
Form of notice of application to purchase Unsurveyed Lands... 40
,, application to purchase Unsurveyed Lands 41

CONTENTS.

LAND LAWS.

PAGE.

The Land Ordinance, 1870 1
The Land Ordinance Amendment Act, 1872 10
The Land Ordinance Amendment Act, 1872 18

ORDERS IN COUNCIL.

Railway Reserve of strip of land 20 miles wide between Sayanora Narrows and Esquimalt 27
Fixing price of Unsurveyed and Unoccupied Land 27
Fixing price of Mineral Land 28
Enabling Pre-emptors in error to complete purchase 28
Enabling Pre-emptors of Partial Land to locate 20 acres of Timbered Land 29
Setting apart certain lands for Free Grants 29
Regulations respecting the sale of Free Grants 30

APPENDIX.

Land Office Forms and Instructions.

Form of application for permission to pre-empt 35
" " application for Government Survey 35
" " notice of application for Lease 36
" " notice of application to record a 20 acre Timbered Lot 37
" " application to record a 20 acre Timbered Lot 37
Regulations to be observed by persons desirous of purchasing Unsurveyed Lands 38
Form of notice of application to purchase Unsurveyed Lands ... 40
" " application to purchase Unsurveyed Lands 41

No. 18.

An Ordinance to amend and consolidate the Laws affecting Crown Lands in British Columbia.

A.D. 1870.

[*Amended by No.* 31 *of* 1872, *and by No.* 1 *of* 1873.]

[*Assented to* 1*st June*, 1870.]

Preamble.

WHEREAS it is expedient to amend and consolidate the Laws affecting Crown Lands in British Columbia:

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

Interpretation.

1. In the construction and for the purposes of this Ordinance (if not inconsistent with the context or subject matter) the following terms shall have the respective meanings hereinafter assigned to them:—

[*Amended by Sec.* 1 *of Act No.* 1 *of* 1873.]

"The [*Governor*"] shall mean the Governor of British Columbia, or any person for the time being lawfully exercising the authority of a Governor of British Columbia.

"Chief Commissioner of Lands and Works and Surveyor-General" shall mean and include the Chief Commissioner of Lands and Works and Surveyor-General, and any person for the time being lawfully acting in that capacity.

"Commissioner" shall mean the Chief Commissioner of Lands and Works and Surveyor-General of this Colony, or the person acting as such for the time being, and shall include every Stipendiary Magistrate for the time being in charge of any District, and every person duly authorized by the Governor to act as and for the Chief Commissioner of Lands and Works and Surveyor-General, as Assistant Commis-

A.D. 1870.

sioner of Lands and Works in any District in which the land that may be referred to lies, other than that in which the chief office of the Lands and Works Department is situated, and any other District or Districts for which no such Assistant Commissioner of Lands and Works as aforesaid has been appointed.

"Supreme Court" shall mean the Supreme Court of British Columbia.

"The Crown" shall mean Her Majesty, Her heirs and successors.

"Crown Lands" shall mean all lands of this Colony held by the Crown in fee simple.

"Act" shall mean any Proclamation or Ordinance having the force of law in this Colony.

Words importing the singular number shall include more persons, parties, or things than one, and the converse.

Repeals former Acts.

2. The following Acts, Ordinances, and Proclamations relating to the disposal and regulation of the Crown Lands of the Colony are hereby repealed:—

An Act dated February 14th, 1859.
An Act dated January 4th, 1860.
An Act dated January 20th, 1860.
The "Pre-emption Amendment Act, 1861."
The "Country Land Act, 1861."
The "Pre-emption Purchase Act, 1861."
The "Pre-emption Consolidation Act, 1861."
The "Mining District Act, 1863."
The "Land Ordinance, 1865."
The "Pre-emption Ordinance, 1866."
The "Pre-emption Payment Ordinance, 1869." and
The "Vancouver Island Land Proclomation, 1862."

Saving existing rights.

But such repeal shall not prejudice or affect any rights acquired or payments due, or forfeitures or penalties incurred prior to the passing of this Ordinance, in respect of any land in this Colony.

PRE-EMPTION.

Who may pre-empt as of right.

3. From and after the date of the proclamation in this Colony of Her Majesty's assent to this Ordinance, any male person being a British subject, of the age of eighteen years or over, may acquire the right to pre-empt any tract of unoccupied, unsurveyed, and unreserved Crown Lands (not being an Indian settle-

ment) not exceeding three hundred and twenty acres in extent in that portion of the Colony situate to the northward and eastward of the Cascade or Coast Range of Mountains, and one hundred and sixty acres in extent in the rest of the Colony. Provided, that such right of pre-emption shall not be held to extend to any of the Aborigines of this Continent, except to such as shall have obtained the Governor's special permission in writing to that effect. [See *Section* 2 *of Act No.* 1 *of* 1873.]

A.D. 1870.

How much,

4. Any chartered or incorporated company may acquire such right by obtaining a special permission in writing from the Governor to that effect, but not otherwise; and the Governor may grant or refuse such permission at his discretion.

and who by special permission.

[*Pre-emption by partners*, see *Section* 15 *of Act No.* 1 *of* 1873.]

5. Any person desiring to pre-empt as aforesaid, shall first apply to and obtain from the Commissioner permission in writing to enter upon such land, which must be fully described in writing by the applicant, and a plan thereof must be deposited with the Commissioner; and such description and plan shall be in duplicate. [See *form of application*, *Appendix*.]

Application to locate.

6. After such permission has been obtained, and within such time, not exceeding thirty days thereafter, as shall be specified by the Commissioner in such permission, such person shall enter into possession of the land so described, and place at each corner thereof a post marked with his name, or other distinguishing sign, and thereupon shall apply in writing to the said Commissioner to have his claim recorded to such tract of land, not exceeding three hundred and twenty acres, or one hundred and sixty acres, as the case may be, as hereinbefore provided.

Entry and application to record.

7. If such land has not been previously recorded, the Commissioner shall, upon the fulfilment by the applicant of the preceding requirements, and upon payment by him of a fee of two dollars, record such land in his favour as a pre emption claim, and give him a certificate of such pre-emption record, in the Form A in the Schedule hereto; and such record shall be made by the Commissioner in triplicate, the original to be handed to the pre-emptor, a duplicate to be retained by the Commissioner for local reference,

Pre-emption record.

Form A. [*can be obtained of the Land Recorder of the District*.]

A.D. 1870.

and the triplicate to be forwarded forthwith to the head office of the Lands and Works Department, to be there examined, and if found in all respects (or if necessary after having been amended by the Chief Commissioner of Lands and Works and Surveyor-General so as to be) in accordance with the provisions of this Ordinance, to be finally registered in the Land Office Pre-emption Register.

Rectangular shape of claim.

8. Every piece of land sought to be acquired as a pre-emption claim under the provisions of this Ordinance shall, save as hereinafter excepted, be of a rectangular shape, and the shortest line thereof shall be at least two-thirds of the length of the longest line. Such lines shall run as nearly as possible north and south, and east and west. [*Section* 4 *of Act No.* 1 *of* 1873, *defines the length of boundary lines in yards.*]

Natural boundaries.

9. Where such land is in whole or in part bounded by any mountain, rock, lake, river, swamp, or other natural boundary, or by any public highway, or by any pre-empted or surveyed land, such natural boundary, public highway, pre-empted or surveyed land, may be adopted as the boundary of such land; and it shall be sufficient for the claimant to shew to the Commissioner that the form of the land conforms as nearly as circumstances permit to the provisions of this Ordinance.

[See *Section* 5 *of Act No.* 1 *of* 1873, *as to marking boundaries of claims.*]

Rectification of survey.

10. The Chief Commissioner of Lands and Works and Surveyor-General may, however, in carrying out any Government Survey, if in his opinion circumstances require it, survey pre-emption claims or purchased lands recorded previous to the date of this Ordinance, by such metes and bounds as he may think proper; and every survey so made and certified by him in writing shall be binding upon all parties affected thereby; and the survey so certified shall be deemed in any Court of this Colony to have been done in compliance with the provisions of this Ordinance.

Certificate of improvement.

Form B. [*can be obtained of the Land Recorder of the District*]

11. A pre-emptor shall be entitled to receive from the Commissioner a certificate, to be called a "Certificate of Improvement," in the Form B in the Schedule hereto, upon his proving to the Commissioner, by the declarations in writing of himself and two other persons, that he has been in occupation of his pre-

emption claim from the date of the record thereof, and has made permanent improvements thereon, to the value of two dollars and fifty cents per acre. Such certificate shall be in triplicate, the original to be handed to the pre-emptor, the duplicate retained by the Commissioner for local reference, and the triplicate transmitted forthwith to the head office of the Lands and Works Department; and it shall be the duty of the Commissioner to note the issue of such certificate on the original pre-emption record, which must be produced to him at the time of applying for the certificate by the pre-emptor, and on the duplicate thereof retained in the Commissioner's office.

Declaration.

12. Every such declaration shall be subscribed by the person making the same, and shall be filed with the Commissioner, who is hereby fully authorized and empowered to take the same; and such declaration shall be in the Form C in the Schedule, and shall be made before such Commissioner, under and subject to the provisions and penalties of the "Oaths Ordinance, 1869."

Form C. [*can be obtained of the Land Recorder of the District.*]

Right may be transferred.

13. After the grant of the certificate of improvement, but not before, the pre-emption right in the land referred to in such certificate may be transferred to any person entitled to hold a pre-emption claim under this Ordinance, subject, however, to the continuance of all the provisions of this Ordinance as to occupation, forfeiture, and payment of purchase money due or to become due to the Crown.

[*Section 6 of Act No.* 1, 1873, *provides for issue of Crown Grant after Certificate of improvements obtained.*]

Mode of transfer.

14. Every such transfer must be made in writing, signed by the person making the same, or his attorney in fact, in the Form D, in the Schedule, or in words to that effect, and in the presence of the Commissioner, and if not so made shall be void; and such transfer shall be in triplicate, the original to be retained by the person in whose favour the transfer is made, the duplicate to be retained as a record in the office of the Commissioner, and the triplicate forwarded forthwith to be registered in the head office of the Lands and Works. Upon the examination of such transfer in the manner and form so prescribed, and on payment of the fee of two dollars, the Commissioner shall cancel the previous record of such pre-emption

Form D. [*can be obtained of the Land Recorder of the District.*]

A.D. 1870.

right, and record the same anew, in the manner prescribed in Section 7, in the name of the person in favor of whom such transfer shall have been made, subject to the completion of the period of occupation required by this Ordinance, and to all other the terms and conditions thereof.

Cessation of occupation cancels claim.

15. Whenever any pre-emptor shall permanently cease to occupy his pre-emption claim, save as hereinafter provided, the Commissioner may in a summary way, upon being satisfied of such permanent cessation of occupation, cancel the claim of the pre-emptor so permanently ceasing to occupy the same, and all deposits paid, and all improvements and buildings made and erected on such land, shall be absolutely forfeited to the Crown, and the said land shall be open to pre-emption and may be recorded anew by the Commissioner as a pre-emption claim, in the name of any person satisfying the requirements in that behalf of this Ordinance.

Meaning of occupation.

16. The occupation herein required, shall mean a continuous bona fide personal residence of the pre-emptor on his pre-emption claim. Provided, however, that the requirement of such personal occupation shall cease and determine after a period of four years of such continuous occupation shall have been fulfilled. [See *Section* 2 *of Act No.* 1, 1873, *as to meaning of the word "occupation."* See *Section* 6 *of Act No.* 1, 1873, *as to cessation of occupation after issue of Crown Grant.*]

Leave of absence for two months.

17. Every holder of a pre-emption claim shall be entitled to be absent from his claim for any one period not exceeding two months during any one year. As an ordinary rule he shall be deemed to have permanently ceased to occupy his claim when he shall have been absent, continuously, for a longer period than two months, unless leave of absence have been granted by the Commissioner as herein provided.

Special leave for four months.

18. If any pre-emptor shall show good cause to the satisfaction of the Commissioner, such Commissioner may grant to the said pre-emptor leave of absence for any period of time, not exceeding four months in any one year, inclusive of the two months' absence from his claim, provided for in Clause 17. Such leave of absence shall be in the Form E. in the Schedule hereto, and shall be made out in duplicate, the original to be handed to the pre-emptor, and the

Form E. [*can be obtained of the Land Recorder of the District.*]

duplicate to be retained of record in the office of the Commissioner. A.D. 1870.

19. If any pre-emptor shall show good cause to the satisfaction of the Commissioner, he may grant him a "Licence to Substitute," for any period not exceeding six calendar months, in the Form F. in the Schedule hereto, in duplicate, the original to be handed to the pre-emptor, and the duplicate to be retained of record in the office of the Commissioner. 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 any Law or Proclamation regulating the pre-emption of land within the Colony) shall, during the continuance of the licence, and after the record thereof with the Commissioner, be as effectual as the continuous personal residence of the claimant himself.

Licence to substitute.

Form F. [*can be obtained of the Land Recorder of the District.*]

20. 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 recorded by him, and to all improvements made and erected thereon, and deposits of money paid to Government on account thereof; and the land included in such prior claim shall be open for pre-emption. [*Amended by Section* 3 *of Act No.* 1 *of* 1873.]

One claim to be held at a time.

21. When the Government shall survey the land included in a pre-emption claim, the person in whose name the said claim stands registered in the pre-emption register of the Land Office shall, provided a certificate of improvement shall have been issued in respect of such land, and that the condition of four years occupation required by this Ordinance has been duly fulfilled, shall be entitled to purchase the said land at such rate, not exceeding one dollar per acre, as may be determined upon by the Governor for the time being, payable by four equal annual instalments, the first instalment to be paid to the Commissioner, at his office, within three calendar months from the date of the service on the said pre-emptor of a notice from the Chief Commissioner of Lands and Works and Surveyor-General requiring payment for the said land, or within six calendar months after the insertion of a notice to such effect, to be published for and during such period in the Government Gazette, or in

Purchase of claim when surveyed.

A.D. 1870.

such other newspaper, published in the Colony, as the Commissioner may direct.

If the purchase money for such land be not paid, according to the terms of such notice, the pre-emption claim over such land may, at the discretion of the Commissioner, be cancelled, and all such land and the improvements thereon, and any instalments of the purchase money paid thereon, may be forfeited absolutely to the Crown.

Notice of intention to apply for Crown Grant.

22. The Crown Grant to a pre-emption claim will not be issued unless it shall have been proved to the Commissioner that written or printed notices of the intended application for such Grant have been posted for a period of sixty days prior to such application, upon some conspicuous part of the said pre-emption claim, and upon the adjacent claims (if any), and upon the Court House of the District wherein the land lies.

Certificate of payment.

Form G. [*can be obtained of the Land Recorder of the District.*]

Crown Grant may issue.

Form H.

23. Upon payment of the whole of the purchase money for such land, and upon production to the Chief Commissioner of Lands and Works and Surveyor-General of a certificate in Form G. in the Schedule hereto, from the Commissioner of the District in which such land is situated, that the notices of intended application for a Crown Grant of such land have been duly posted as required in the previous Section, without any objection to the issue of such grant having been substantiated, a Crown Grant or Conveyance, in the Form H. of the Schedule hereto, of the fee simple of the said land shall be executed in favour of the purchaser. [*Form of Crown Grant amended by Section* 32 *of Act No.* 1 *of* 1873.]

Reservation to the Crown.

Provided, that every such Crown Grant shall be deemed to include, among the reservations therein contained, a reserve in favour of the Crown, its assignees, and licensees, of the right to take from any such land, without compensation, any gravel, sand, stone, lime, timber, or other material which may be required in the construction, maintenance, or repair of any roads, ferries, bridges or other public works.

Heirs of pre-emptor entitled to Crown Grant.

24. In the event of the death of any pre-emptor under this Ordinance, his heirs or devisees (as the case may be) if resident in the Colony, shall be entitled to a Crown Grant of the land included in such pre-emption claim, if lawfully held and occupied by

such pre-emptor at the time of his decease, but subject to payment of the full amount of purchase money for such land then due or to become due; but if such heirs or devisees be absent from the Colony at the time of such decease, the Chief Commissioner of Lands and Works and Surveyor-General is hereby authorised and empowered to make such disposition of the pre-emption claim, and such provision for the person (if any) entitled thereto, or interested therein, as he may deem just and proper.

Extent of claim N. and E. of Cascade Range.

25. Every person lawfully occupying a pre-emption claim situated to the northward and eastward of the Cascade or Coast Range of Mountains, at the date of the passing of this Ordinance, if less than three hundred and twenty acres may, with the permission of the Commissioner pre-empt land liable to pre-emption, and immediately contiguous to or abutting on his said existing claim, so as to make up the total amount of his claim to three hundred and twenty acres, and thereupon such total claim shall be deemed to have been and to be taken up and held under the provisions of this Ordinance.

LEASES.

[See *Sections* 9, 10, *and* 11, *of Act No* 1 *of* 1873, *as to conditions precedent to granting leases, and form of notice, Appendix.*]

Leases for pastoral purposes.

26. Leases of any extent of unpre-empted and unsurveyed land may be granted for pastoral purposes by the Governor in Council, to any person or persons whomsoever, being bona fide pre-emptors or purchasers of land in the vicinity of the land sought to be leased, at such rent as such Governor in Council shall deem expedient; but every such lease of pastoral land shall among other things, contain a condition making such land liable to pre-emption, reserve for public purposes, 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 from the date of such lease, stock the property demised in such proportion of animals to the one hundred acres as shall be specified by the Commissioner.

[*Pastoral leases not to be granted on Vancouver Island*, see *Section* 14 *of Act No.* 1 *of* 1873.]

A.D. 1870.

Hay Leases.

27. Leases of unoccupied and unsurveyed land, not exceeding five hundred acres in extent, may be granted by the Governor in Council, for the purpose of cutting hay thereon, to any person or persons whomsoever, being bona fide pre-emptors or purchasers of land, at such rent as such Governor in Council shall deem expedient. The term of such lease shall not exceed 5 years; but every such lease shall, among other things, contain a condition making such land liable to pre-emption, reserve for public purposes, and purchase by any persons whomsoever, at any time during the term thereof, with such compensation for improvements made thereon to be paid to the leaseholder, as shall be fixed by the Commissioner of the District.

Timber Leases.

28. Leases of any extent of unpre-empted Crown Lands may be granted by the Governor in Council, to any person, persons, or corporation duly authorised 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 in Council; provided, however, that any person may hereafter acquire a pre-emption claim to or upon any part of such leased land, by complying with the requirements of this Ordinance. Such pre-emptor shall, however, only be entitled to cut such timber as he may require for use upon his claim; and if he cut timber on the said land for sale, or for any purpose other than for such use as aforesaid, or for the purpose of clearing the said land, he shall absolutely forfeit all interest in the land acquired by him, and the Commissioner shall cancel his claim thereto.

Applications for Leases.

29. The application of any such lease must be in writing, in duplicate, addressed to the Commissioner, who shall retain the original in his office, and transmit the duplicate, through the head office of the Lands and Works, to the Governor in Council, who shall alone decide on any such lease.

[See *Section* 13, *of Act No.* 1 *of* 1873, *for additional powers for granting other leases.*]

[See *Section* 12, *of Act No.* 1 *of* 1873, *as to rights of pre-emptors over leased lands.*]

WATER.

[*Repealed and amended by Act No.* 31 *of* 1872.]

[*Preemptors may utilize water.*]

[30. *Every person lawfully entitled to hold a pre-emp-*

A.D. 1870.

tion under this Ordinance, and lawfully occupying and bona fide *cultivating lands, may divert any unrecorded and unappropriated 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 Commissioner of the District to that effect, and a record of the same shall be made 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 Commissioner may require; for every such record, the Commissioner shall charge a fee of two dollars; and no person shall have any exclusive right to the use of such water, whether the same flow naturally through or over his land, except such record shall have been made.*]

[*Repealed and amended by Section* 7 *of Act No.* 1 *of* 1873.]

[*Notice to be given.*]

[31. *Previous to such authority being given, the applicant shall, if the parties affected thereby refuse to consent thereto, 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 take and carry such water, specifying all particulars relating thereto, including direction, quantity, purpose, and term.*]

Priority of right.

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

Compensation for damage,

33. 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.

may be assessed by a jury,

34. In case of dispute, such compensation or any other question connected with such water privilege, entry, or carrying may be ascertained by the Commissioner of the District in a summary manner, without a jury, or if desired by either party, with a jury of five men.

A.D. 1870.

Water for mining or other purposes.

35. 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 Commissioner 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.

Transfer of pre-emption right transfers water.

36. All assignments, transfers, or conveyances of any pre-emption right, heretofore or hereafter acquired, shall be construed to have conveyed and transferred, and to convey and transfer, any and all recorded water privileges in any manner attached to or used in the working of the land pre-empted.

Not to waste water.

37. Every owner of a ditch or water privilege shall be bound to take all reasonable means for utilizing the water taken by him; and if he shall wilfully take and waste any unreasonable quantity of water, it shall be lawful for the Commissioner to declare all rights to the water forfeited.

[See *Section* 4, *of Act No.* 31 *of* 1872, *as to punishment for wasting water.*]

EJECTMENT.

Ejectment by summary process.

38. Any person lawfully occupying a pre-emption claim, or holding a lease under this Ordinance may, in respect thereof, institute and obtain redress in an action of ejectment or of trespass in the same manner and to the same extent as if he was seised of the legal estate in the land covered by such claims; but either party thereto may refer the cause of action to the Stipendiary Magistrate of the District wherein the land lies, who is hereby authorized to proceed summarily, and make such order as he shall deem just.

Jury.

Provided, however, that if requested by either party, he shall first summon a jury of five persons to hear the cause, and their verdict or award on all matters of fact shall be final.

JURY.

Jury how summoned.

39. It shall be lawful for any Magistrate, by an order under his hand, to summon a jury of five persons for any purpose under this Ordinance, and in the event of non-attendance of any persons so summoned he shall have the power to impose a fine not exceeding twenty-five dollars.

A.D. 1870.

APPEAL.

Appeal to Supreme Court.

40. Any person affected by any decision of a Magistrate or Commissioner under this Ordinance may, within one calendar month after such decision, but not afterwards, appeal to the Supreme Court in a summary manner, and such appeal shall be in the form of a petition, verified by affidavit, to any Judge of such Court, setting out the points relied upon; and a copy of such petition shall be served upon the Commissioner whose decision is appealed from, and such time shall be allowed for his answer to the said petition as to the Judge of the Supreme Court may seem advisable; but no such appeal shall be allowed except from decisions on points of law.

Security to be given.

41. Any person desirous of appealing in manner aforesaid, may be required, before such appeal be heard, to find such security as may be determined by the Commissioner whose decision is appealed from, and such appeal shall not be heard until after security to the satisfaction of the Commissioner shall have been given for the due prosecution of such appeal and submission thereto.

SURVEYED LANDS.

Reserves.

42. The Governor shall at any time, and for such purposes as he may deem advisable, reserve, by notice published in the Government Gazette, or in any newspaper of the Colony, any lands that may not have been either sold or legally pre-empted.

Price of land.

43. 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 one dollar per acre; and the upset price of Town and Suburban lots shall be such as the Governor may in each case specially determine.

Land offered for sale by public competition.

44. 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.

Unsold lands by private contract.

45. All lands which shall remain unsold at any such auction may be sold by private contract at the

A.D. 1870.

upset price and on the terms and conditions herein mentioned, on application to the Chief Commissioner of Lands and Works and Surveyor-General, or other person for the time being duly authorized by the Governor in that behalf.

Land sold, subject to roads, &c.

46. 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 Works and Surveyor-General, and to the right of the Crown to take therefrom, without compensation, any stone, gravel, or other material to be used in repairing the public roads, 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 includes trees, mines, &c.

47. Unless otherwise specially announced at the time of sale, the conveyance of the land shall include, except as provided in Section 23, all trees and all mines and minerals within and under the same (except mines of gold and silver.)

[See *Section* 16 *of Act No.* 1, 1873, *and Order in Council* 5*th September*, 1873, *as to price of* UNSURVEYED *Land; and as to price of Mineral Land, Order in Council* 20*th September*, 1873, *and Order in Council* 3*rd September*, 1873, *as to Timber locations.*]

[See *Land Office regulations for purchasing Unsurveyed Lands*, 27*th August*, 1873, *Appendix.*]

FREE MINERS' RIGHTS.

Free Miners may search for minerals.

48. Nothing herein contained shall exclude Free Miners from entering upon any land in this Colony, and searching for and working minerals; provided that such Free Miner prior to so doing shall give full satisfaction or adequate security to the satisfaction of the Commissioner, to the pre-emptor or tenant in fee simple, for any loss or damage he may sustain by reason thereof. If the amount of compensation (if any) cannot be agreed upon, the Stipendiary Magistrate or Gold Commissioner of the District wherein the land lies, with the assistance, if desired by either party, of a jury of five persons to be summoned by him, shall decide the amount thereof, and such decision and award shall be final. If there be no such Stipendiary Magistrate or Gold Commissioner in the said District, the Supreme Court shall have jurisdiction in the matter.

FREE GRANTS. A.D. 1870.

[See *Sections* 21 *to* 31 *inclusive, of Act No.* 1 *of* 1873.]

Free grants for Immigrants, &c.

49. It shall be lawful for the Governor in Council to make such special free or partially free grants of the unoccupied and unappropriated Crown Lands of the Colony, for the encouragement of immigration or other purposes of public advantage, with and under such provisions, restrictions, and privileges, as to the Governor in Council may seem most advisable for the encouragement and permanent settlement of immigrants, or for such other public purposes as aforesaid.

Saves Miners' rights.

50. 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, 1867."

Schedule.

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

Books to be kept.

52. Each Commissioner appointed under this Ordinance shall keep a book or books in which he shall enter the date and particulars of every pre-emption record, certificate of improvement, licence to substitute, transfer, or other document relating to or in any manner affecting any pre-emption claim within his District.

Application of fines and fees.

53. All fines and fees payable under this Ordinance shall be deemed to be made payable to the use of the Crown.

Suspending clause.

54. This Ordinance shall not take effect until Her Majesty's assent thereto shall have been proclaimed in the Colony.

Short Title.

55. This Ordinance may be cited for all purposes as the "Land Ordinance, 1870."

SCHEDULE.

[*All forms can be obtained of the Land Recorder of the District.*]

No. 31.

A.D. 1872.

[*Amended by Act No.* 1 *of* 1873.]

An Act to amend the "Land Ordinance, 1870."

[*Assented to* 11*th April*, 1872.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows :—

Repeals Sec. 30 of Land Ordinance.

1. Section 30 of the "Land Ordinance, 1870," is hereby repealed.

No person to record more water than reasonably necessary.

2. Every person lawfully entitled to hold a pre-emption under the said Ordinance, and lawfully occupying and bona fide cultivating lands, may divert so much, and no more, of any unrecorded and unappropriated water from the natural channel of any stream, lake, or river adjacent to or passing through such land, for agricultural or other purposes, as may be reasonably necessary for such purposes, upon obtaining the written authority of the Commissioner of the District to that effect, and a record of the same shall be made with him, after due notice as in the said Ordinance 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 Commissioner may require; for every such record the Commissioner shall charge a fee of two dollars; and no such person shall have any exclusive right to the use of such water, whether the same flow naturally through or over his land, except such record shall have been made.

No exclusive right to water until ditch constructed.

3. The owner of any water privilege or right acquired by record, shall have no exclusive right to the water privilege so recorded, until he shall have constructed a ditch for conveying the water to the place where it is intended to be used. And in case any such ditch shall not be of sufficient capacity to carry the quantity of water recorded by the owner of such ditch, then the exclusive right of such owner shall be limited to the quantity which such ditch may be capable of carrying, notwithstanding such record, until such ditch shall be enlarged so as to be capable of carrying the quantity of water recorded by such person.

A.D. 1872.

Wasting water a misdemeanor.

4. Any owner of any ditch or water privilege who shall wilfully waste any quantity of water, by diverting any more of it from its natural course, through any ditch or otherwise, than the quantity actually required by him for irrigation or any other purpose, [*shall be deemed guilty of a misdemeanor, and*] shall be punished by a fine not exceeding one hundred dollars for each such offence, to be recovered before a Justice of the Peace, Stipendiary Magistrate, or Commissioner, in a summary manner, and in default of payment by distress; and no owner of any first record to any ditch or water right shall have any right to interfere with or prevent the construction of any dams, break-waters, or other improvements made or hereafter to be made for the purpose of saving or economising the water of any creek, lake, or water-course of any kind; provided that the construction or use of such dam or break-water does not nor will divert such water from its proper channel, at the point or place where such owner takes the water used by him into his ditch or channel. Provided, also, that the construction and use of such dam or break-water shall not injure the source from which such water is taken, or the property of any party or parties, by backing water, flooding, or otherwise. Provided, also, that all disputes arising upon any matter or thing in this clause contained, shall be decided in a summary manner before any Justice of the Peace, Stipendiary Magistrate, or Commissioner, who shall have full power to make such decision as shall seem to him to be just and equitable.

[*Amended by Sec.* 33 *of Act No.* 1 *of* 1873.]

Short Title and construction.

5 This Act may be cited for all purposes as the "Land Ordinance Amendment Act, 1872," and shall be construed with and part of the "Land Ordinance, 1870."

No. 1.

A.D. 1873.

An Act to amend the "Land Ordinance, 1870."

[*Assented to* 21st *February*, 1873.]

Preamble.

WHEREAS it is expedient to give greater facilities for the acquisition of land in British Columbia:

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

Construction.

1. The word "Governor" whenever the same occurs in the "Land Ordinance, 1870," herein termed the "principal Act," shall mean the Lieutenant-Governor in Council.

PRE-EMPTION.

Pre-empted land may be occupied by agent of pre-emptor.

2. Notwithstanding anything in the principal Act contained, it shall be lawful for any person entitled to pre-empt land and required to occupy the same, to so pre-empt and occupy land by himself or his agent duly authorized in writing in that behalf. The "occupation" required under the principal Act, shall mean a bona fide residence of the pre-emptor or his agent on the pre-emption claim, and a bona fide cultivation thereof by such person: Provided no such agent shall be an Indian or Chinaman: Provided, however, that the requirement of such personal occupation shall cease and determine after a period of four years of such continuous occupation shall have been fulfilled.

Indians or Chinamen not to be agents.

Section 20 amended.

3. Section 20 of the said Ordinance is hereby amended by adding the words "directly or indirectly" after the word "hold" in the first line thereof.

Shape of pre-emption claims.

4. The rectangular shape of a pre-emption claim, as defined in Clause 8 of the principal Act, shall, when pre-empted to the northward and eastward of the Cascade or Coast Range of Mountains, as near as possible, as to the longest line thereof, be one thousand five hundred and twenty four yards, or thereabouts, and one thousand and sixteen yards as to the shortest line thereof, where practicable; and as to land pre-empted in the rest of the Province shall, as to the longest line thereof, be one thousand

A.D. 1873.

and seventy-eight yards, or thereabouts, and seven hundred and eighteen yards as to the shortest line thereof, where practicable.

Marking boundaries of claims.

5. All claims which are now or may hereafter be pre-empted, shall be marked by stakes or posts at least four inches square, and standing not less than four feet above the surface, and one such stake shall be placed at each angle of the claim. Any tree may be used for a post provided that it be cut down and squared as aforesaid. No such boundary post shall be removed without the permission of the Commissioner of the District wherein the land lies. Upon each post a notice in the following form shall be affixed:—

"*A.B's* land N.E. post" (meaning North-East post);
"*A. B's* land N. W. post" (meaning North-West post), and so on, as the case may be.

When the above provisions are not complied with, it shall be lawful for the Chief Commissioner of Lands and Works, upon satisfactory evidence of wilful neglect on the part of the pre-emptor, to cancel the record of such pre-emptor, and the land referred to in the cancelled record shall thereafter be open to pre-emption.

After issuing certificate of improvement pre-emptor entitled to Crown grant.

6. Notwithstanding anything herein and in the principal Act contained, a pre-emptor, at any time after he has received a certificate of improvement as mentioned in Section 11 of the said Act, shall be entitled to receive a Crown Grant for his land: Provided, always, that no Crown Grant shall issue as aforesaid, until the requirements and provisions of the principal Act relating to Crown Grants (except as to continuous occupation for four years) have been complied with.

Notice of application for records of water.

7. Section 31 of the principal Act is hereby repealed; and, in lieu thereof, the following shall be read:—

"Previous to such authority being given, the applicant shall post up in a conspicuous place on each person's land to be affected by the proposed diversion of any stream, lake, or river, and on the District Court House, notices in writing, stating his intention to enter such land, and through and over the same to take and convey and divert such water (as the case may be), specifying all particulars relating thereto, including direction, quantity, purpose, and term."

A.D. 1873.

Every Commissioner may record pre-emption claims.

8. Notwithstanding anything contained in the principal Act, every Commissioner appointed thereunder shall have power to record pre-emption claims without first applying for permission therefor to the Chief Commissioner of Lands and Works.

Conditions precedent to granting leases.

[See *form of notice of application for Lease*, *Appendix*.]

9. Before any lease is granted for pastoral, hay, or timber purposes, the applicant shall give to the Commissioner of the District in which the land lies, thirty days' notice in writing of his intention to apply for such lease. Such notice shall specify—

(1.) The locality and the number of acres applied for;
(2.) The name of the applicant;
(3.) The date of the notice.

A copy of such notice shall be posted at each of the undermentioned places:—

(1.) On a conspicuous part of the land referred to;
(2.) Upon the walls of the office of the Commissioner of the District;
(3.) On the Court House of the District, if any;
(4.) On the nearest public Inn or Tavern;
(5.) On the outer door of the Post Office of such District.

Written objection may be made.

10. Any person desirous of objecting to such lease, shall give his written reasons therefor, within the time specified in the above notice, addressed to the said Commissioner: and the said Commissioner shall, as soon as possible, forward the same, with his report thereon, to the Chief Commissioner of Lands and Works.

Lease may be granted if no objection.

11. If no objection is made, as aforesaid, to the issue of such lease before the said notice expires, the lease applied for may be issued, if advisable.

Pre-emptors of land leased to have rights of way and a limited right of pasturage over the land leased.

12. Persons who have pre-empted lands, or shall hereafter pre-empt any lands heretofore leased, or which may hereafter be leased for any of the purposes aforesaid, shall have the right of passing and repassing over such leased lands without being deemed trespassers: Provided, always, that such persons shall not commit wilful waste or damage in passing over such lands. Any person who pre-empts land held under a pastoral lease, and who bona fide cultivates at least ten acres thereof per annum, shall have the privilege of pasturing not more than fifty head of

his own stock on the said leased land in the winter time, that is, between the first day of November, and the first day of April following, upon his paying to the lessee named in the pastoral lease, on account of the actual expenses incurred in and about the leasehold, an annual sum proportionate to the number of cattle grazed upon the land.

A.D. 1873.

Additional powers conferred for granting leases.

13. In addition to the powers conferred on the Lieutenant-Governor in Council by Section 26 of the principal Act, it shall be lawful for the Lieutenant-Governor in Council to grant leases to any person for any purposes other than for pastoral, hay, and timber purposes, upon such terms and conditions as the Lieutenant-Governor in Council shall think fit: Provided, always, that every such lease shall contain a condition making such land liable to purchase by any persons whomsoever, at any time during the term thereof, with such compensation for improvements made thereon to be paid to the leaseholder as shall be fixed by the Chief Commissioner of Lands and Works, or his Assistant for the time being, in the District where the land is situated: Provided that if the lessee be dissatisfied with the decision of either of the aforesaid parties, he shall be entitled to submit such decision to arbitration, under the provisions of "The Public Works Amendment Act, 1873."

Leases to contain provision that land leased may be purchased, with compensation to lessee.

No pastoral lease to be granted on Vancouver Island, nor on any islands upon which land is occupied by pre-emptors.

14. Section 26 of the principal Act is hereby amended by adding the words "Provided, however, that no such pastoral leases shall be granted on Vancouver Island. Provided, also, that no pastoral lease shall be granted upon any of the Islands adjacent to Vancouver Island or to the Mainland of the Province upon which any land is occupied by pre-emptors or persons holding lands under Crown grant."

Pre-emption by persons uniting in partnership for that purpose.

15. Any number of persons, not exceeding four, uniting in partnership for the purpose of pre-empting, holding, and working land, shall be eligible to pre-empt, as a firm, an area of land to the extent to each partner in the firm of One hundred and sixty acres west, and Three hundred and twenty acres east, of the Cascades. Each partner in any such firm shall, by himself or agent, represent his interest in the firm by actual cultivation of his quantum of land, and by actual residence upon some portion of the land so held by such firm. A legal proportion of improve-

A.D. 1873.

Improvements in such cases.

Residence of partners.

ments, shall in such case be made on each several One hundred and sixty or Three hundred and twenty acres, as the case may be, but it shall not be necessary in such case that each partner or his agent shall reside on his particular pre-emption. Partners in such firm, or their agents, may reside together on one homestead, provided such homestead be situated upon some portion of the land pre-empted, occupied, and cultivated by such firm.

SALE OF LANDS.

Unappropriated land may be sold

16. Unappropriated lands (not being reserved for the sites of Towns or the suburbs thereof,) shall be open for purchase at the rate of not less than One dollar per acre: Provided that whenever so ordered by the Lieutenant-Governor in Council, such unoccupied lands as may be deemed by him expedient, from time to time, shall be put up at public sale (of which sale due and sufficient notice shall be given) at the upset price of not less than One dollar per acre to the highest bidder.

[*Price of land defined by Orders in Council of 5th and 20th September*, 1873.]

[See *Land Office Regulations*, *27th August*, 1873, *Appendix*.]

HIGHWAYS.

Public roads are public highways

17. All roads, other than private roads, shall be deemed common and public highways.

To be vested in Her Majesty.

18. Unless otherwise provided for, the soil and freehold of every public highway shall be vested in Her Majesty, Her heirs and successors.

DRAINAGE AND DYKING.

Sales and free grants for dyking land.

19. It shall be lawful for the Lieutenant-Governor in Council to sell any vacant lands of the Crown, or make free grants thereof, to any person or company, for the purpose of dyking, draining, or irrigating the same, subject to such regulations as the Lieutenant-Governor in Council shall see fit.

EDUCATIONAL ENDOWMENT.

Land may be set apart for Educational purposes.

20. It shall be lawful for the Lieutenant-Governor in Council to set apart in such places in the Province as he shall think fit, as an endowment for the purposes of Education, such portions of the unappropriated land in the Province as he shall think fit.

FREE GRANTS.

A.D. 1873.

[See *Order in Council* 25*th July*, 1873, *and Regulations* 5*th September*, 1873, *Appendix*.]

21. The Lieutenant-Governor in Council may appropriate any public lands considered suitable for settlement and cultivation, and not being mineral lands, as free grants to actual settlers, under such regulations as shall from time to time be made by Order in Council, not inconsistent with the provisions of this Act.

Appropriation of free grants for settlers, under certain regulations.

22. Such grants or appropriations shall include lands surveyed or hereafter to be surveyed.

Surveyed lands included.

23. The person to whom any land may be allotted or assigned under such regulations for a free grant thereof, shall be considered as located for said land within the meaning of this Act, and is hereinafter called the locatee thereof.

Person to whom land assigned to be called locatee.

24. No person shall be located for any land under this Act or said regulations unless such person shall be of the age of eighteen years or upwards, nor shall any person be so located for any greater quantity than Two hundred and fifty acres.

He must be of the age of 18 years or upwards.

250 acres may be located.

25. Before any person shall be located for any land as aforesaid, such person shall make affidavit to be deposited with the Chief Commissioner of Lands and Works, that he or she has not been located for any land under this Act or under said regulations, and that he or she is of the age of eighteen years or upwards, and believes the land for which he or she applies or desires to be located, is suited for settlement and cultivation, and is not valuable chiefly for its mines or minerals, and that such location is desired for his or her benefit and for the purposes of actual settlement and cultivation of such land, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever, nor for the purpose of any gold, silver, copper, lead, iron, or other mines or minerals, or any quarry or bed of stone, marble, or gypsum thereon.

Affidavit to be made.

26. No Crown Grant shall issue for any land located under this Act, or under said regulations, until the expiration of three years from the date of such location, nor unless nor until the locatee or those claiming under him or her, or some of them, shall

No Crown grant to issue until certain settlement duties are performed.

A.D. 1873.

have performed the following settlement duties, that is to say: shall have cleared and have under cultivation at least twenty acres of the said land, whereof at least five acres shall be cleared and cultivated annually during the three years next after the date of the location, to be computed from such date, and have built a house thereon fit for habitation, at least sixteen feet by twenty feet, and shall have actually and continuously resided upon and cultivated the said land for the term of three years next succeeding the date of such location, and from thence up to the issue of the Crown Grant, except that the locatee shall be allowed one month from the date of the location to enter upon and occupy the land, and that absence from the said land for in all not more than six months during any one year (to be computed from the date of the location) shall not be held to be a cessation of such residence, provided such land be cultivated as aforesaid.

On failure of such duties location to be forfeited.

27. On failure in performance of the settlement duties aforesaid, the location shall be forfeited, and all rights of the locatee, or of any one claiming under him or her, in the land, shall cease.

No alienation before Crown grant is issued.

28. Neither the locatee, nor any one claiming under him or her, shall have power to alienate, (otherwise than by devise) or to mortgage or pledge any land located as aforesaid, or any right or interest therein before the issue of the Crown Grant.

Before issuing of Crown grant land free from locatee's debts.

29. No land located as aforesaid, nor any interest therein, shall in any event be or become liable to the satisfaction of any debt or liability contracted or incurred by the locatee, his widow, heirs, or devisees, before the issuing of the Crown Grant for such land.

After such issuing to be exempt from execution for 20 years.

After the issuing of the Crown Grant for any such land, and while such land or any part thereof, or any interest therein, is owned by the locatee, or his widow, heirs, or devisees, such land, part, or interest, shall, during twenty years next after the date of such location, be exempt from attachment, levy under execution, or sale for payment of debts; and shall not be or become liable to the satisfaction of any debt or liability contracted or incurred before or during that period, save and except any debt secured by a valid mortgage or pledge of such land made subsequently to the issuing of the Crown Grant therefor.

A.D. 1873.

30. Nothing in this Act shall be construed to exempt any land from levy or sale for rates or taxes, now or hereafter legally imposed.

No exemption from taxes.

31. Every Crown grant to be issued for any land located as aforesaid, shall state in the body thereof, the name of the original locatee of the said land, and the date of the said location, and that the said Crown grant is issued under the authority of this Act.

Statements in Crown Grant.

32. Form H. in the Schedule to the said "Land Ordinance, 1870," is hereby repealed, and in lieu thereof the following Form of Crown grant shall be substituted:—

Form H. repealed, and following substituted.

FORM.

{L. S.}

[Royal Arms.]

PROVINCE OF BRITISH COLUMBIA. }

No.

VICTORIA by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen Defender of the Faith, and so forth. To all to whom these presents shall come greeting: Know ye that We do by these presents, for Us, Our heirs and successors, in consideration of the sum of to Us paid, give and grant unto h heirs and assigns, All that parcel or lot of land situate and numbered on the official plan or survey of the said in the Province of British Columbia, To have and to hold the said parcel or lot of land, and all and singular the premises hereby granted, with their appurtenances, unto the said h· heirs and assigns for ever.

Provided nevertheless that it shall at all times be lawful for Us, Our heirs and successors, or for any person or persons acting in that behalf by Our or their authority, to resume any part of the said lands which it may be deemed necessary to resume for making roads, canals, bridges, towing paths, or other works of public utility or convenience, so nevertheless that the lands so to be resumed shall not exceed one-twentieth part of the whole of the lands aforesaid, and that no such resumption shall be made of any lands on which any buildings may have been erected, or which may be in use as gardens or otherwise for the more convenient occupation of any such buildings.

Provided also that it shall at all times be lawful for Us, Our heirs and successors, or for any person or persons acting under Our or their authority, to

A.D. 1873.

enter into and upon any part of the said lands, and to raise and get thereout any gold or silver ore which may be thereupon or thereunder situate, and to use and enjoy any and every part of the same land, and of the easements and privileges thereto belonging, for the purpose of such raising and getting, and every other purpose connected therewith, paying in respect of such raising, getting, and use, reasonable compensation.

Provided also that it shall be lawful for any person duly authorized in that behalf by Us, Our heirs and successors, to take and occupy such water privileges, and to have and enjoy such rights of carrying water over, through, or under any parts of the hereditaments hereby granted, as may be reasonably required for mining or agricultural purposes in the vicinity of the said hereditaments, paying therefor a reasonable compensation to the aforesaid h heirs or assigns.

Provided also that it shall be at all times lawful for any person duly authorized in that behalf by Us, Our heirs and successors, to take from or upon any part of the hereditaments hereby granted, the right to take from any such land, without compensation, any gravel, sand, stone, lime, timber, or other material which may be required in the construction, maintenance, or repair of any roads, ferries, bridges, or other public works.

In testimony whereof We have caused these Our letters to be made patent, and the great seal of Our Province of British Columbia to be hereunto affixed. Witness His Honor , Lieutenant-Governor of Our Province of British Columbia and its Dependencies, at Our Government House, in Our City of Victoria, this day of , in the year of Our Lord one thousand eight hundred and , and in the year of Our Reign.

Section 4 amended.

33. Section 4 of the "Land Ordinance Amendment Act, 1872," is hereby amended by striking out the words "shall be guilty of a misdemeanor, and" in the 4th and 5th lines thereof.

To come into force on 21st July, 1873.

34. This Act shall not come into force until the 21st day of July, 1873.

Short Title.

35. This Act may be cited as the "Land Ordinance Amendment Act, 1873."

Railway Reserve of a strip of land 20 miles wide, between Seymour Narrows and Esquimalt.

[*1st July*, 1873.]

WHEREAS by an Order in Council dated the 7th day of June, 1873, of the Honorable the Privy Council of Canada, it has been decided "that Esquimalt, in Vancouver Island, be fixed as "the Terminus of the Canadian Pacific Railway, and that a line "of Railway be located between the Harbour of Esquimalt and "Seymour Narrows, on the said Island;" and whereas in accordance with the terms of the said Order in Council, application has been made to His Excellency "the Lieutenant-Governor of British "Columbia, for a reservation and for the conveyance to the "Dominion Government, in trust, according to the 11th paragraph "of the Terms of the Agreement of Union, of a strip of land twenty "miles in width along the Eastern Coast of Vancouver Island, "between Seymour Narrows and the Harbour of Esquimalt, in "furtherance of the construction of the said Railway."

And whereas it has been deemed advisable that the land within the limits aforesaid should be reserved, prior to any conveyance aforesaid being made thereof. Public notice is therefore hereby given, that from and after this date a strip of land twenty miles in width along the Eastern Coast of Vancouver Island, between Seymour Narrows and the Harbour of Esquimalt, is hereby reserved.

By Command. JOHN ASH,
Provincial Secretary.

Provincial Secretary's Office,
July 1st, 1873.

Order in Council fixing price of Unsurveyed and Unoccupied Land.

[*5th September*, 1873.]

PUBLIC NOTICE.—Notice is hereby given, that by an Order in Council, dated 5th September, 1873, it was determined that the price of unsurveyed and unoccupied lands in the Province of British Columbia, should be two dollars and fifty cents per acre, the right to all the precious and baser metals or minerals being reserved to the Crown, provided that no person either individually or as a member of a company shall be entitled to purchase more than 640 acres.

ROBERT BEAVEN,
Chief Commissioner Lands and Works.

Lands and Works Department,
Victoria, 11th September, 1873.

Order in Council fixing price of Mineral Land.

[*20th September*, 1873.]

PUBLIC NOTICE.—Notice is hereby given, that by an Order in Council, dated 20th September, 1873, it was determined that the price of Mineral Land, with the right to take coal and all the baser metals and minerals, but reserving gold, platinum, and silver, should be ten dollars per acre, payable half in cash and the balance in two years, or previous to survey and issue of the Crown Grant; and that no person should be allowed either directly or indirectly to purchase more than 640 acres as above.

ROBERT BEAVEN,
Chief Commissioner Lands and Works.

Lands and Works Office,
Victoria, 23*rd September*, 1873.

Order in Council enabling Pre-emptors in error to complete purchase.

[*20th September*, 1873.]

PUBLIC NOTICE.—Notice is hereby given, that by an Order in Council, dated 20th September, 1873, it was determined that pre-emptors who have recorded land in error as a pre-emption purchase, under the Land Ordinance of the 11th April, 1865, subsequent to the 20th October, 1870, and who have paid a deposit of two shillings and one penny per acre, should be permitted to purchase land at the rate of one dollar per acre, subject to the Land Ordinances, 1870 and 1873, and by complying with the Regulations as to the purchase of unsurveyed land under date 27th August, 1873, excepting as to the payment of a record fee of five dollars, and by substituting fifty cents per acre in lieu of one dollar, as contained in Section 2 of said Regulations.

ROBERT BEAVEN,
Chief Commissioner Lands and Works.

Lands and Works Office,
Victoria, 23*rd September*, 1873.

Order in Council enabling Pre-emptors of Prairie Land to locate 20 acres of Timber Land.

[*3rd September*, 1873.]

PUBLIC NOTICE.—Notice is hereby given, that by an Order in Council dated 3rd September, 1873, it was determined that in the event of a pre-emptor recording 160 acres of prairie land in New Westminster District, he should be allowed to locate twenty acres of timbered land in the vicinity of his premption; the said location to be made under the same Rules and Regulations as issued under date 27th August, 1873, as to the purchasing of unsurveyed land from the Crown, excepting as to the cash payment of one dollar per acre, but to be subject to the same conditions as to settlement and payment as land recorded as a pre-emption under the "Land Ordinance, 1870," and "Land Ordinance Amendment Act, 1873," and shall appertain to and form an addition to such pre-emption.

ROBERT BEAVEN,
Chief Commissioner Lands and Works.

Victoria, September 13th, 1873.

[See *form of application for Timber Locations, Appendix.*]

Order in Council setting apart certain lands for Free Grants.

[*25th July*, 1873.]

ON a memorandum, dated 14th July, 1873, from the Honourable the Chief Commissioner of Lands and Works, reporting that it is necessary to set aside, at once, certain sections of land in the Province as Free Grant Sections, under the provisions of the "Land Amendment Act, 1873, and recommending that one hundred and sixty acres be allowed on the East Coast of Vancouver Island, between Chatham Point and Fort Rupert (being a distance of about ninety statute miles), and East of the Cascade Range the quantity allowed to be taken for a Free Grant be two hundred and and forty acres, and that in New Westminster District the Chief Commissioner be authorized to set apart two Townships, in which Free Grants of an extent of one hundred and sixty acres may be located.

The Committee advise that the recommendation be approved.

(Signed) A. DECOSMOS,
President of the Council.

Approved in Council,
JOSEPH W. TRUTCH,
25th July, 1873.

Regulations respecting the acquisition of Free Grants.

LANDS AND WORKS DEPARTMENT,
5th September, 1873.

THE following Regulations respecting the acquisition of Free Grants of Land in British Columbia, are hereby published for general information.

ROBERT BEAVEN,
Chief Commissioner of Lands and Works.

UNDER the following Regulations and Ordinances, the Government of British Columbia are prepared to give Free Grants of vacant unsurveyed Crown Land, suitable for settlement and cultivation, and not being Mineral Land, to *bona fide* Settlers, in the following quantities and sections of the Province, viz:—

On the East Coast of Vancouver Island, between Chatham Point and Fort Rupert..... 160 acres.
In that part of the Province East of the Cascade Range of Mountains..... 240 acres.
And intend setting aside Two Townships in the New Westminster District for Free Grant locations of 160 acres, when surveyed.

REGULATIONS.

1. Before any person can be located for a Free Grant of land, he or she shall make affidavit, to be deposited with the Chief Commissioner of Lands and Works, that he or she has not been located for any land under the Free Grant sections or regulations of the "Land Amendment Act, 1873," and is not a pre-emptor or owner of land in the Province, and that he or she is of the age of eighteen years or upwards, and believes the land for which he or she applies or desires to be located, is suited for settlement and cultivation, and is not valuable chiefly for its mines or minerals, and is not acquired for the purpose of obtaining possession of or disposing of any timber growing or being on said land, and that such location is desired for his or her benefit and for the purpose of actual settlement and cultivation of such land, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever, nor for the purpose of any gold, silver, copper, lead, iron, or other mines or minerals, or any quarry or bed of stone, marble, or gypsum thereon.

2. Any person making application for a Free Grant shall, if required, procure an affidavit from such person as can make the

same, stating that the and is vacant, and that no person has resided upon it for the last six months.

3. No person shall be entitled to hold land in the Province under the Pre-emption and Free Grant Acts at the same time ; and any subsequent pre-emption record by the locatee, shall be considered as an act of forfeiture of any rights acquired under the Free Grant Clauses of the Act of 1873 ; and the locating of a Free Grant shall be construed as an act of forfeiture of any pre-emption rights acquired under any of the Land Ordinances or Proclamations in the Province.

4. An alien shall be entitled to locate a Free Grant under the same conditions as a British subject, upon signing a declaration, before the Commissioner of the District, or a Justice of the Peace, of his or her intention to become a British subject ; but in the event of such alien not completing his or her naturalization at as early a period as the law admits, that he or she shall forfeit all rights acquired.

5. No Crown Grant shall issue for any land located under this Act, or under said regulations, until the expiration of three years from the date of such location, nor unless nor until the locatee or those claiming under him or her, or some of them, shall have performed the following settlement duties, that is to say : shall have cleared and have under cultivation at least twenty acres of the said land, whereof at least five acres shall be cleared and cultivated annually during the three years next after the date of the location, to be computed from such date, and have built a house thereon fit for habitation, at least sixteen feet by twenty feet, and shall have actually and continuously resided upon and cultivated the said land for the term of three years next succeeding the date of such location, and from thence up to the issue of the Crown Grant, except that the locatee shall be allowed one month from the date of the location to enter upon and occupy the land, and that absence from the said land for in all not more than six months during any one year (to be computed from the date of the location) shall not be held to be a cessation of such residence, provided such land be cultivated as aforesaid.

6. On failure in performance of the settlement duties aforesaid, the location shall be forfeited, and all rights of the locatee, or of any one claiming under him or her, in the land, shall cease.

7. Proof of actual settlement and cultivation shall be made by declaration, under the "Oaths Ordinance, 1869," by the claimant and two settlers in the neighbourhood, before the Commissioner or a Justice of the Peace.

8. In case it is proved, to the satisfaction of the Chief Commissioner of Lands and Works, that the settler has voluntarily

relinquished his claim, or has been absent from the land located by him for more than six months in any one year, or has not made the improvements required by law, then the right to such land shall be forfeited, and the settler so relinquishing or abandoning his claim shall not be permitted to be located again for a Free Grant.

9. Neither the locatee, nor any one claiming under him or her, shall have power to alienate, (otherwise than by devise) or to mortgage or pledge any land located as aforesaid, or any right or interest therein, before the issue of a Crown Grant.

10. All assignments and transfers of Free Grant rights before the issue of the Crown Grant shall be null and void, and shall be deemed evidence of abandonment of the right, and the person so assigning or transferring shall not be permitted to again locate a Free Grant.

11. All Free Grants must be staked off with posts, at least four inches square, and standing not less than four feet above the surface; and one such stake shall be placed at each angle of the claim. Any tree may be used for a post, provided that it be cut down and squared as aforesaid. No such boundary post shall be removed without the permission of the Commissioner of the District wherein the land lies. Upon each post a notice in the following form shall be affixed:—

"*A. B's* land N. E. post" (meaning North-East post); "*A. B's* land N. W. post" (meaning North-West post); and so on, as the case may be;

and shall measure, West of the Cascades, 40 by 40 chains; and East of the Cascades, 80 by 40 chains.

12. All lines shall run due North and South, and due East and West; and all locatees or claimants under this Ordinance must comply, in all cases, with the official survey when made.

13. A locatee of a Free Grant on unsurveyed land shall, after the official survey has been made, and within three months after a copy of the map of said land has been deposited in his District, and public notice thereof given in the *British Columbia Gazette*, make application to be located for the quarter section, or quarter section and portion of adjoining quarter section, as the case may be, in which the land upon which he has resided, and which he has improved, may be. In case of disputed ownership, the Chief Commissioner of Lands and Works shall determine the respective rights of the adverse claimants, according to priority of record and priority of settlement, and the fact of such settlement may be shewn by actual occupation of and improvements made on the land in dispute.

14. Any locatee shall, at any time after official survey and prior to the expiration of the term of occupation required by the "Land Ordinance Amendment Act, 1873," have the right or privilege, should he or she so desire it, of applying for and obtaining a Crown Grant of the land included in the Free Grant location, in the same manner as if the said land had been pre-empted in the first instance, upon payment, however, for the land at the upset price fixed for pre-emption claims, and upon fulfilling the conditions applicable to pre-emption claims.

15. No land located as aforesaid, nor any interest therein, shall in any event be or become liable to the satisfaction of any debt or liability contracted or incurred by the locatee, his widow, heirs, or devisees, before the issuing of the Crown Grant for such land. After the issuing of the Crown Grant for any such land, and while such land or any part thereof, or any interest therein, is owned by the locatee, or his widow, heirs, or devisees, such land, part, or interest, shall, during twenty years next after the date of such location, be exempt from attachment, levy under execution, or sale for payment of debts; and shall not be or become liable to the satisfaction of any debt or liability contracted or incurred before or during that period, save and except any debt secured by a valid mortgage or pledge of such land made subsequently to the issuing of the Crown Grant therefor.

16. Nothing in these Regulations shall be construed to exempt any land from levy or sale for rates or taxes, now or hereafter legally imposed.

17. Every Crown Grant to be issued for any land located as aforesaid, shall state in the body thereof, the name of the original locatee of the said land, and the date of the location, and that the said Crown Grant is issued under the authority of the "Land Ordinance Amendment Act, 1873."

18. Every location shall be recorded at the Land Office in the District, following the rules of record as to pre-emptions.

19. The Chief Commissioner of Lands and Works shall have power to cancel any Free Grant record upon proof, satisfactory to him, that any of the above stipulations have not been complied with.

20. The provisions of the "Land Ordinance, 1870," and the "Land Ordinance Amendment Act, 1873," to be complied with, together with the above regulations.

APPENDIX.

Land Office Forms and Regulations.

Form of application for permission to Pre-empt.

Victoria, B. C., 18

Sir,—

I beg to apply for permission to enter upon, in terms of the "Land Ordinance, 1870," the section of land containing acres, situate in District, and more particularly shewn on the sketch map annexed hereto :

I remain, Sir,
Your obedient servant,

Address

To

Form of Application for Government Survey.

Place
Date

To
Assistant Commissioner of Lands and Works,

Sir,—

I hereby apply for a Government Survey of the tract of land described below ; and shall be prepared, in order to obtain a title to the same, to pay over immediately, on completion of such survey, to the Chief Commissioner of Lands and Works, or Sur-

veyor-General, or his agent, the amount of instalments remaining due to Government on account of said tract of land.

Name,
Address,
No. of acres claimed,
Where situated,
Whether by pre-emption or right of purchase,
Date of record,
Where recorded.
Date of Certificate of Improvement,
By whom given,
Whether claimant has posted, as required by clause 33 of Land Ordinance, 1865, or clause 22 of Land Ordinance, 1870, notices of his intention to apply for a Crown Grant,
Date of such notices,
Description of claim by metes and bounds, in accordance with the accompanying plan,

---

I am not aware of any reason why a Crown Grant of the above described land should not be issued in the name of this applicant ( ), notice of his intention to apply for such grant having been duly posted in accordance with the requirements of clause 33 of the Land Ordinance, 1865, or clause 22 of the Land Ordinance, 1870, without any objection having been made thereto.

Form of Notice of application for Lease.

I, , of , intend to apply for a lease of acres of land, for purposes, situated in District, and bounded as follows :—

and I have posted this notice at the following places :—

Any person or persons desirous of objecting to the granting of this lease must give their reasons in writing to the Commissioner of the District, within thirty days from the date hereof.

Dated, this day of 187 .

Form of Notice of application to Record a Twenty Acre Timbered Lot.

I, , of , intend to make application to Record, under Order in Council dated 13th September, 1873, twenty acres of land, situated in District, and bounded as follows: [*here describe locality, boundaries, and make sketch plan.*] And I have posted notices at the following places:

Any person desirous of objecting to the Record of the above land, must give their reasons in writing to the Land Recorder in the District, within thirty days from the date hereof.

Dated this day of A. D. 18 .

Signed, ————

Timbered Lot.

FORM J.

Form of Application to Record a Twenty Acre Timbered Lot.

British Columbia,

————187 .

To the Land Recorder of the District of————

SIR,—I beg to apply for permission to enter upon, as a Timbered Location, in terms of the "Land Ordinance, 1870," and amendments, and under Order in Council, dated 13th September, 1873, the one-eighth of a quarter Section of Land, containing Twenty Acres, situate in District, and more particularly shown on the Sketch Map annexed hereto; [*describe the locality and and boundaries, and make a sketch of the plan on the back of this application.*]

The land is unsurveyed, unoccupied, unreserved, and unappropriated Crown Land, and is not an Indian Settlement, and has been unoccupied for the past six months by any person, and that there are no notices of application to purchase, pre-empt, or record, or any notice of leave of absence, posted thereon; that the land pre-empted by me under pre-emption record No. , dated day of , 18 , situated in

District, is entirely prairie land, and that there is no timber thereon, and that this land is in the vicinity thereof.

I have also staked off the said land, and posted notices for thirty days previous to the date hereof, in accordance with the instructions issued by the Government, under date 27th August, 1873, to persons desirous of purchasing unsurveyed land.

The above statements, in reference to the land herein applied for, are certified by the undersigned to be correct.

Signature of Applicant, ———————
Signature of two residents in the District. } ———————
———————

N. B.—The above Certificate must be signed by the applicant, and any two persons acquainted with the facts.

Regulations to be observed by Persons desirous of purchasing Unsurveyed Lands.

Before unsurveyed and unoccupied Crown Lands can be sold by Government, the persons wishing to purchase must comply with the following conditions :—

1. For thirty days, previous to making application to purchase, a notice must be posted on some conspicuous portion of the land intended to be applied for, on the Court House of the District, at the Office of the Land Recorder of the District, and at the nearest Inn ; and, also, notice must be given to the Land Recorder of the District.

The said notices shall contain a clause, calling upon persons objecting to such purchase to state their objections in writing within the next thirty days from the date of the posting of the notice, addressed to the Land Recorder of the District.

2. At the expiration of the period of thirty days, the intending purchaser must forward to the Land Recorder of the District a written application in Form J, in duplicate, with sketch plan thereon fully describing the land sought to be purchased, setting forth, generally, the situation and dimensions of such land. Form J must be signed by the applicant, and by two residents of the District, and be accompanied with a fee of Five Dollars, and by a payment upon the estimated acreage, at the rate of one dollar per acre.

3. Upon receipt of Form J, the Lieutenant-Governor in Council, through the Chief Commissioner of Lands and Works, will inform the applicant as to the number of acres that he may be allowed to purchase, the price, and terms of payment; and should the price exceed the one dollar per acre, or the acreage be greater than the Government may decide to grant, the applicant will be informed thereof, and a stated time will be fixed, within which he will be at liberty to accept the said terms; and should he decide to accept the same, he must do so in writing within the time stated, otherwise he will be deemed to have rejected the said terms, and the deposit will be refunded. Should, however, the price of the land not exceed the rate of one dollar per acre, the Chief Commissioner of Lands and Works will forward to him a receipt, stating that he is entitled to such number of acres of land in Township Subdivisions as the acreage may be; said receipt not being transferable; and upon the survey of the Township containing the land applied for being effected, and upon the production of the receipt above referred to, the claimant shall be entitled to a Crown Grant, under either the Land, Mineral, or Gold Mining Ordinances, as the case may be, for such number of acres in Township Subdivisions as shall have been applied and paid for, and leave granted to purchase; provided the conditions of sale, and all present or future regulations or enactments as to the purchase of lands from the Crown, have been complied with.

4. The land must be staked off so as to conform to the rectangular or square system of surveying now adopted by the Provincial Government, namely, by laying the public lands out into Townships of six miles square, and subdividing each Township into thirty-six sections of one mile square, each section containing four quarter sections of 160 acres each. Applicants, therefore, must conform to the above by staking off the land in quarter sections of 40 by 40 chains, or 880 yards by 880 yards; and should a lesser quantity than 160 acres be required, the land to be staked off 40 by 20 chains, or 880 yards by 440 yards, which will be equal to 80 acres; or, 20 by 20 chains, or 440 yards by 440 yards, equal to 40 acres; excepting where, from the nature of surveys made, it should be impossible to conform to the rectangular or square system.

5. All lines are to be run due North and South, and due East and West.

6. All posts are to be at least four inches square, and standing not less than four feet above the surface, and firmly placed in the ground. Any tree may be used for a post, provided it be cut down and squared as aforesaid. No such boundary post shall be removed without permission in writing from the Commissioner of the District wherein the land lies.

On each post, a notice in the following Form shall be fixed:—

A. B's land, N. E. post (meaning North-east post);

A. B's land, N. W. post (meaning North-west post);

And so on as the case may be.

The boundaries so staked off shall be subject to rectification by the Chief Commissioner of Lands and Works when surveyed, either as an isolated or Provincial Survey, or both.

7. Should it be deemed advisable to survey the land for which application has been made, and issue a Crown Grant previous to the survey and subdivision of that portion of the Province into Townships, the same same may be done at the cost of the applicant, and by a Surveyor approved of and acting under instructions from the Chief Commissioner of Lands and Works. The said survey shall be connected with some known point or boundary, so that the land may be laid down on the maps of the District in the Land Office, and shall be known as an isolated survey.

8. Pre-emptors may surrender their pre-emption right, and purchase at such price per acre as may be fixed by the Lieutenant-Governor in Council.

9. A purchaser of unsurveyed land shall, after the official survey has been made, and within three months after a copy of the map of said land shall have been deposited in the District, and public notice given thereof in the *Government Gazette*, make application for a Crown Grant of the land purchased by him.

Lands and Works Department,
Victoria, 27th August, 1873.

Form of Notice of application to purchase Unsurveyed Lands.

I, , of , intend to make application to purchase acres of land, situated in District, and bounded as follows: [*here describe locality, boundaries, and make sketch plan.*] And I have posted notices at the following places:—

Any person desirous of objecting to the sale of the above land, must give their reasons in writing to the Crown Land Recorder in the District, within thirty days from the date hereof.

Dated this day of A.D. 18 .

Signed, ———

FORM J.

1873.

Application to purchase Unsurveyed Land.

To the Land Recorder of the District of ————

Sir,—

I have the honor to inform you that I am desirous of purchasing from the Crown a tract of land situated [*describe the locality and boundaries, and make a sketch of the plan on the back of this application*], and supposed to contain acres more or less.

The land is unsurveyed, unoccupied, unreserved, and unappropriated Crown Land and is not an Indian settlement, and has beeu unoccupied for the past six months, by any person.

That the land is required by me for [*state whether the land is taken up either for agricultural, pastoral, timber, or mineral purposes; and when taken up for mineral purposes, state what mineral.*]

I have also staked off the said land, and posted notices for thirty days previous to the date hereof, in accordance with the instructions issued by Government, under date , to persons desirous of purchasing unsurveyed lands, and I am prepared to purchase said land in compliance with the said rules and instructions above referred to, and subject to all present or future enactments as to the purchase of lands from the Crown.

Herewith I pay to you dollars, on account of acres of land in District, British Columbia.

The above statements, in reference to the land herein applied for, are certified by the undersigned to be correct.

Signature of Applicant, ————
Signature of two Resi- } ————
dents in the District, } ————

N.B.—The above certificate must be signed by the applicant, and any two persons acquainted with the facts.

PURCHASED 5th April 1927

FROM Mr. Forsyth

PLACE OF PURCHASE Victoria

PRICE 5.00