BRITISH COLUMBIA.

V. R.

PROCLAMATION.

No. 9, A.D., 1861.

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

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, 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:

Repeal of former Proclamations.

I. 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4th day of January, 1860, and the Pre-emption Amendment Act 1861, and the Pre-emption Purchase Act, 1861, are hereby repealed.

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

II. 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.

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.

III. 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.

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

IV. The person desiring to acquire any particular plot of land of the character aforesaid, shall enter into possession thereof, and shall record his claim to any quantity not exceeding 160 acres thereof, with the Magistrate residing nearest thereto; paying to the said Magistrate the sum of eight shillings for recording such claim.

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

V. Any person in possession of 160 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 160 acres aforesaid, and contiguous thereto, upon payment to the nearest Magistrate of the sum of 2s. 1d. 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.

Proposing purchaser shall hold and record.

VI. 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.

Description of the land, how to be stated.

VII. 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.

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

VIII. 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.

Natural boundaries may be adopted in certain cases.

IX. 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 Magistrate that the said form conforms as nearly as circumstances permit to the provisions of this Proclamation.

Lines of adjacent claims may be adopted.

X. 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.

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

XI. 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.

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

Purchase on Survey.

XIII. When the Government Survey shall extend to the land claimed, the claimant who has recorded his claim as aforesaid, or his heirs or devisies, 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 4s. 2d. per acre.

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

XIV. When the claimant, his heirs or devisies, 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 devisies, a certificate of improvement in the Form marked A, in the Schedule hereto.

When Certificate of Improvement has been issued the holder may sell or deal with the land.

XV. 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.

Conveyance on payment of the purchase money.

XVI. 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.

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

XVII. 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 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.

XVIII. 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.

XIX. 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.

XX. 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, building and erections shall, subject to the appeal hereinafter mentioned, be open to settlement by any other person.

Appeal.

XXI. 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.

XXII. 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.

XXIII. 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.

XXIV. 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 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.

Saving of right to search and get Gold in favor of free miners.

XXV. 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.

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

XXVI. The Goverment 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

Water for mining purposes may be taken.

XXVII. Water privileges, and the right of carrying water for mining purposes, may, nothwithstanding any claim 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.

If new claim taken up the old claim is lost.

XXVIII. 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.

Arbitrament of Magistrate.

XXIX. 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 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.

Short Title.

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

{ L. S. } Issued under the Public Seal of the said Colony, at Victoria, Vancouver Island, this 27th day of August, in the year of Our Lord One Thousand Eight Hundred and Sixty One, and in the Twenty-fifth Year of Her Majesty's Reign, by me,

JAMES DOUGLAS.

By His Excellency's Command,

WILLIAM A. G. YOUNG.

GOD SAVE THE QUEEN.

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