

C A P . X .

An Act to give authenticity to certain writings.

[Assented to 5th April, 1869.]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

Certain writings to be authentic.

1. The following writings executed or attested, with the requisite formalities, by a public officer having authority to execute or attest the same, in the place where he acts, are authentic, and make proof of their contents, without any evidence of the signature or seal appended to them, or of the official character of such officer, being necessary, that is to say :

1. Letters-patent, commissions, proclamations, orders in council, and other instruments issued by the executive government of this province ;

2. The records, registers, journals and public documents of the several departments of the executive government, and of the legislature of this province ;

3. Official copies and extracts of and from the books, documents and writings above mentioned, certificates, and all other writings included within the legal intendment of this section, although not enumerated.

Substitutes may sign for clerk of Ex. Council.

2. The signature of the deputy clerk of the executive council, named by the lieutenant governor in council, or of the first clerk of the office of the executive council, shall have the same effect under this act, as the signature of the clerk of the executive council would have had.

C A P . X I .

An Act respecting the sale and management of the Public Lands.

[Assented to 5th April, 1869.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

COMMISSIONER AND OFFICERS OF THE DEPARTMENT.

Department and Commissioner of Crown Lands.

1. There shall continue to be, and be, a department for the management and sale of the public lands and forests, to be called "the department of crown lands"; and the same shall be presided over by "the commissioner of crown lands" for the time being.

2. There shall continue to be an "assistant commissioner of crown lands," who shall be appointed from time to time, as a vacancy occurs, by the lieutenant-governor in council—and shall perform such duties in the said department as may be assigned to him by the lieutenant-governor in council, or the commissioner of crown lands, and shall preside over the department and discharge therein the duties of the commissioner of crown lands, in the absence of that officer, or in the case of a vacancy in the office of commissioner, and shall, before entering on the duties of his office, take an oath faithfully to discharge the same, which oath shall be administered by the commissioner of crown lands, or any person by the lieutenant-governor for that purpose appointed.

Assistant
Commissioner
of Crown
Lands—his
appointment,
duties and
oath of office.

3. The department and office of the surveyor-general of the late province of Canada, in so far as regards the exercise and performance of the powers and duties thereof within this province, shall continue to be consolidated with the department and office of the commissioner of crown lands, under the superintendence and management of the last named officer.

Departments
of Surveyor
General and
Commissioner
of Crown
Lands consoli-
dated.

2. And the said powers and duties shall be exercised and performed by the commissioner of crown lands, or by any assistants or clerks in his department or office, or by any person whom he by any instrument in writing under his hand, authorizes to that effect, and under such name or designation of office as he may fix, as effectually as they might have been exercised or performed by the surveyor general.

Powers and
duties of the
Surveyor Ge-
neral to be
exercised and
performed by
the Commis-
sioner of
Crown Lands.

4. The lieutenant-governor may, from time to time, appoint officers and agents to carry out this act, and orders in council under it, which officers and agents shall be paid in such manner and at such rates as the lieutenant-governor in council may direct.

Governor may
appoint officers
and agents un-
der this Act.

5. The province shall, for the purposes of this act, be divided into seventeen agencies to be designated respectively as follows, viz: the Coulonge agency, the Gatineau agency, the Petite Nation agency, the Magog agency, the St. Francis agency, the Arthabaska agency, the Chaudiere agency, the Montmagny agency, the Grandville agency, the Rimouski agency, the Bonaventure agency, the Gaspé agency, the Saguenay agency, the Lake St. John agency, the St. Charles agency, the St. Maurice agency, L'Assomption agency; and the lieutenant-governor in council may from time to time determine or change the limits of any such agencies respectively.

Seventeen
agencies.

6. The lieutenant-governor in council shall require from the assistant commissioner of crown lands and from every agent appointed under him, security for the due performance of his duty; provided that all securities given under

Assistant Com-
missioner and
Agents to give
security.
Proviso.

any repealed act shall nevertheless continue in full force.

Purchase, &c.,
by Agent of
land, &c., in
his agency to
be void, and
agent to forfeit
his office
and \$400.

7. No resident agent for the sale of public lands shall, within his agency, directly or indirectly, unless under an order of the lieutenant-governor in council, which shall not be for more than two hundred acres, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency; and any such purchase or interest shall be void, and if any such agent offends in the premises he shall forfeit his office and the sum of four hundred dollars for every such offence, to be recovered in an action for debt by any person who may sue for the same.

Commissioner
to report annually
to the
Legislature.

8. The commissioner of crown lands shall annually lay before the legislature, and within ten days after the meeting thereof, a report of the proceedings, transactions, and affairs of the department during the year then next preceding.

Duties of
Agents.

9. The duties of agents shall comprise the sale and locating of all public lands offered for sale, the granting of licenses to cut timber thereon, or upon such lands as have been set apart for that purpose, the collection of arrears due, the settlement of conflicting claims, the inspecting of lands, the protection of the public land within their respective agencies from trespassers and depredators; and such other duties not inconsistent with this act, as the commissioner of crown lands may, from time to time, think proper to assign them, and such duties shall be performed under the direction and in conformity with the instructions of the commissioner.

EXTENT OF THIS ACT—ORDERS IN COUNCIL FOR CARRYING IT OUT.

Provisions of
this Act may
be extended.

10. The lieutenant-governor in council may, from time to time, declare the provisions of this act, or any of them, to apply to the Jesuits' estates, crown domain or seigniori of Lauzon.

Lieut. Gov. in
Council may
make orders
for carrying
out this Act.

2. The lieutenant-governor in council may also, from time to time, make such orders as are necessary to carry out the provisions of this act according to their obvious intent, or to meet cases which may arise and for which no provision is made by this act; and such orders shall be published in the *Quebec Official Gazette* and in such newspapers as the commissioner of crown lands may direct, and shall be laid before the legislature within the first ten days of the session next after the date thereof; but no such order shall be inconsistent with this act, save that the powers herein given to the commissioner may be exercised by the lieutenant-governor in council, and shall be subject to any order in council regulating or affecting the same from time to time.

3. The lieutenant-governor in council may from time to time withdraw or withhold from sale and set apart the same to be held as "timber land," such portion or portions of the public lands, as, after the exploration and inspecting thereof by officers or agents specially charged with the performance of such service, may be found to be valuable for its timber, but generally unfit for purposes of colonization, whether the same shall comprise whole townships, parts of townships, or tracts of unsurveyed land.

Lieut.-Gov.¹
may set apart
land as "tim-
ber land."

FREE GRANTS LIMITED

11. Except as hereinafter provided, no free grant of public land shall be made.

Free grants
limited.

12. Any claim to land arising under any act or under any order in council, or other regulation of any government heretofore in force, shall be determined by the commissioner of crown lands, subject to such arrangement and order, in respect to improvements on any particular lands, as the commissioner may think just; or the same may be satisfied by issuing, to the party entitled, land scrip, redeemable in crown land, to such an amount as the commissioner of crown lands may find just; but no claim for land arising from militia, united empire loyalist, or military rights, shall be entertained, unless the same was actually located or admitted, or proof sufficient, in the opinion of the commissioner of crown lands, furnished in support thereof, before the passing, on the fourteenth of June, eighteen hundred and fifty-three, of the act sixteenth Victoria, chapter one hundred and fifty-nine, and no land or other scrip or certificates entitling parties to purchase land issued prior to the passing of the said act, not presented and established in the office of the commissioner of crown lands before the first day of January, one thousand eight hundred and sixty-two, shall be recognized and redeemed.

Determination
of claim arising
under re-
pealed Acts,
Orders in
Council, &c.

Proviso.

13. The lieutenant-governor in council may appropriate any public lands as free grants to actual settlers upon any public roads opened through the said lands in any new settlements, under such regulations as shall from time to time be made by order in council; but no such free grant shall exceed one hundred acres.

Free grants
may be made
to settlers on
or near roads
in new settle-
ments.

14. The lieutenant-governor in council may set apart and appropriate such of the crown lands as he deems expedient for the sites of wharfs or piers, market places, gaols, court houses, public parks or gardens, town halls, hospitals, places of public worship, burying grounds, schools, and for purposes of agricultural exhibitions, and for other like public purposes, and for model or industrial farms; and at any time before the issue of letters patent therefor, may

Lands may be
set apart for
certain public
purposes and
free grants
thereof made
in trust.

revoke such appropriation as seems expedient:—and may make free grants for the purposes aforesaid, the trust and uses to which they are to be subject being expressed in the letters patent:—But no such grant shall be for more than ten acres in any one instance, and for any one of the purposes aforesaid; except for a model or industrial farm, which shall not exceed one hundred acres.

SALES AND LICENSES OF OCCUPATION AND ASSIGNMENT THEREOF.

Lieut. Gov. in Council may fix price, &c., of land.

15. The lieutenant-governor in council may, from time to time, fix the price per acre of the public lands, and the terms and conditions of sale and of settlement and payment.

Licenses of occupation to be issued to intending settlers—their effect.

16. The commissioner of crown lands may issue, under his hand and seal, to any person who has purchased, or may purchase, or is permitted to occupy, or has been entrusted with the care or protection of any public land, or as a free grant, an instrument in the form of a license of occupation; and such person, or the assignee, by an instrument registered under this or any former act, providing for registration in such cases, may take possession of, and occupy, the land therein comprised, subject to the conditions of such license, and may thereunder, unless the same shall have been revoked or cancelled, maintain suits in law or equity against any wrongdoer, or trespasser, as effectually as he could do under a patent from the crown:—and such license of occupation shall be *prima facie* evidence for the purpose of possession by such person, or the assignee under an instrument registered as aforesaid, in any such suit, but the same shall have no force against a license to cut timber existing at the time of the granting thereof.

As to prior licenses to cut timber

Licenses of occupation, certificates, receipts and location tickets heretofore issued to have the same effect.

17. Every license of occupation heretofore granted, and every certificate of sale or receipt for money received on the sale of public lands, and every location ticket granted or made by the commissioner of crown lands, or any agent of his, previous to the passing, on the twenty-third day of April eighteen hundred and sixty, of the act twenty-third Victoria, chapter two, so long as the sale or grant to which such license of occupation, receipt, certificate, or location ticket relates, is in force and not rescinded, shall have the same force, and shall enure to the benefit of the party to whom the same was granted, or to the assignee, by instrument registered as aforesaid, in the same manner and to the same extent as the instrument in the form of a license of occupation mentioned in the next preceding section.

Commissioner to keep a register of as-

18. The commissioner of crown lands shall keep a book for registering (at the option of the parties interested) the

particulars of any assignment made as well by the original assignor of claims to lands; on his heir or legal representative, as by any subsequent assignee of any such public lands or the heir or legal representative of such assignee;—and upon such assignment being produced to the commissioner, with an affidavit of due execution thereof, and of the time and place of such execution, and the names, residences and occupations of the witnesses, or upon the production of such assignment executed before notary in accordance with the formalities prescribed by article 1208 of the civil code, or of a notarial copy thereof, the said commissioner shall cause the material parts of every such assignment to be registered in every such assignment a certificate of such registration, to be signed by himself or the assistant commissioner or any officer of the département by him authorized to sign such certificates;—And every such assignment so registered shall be valid against any one previously executed, but subsequently registered, or unregistered; but all assignments to be registered must be unconditional; and all the conditions of the sale, grant or location must have been complied with, or dispensed with by the commissioner of crown lands, before such registration is made.

what proof entries shall be made therein, their effect, &c.

First registered assignment to be valid.

Proviso.

2. If any subscribing witness to any such assignment is deceased, or has left the province, the said commissioner may register such assignment upon the production of an affidavit proving the death or absence of such witness and his handwriting or the handwriting of the party making such assignment.

On what proof assignment may be registered when witness dead or absent.

19. On any application for a patent by the heir, assignee or devisee of the original nominee of the crown, the commissioner of crown lands may receive proof in such manner as he may direct and require in support of any claim for a patent when the original nominee is dead, and upon being satisfied that the claim has been equitably and justly established, may allow the same, and cause a patent to issue accordingly.

Commissioner may receive proof in support of claim for patent by heir, &c., of deceased nominee.

FORFEITURE OF CLAIMS, AND ENFORCEMENT OF FORFEITURE.

20. If the commissioner of crown lands is satisfied that any purchaser, grantee or locatee or lessee of any public land, or any assignee claiming under or through him, has been guilty of any fraud or imposition, or has violated or neglected to comply with, any of the conditions of sale, grant, location or lease, or of the license of occupation, or if any such sale, grant, location or lease, or license of occupation has been, or is, made or issued in error or mistake, he may cancel such sale, grant, location, lease or license, and resume the land therein mentioned, and dispose of it

Sale, &c., of land, may be cancelled in case of fraud or error.—All such cancellations heretofore made to continue.

as if no sale, grant, location or lease thereof had ever been made; and all such cancellations heretofore made shall continue until altered.

Mode of obtaining possession, if settler refuses to deliver up land on revocation of license, &c.

21. When any purchaser, lessee, or other person, refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale, grant, location, lease or license of occupation thereof as aforesaid, or when any person is wrongfully in possession of public land and refuses to vacate or abandon possession of the same, the commissioner of crown lands may apply to a judge of the superior court in the circuit in which the land lies, for an order in the nature of a writ of *Habere facias possessionem*, or writ of possession, and the said judge, upon proof to his satisfaction that the right or title of the party to hold such land has been revoked or cancelled as aforesaid, or that such person, is wrongfully in possession of public land, shall grant an order upon the purchaser, lessee or person in possession, to deliver up the same to the commissioner of crown lands, or person by him authorized to receive the same; and such order shall have the same force as a writ of *Habere facias possessionem*, or writ of possession; and the sheriff, or any bailiff or person to whom the same may be entrusted for execution by the commissioner of crown lands, shall execute the same in like manner as he would execute such writ in an action of ejectment or possessory action.

How notices shall be given.

22. When by law or by any deed, lease or agreement relating to any of the lands herein referred to, any notice is required to be given, or any act to be done, by or on behalf of the crown, such notice may be given, and act done, by, or by the authority of, the commissioner of crown lands.

Recovery of sums due the Crown.

23. All arrears or sums whatever due to the crown by reason of the sale or lease of public land, or of any timber thereon, may be recovered by an ordinary action of debt, brought in the name of the crown, before any court of competent jurisdiction.

Judgment by default in certain cases.

24. If in any such suit the defendant fails to appear or to plead, proceedings may be had and judgment may be rendered therein as in actions founded upon verbal agreements to pay specific sums of money. In all such suits, in case of contestation, the burden of proof shall lie upon the defendant.

Jurisdiction, Procedure and costs,

25. Notwithstanding articles 1054, 1055 and 1058, of the code of civil procedure, such actions shall, as regards the jurisdiction of the court, procedure and costs, be dealt with as if they were purely personal actions, in which the crown is not concerned, and not relating to titles to land or tenements, annual rents, or matters wherein rights in future may be bound.

PATENTS ISSUED IN ERROR.

26. Whenever a patent has been issued to or in the name of the wrong party, through mistake in the crown lands department, or contains any clerical error, or misnomer, or wrong description of the land thereby intended to be granted, the commissioner of crown lands, (there being no adverse claim,) may direct the defective patent to be cancelled and a correct one to be issued in its stead, which corrected patent shall relate back to the date of the one so cancelled, and have the same effect as if issued at the date of such cancelled patent.

Erroneous patents may be cancelled and correct ones issued when there is no adverse claim.

27. In all cases in which grants or letters patent have issued for the same land, inconsistent with each other through error, and in all cases of sales or appropriations of the same land inconsistent with each other, the commissioner of crown lands may, in case of sale, cause a repayment of the purchase money, with interest, or when the land has passed from the original purchaser or has been improved before a discovery of the error, or when the original grant or appropriation was a free grant, he may in substitution assign land or issue scrip entitling the party to purchase crown lands, of such value and to such extent as to him, the commissioner of crown lands, may seem just and equitable under the circumstances; but no such claim shall be entertained unless it be preferred within five years from the discovery of the error.

In cases of double or inconsistent grants, the purchase money may be repaid with interest—or other land may be assigned—or a land certificate may be granted.

28. Whenever, by reason of false survey, or error in the books or plans in the crown lands department, any grant sale or appropriation of land is found to be deficient, or any parcel of land contains less than the quantity of land mentioned in the patent therefor, the commissioner of crown lands may order the purchase money of so much land as is deficient, with the interest thereon from the time of the application therefor, or if the land has passed from the original purchaser, then the purchase money which the claimant (provided he was ignorant of a deficiency at the time of his purchase) has paid for so much of the land as is deficient, with interest thereon from the time of the application therefor, to be paid to him in land or in money, or in land scrip, as he, the commissioner of crown lands, may direct, or, in case of a free grant, he may order a grant of other land, equal in value to the land so intended as a free grant at the time such grant was made;—But no such claim shall be entertained unless application has been made within five years from the date of the patent, nor unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the particular lot or parcel of land granted.

Compensation for deficiency of land by reason of false survey or error in departmental books or plans.

Proviso.

Letters-Patent may be annulled in certain cases.

29. Any letters-patent granted by the crown may be declared null and be repealed by the superior court:

1. Where such letters were obtained by means of some fraudulent suggestion, or where some material fact has been concealed by the patentee, or with his knowledge or consent;

2. When they have been granted by mistake, or in ignorance of some material fact;

3. When the patentee, or those claiming under him, have done, or omitted to do, some act in violation of the terms and conditions upon which such letters-patent were granted, or, for any other reason, have forfeited their rights and interests, in such letters-patent.

At whose suit.

30. All demands for annulling letters-patent may be made by suits in the ordinary form, or by *scire facias*, upon information brought by her majesty's attorney-general, or solicitor-general, or any other officer duly authorized for that purpose.

Procedure in such suits.

31. The information is served upon the person who holds or relies upon such letters-patent, and is heard, tried and determined, in the same manner as ordinary suits.

Appeal.

32. An appeal lies from the final judgment rendered upon such information, provided the writ of appeal issues within forty days from the rendering of the judgment.

1038 and 1039 C. C. P. repealed.

33. Articles 1038 and 1039 of the code of civil procedure are hereby repealed.

MISCELLANEOUS PROVISIONS.

Lists of public lands for sale to be published

34. The commissioner of crown lands shall cause lists of the public lands for sale in the several townships in the province to be made out from time to time, and advertised and published as he deems most advisable for ensuring general information.

Lists of public lands sold to be transmitted yearly to Registrars, and to Secretary-Treasurers of municipalities in L. C., and notice of cancellation of sales, &c., to be given to them—effect as to taxes.

35. The commissioner of crown lands shall transmit as early as possible in each year, to the secretary-treasurer of every county municipality, a list of the public lands sold, granted, leased or appropriated or set apart to any person, or for which licenses of occupation have been granted in such county municipality, during the year next preceding, and for which no patents have issued, which said lands shall be liable to the assessed taxes in the townships in which they respectively lie, from the date of such sale or license or appropriation; and the purchaser at the sale of any such lands for taxes shall, as heretofore, have in the lands so sold the same rights only as the person entitled to claim under the crown at the time of such sale; and the commissioner of crown lands shall in like manner apprise each such secretary-treasurer of the cancellation of any

license of occupation or sale, grant, lease, location or appropriation, and the registrar of every county, and registration division, of the cancellation of any patent of land within such county and registration division, from which time, until resold, leased, or regranted, the land affected shall cease to be liable to taxes.

2. The registrar of the province shall transmit as early as possible in each year, to the registrar of every county and registration division, and to the secretary-treasurer of every municipality in this province, a list of the public lands patented during the year next preceding; and no return of lands other than those hereinbefore mentioned need be made.

Lists of public lands patented to be sent to same yearly by Registrar of the Province.

36. All affidavits required under this act, or intended to be used in reference to any claim, business or transaction in the crown lands department, may be taken before any judge or prothonotary, or clerk of any court, or any justice of the peace, or any commissioner for taking affidavits in any of the courts, or the commissioner of crown lands, or the assistant commissioner of crown lands, or any officer or agent of the commissioner of crown lands, or any surveyor duly licensed and sworn, appointed by the commissioner of crown lands to enquire into or take evidence or report in any matter submitted or pending before such commissioner, or if made out of the province, before the mayor or chief magistrate of, or the british consul in any city, town or other municipality.

Before whom affidavits under this Act may be made.

37. Whenever there is any gore or small tract of land or island, which is not included in the original survey and description of any township, and is of too limited extent to form a township by itself,—the lieutenant-governor may, by proclamation, annex such gore or tract of land to any township, to which it is adjacent, or partly to one and partly to another of any two or more townships to which it is adjacent, as he deems expedient; and from and after the day appointed in such proclamation, or from the date thereof, if no other day be therein appointed for the purpose, the tract of land thereby annexed to any township shall form part thereof.

Governor may, by proclamation, annex gores to adjacent townships.

38. Copies of any records, documents, books or papers belonging to or deposited in the said department, attested under the signature of the commissioner, or of the assistant commissioner, shall be competent evidence in all cases in which the original records, documents, books or papers could be evidence.

Attested copies of departmental records, &c., to be as evidence.

39. No person holding an office created by or continued under this act, or employed in the department, shall, while holding such office or employment, directly or indirectly, unless under an order of the lieutenant-governor in council, purchase any right, title or interest in any public land,

Employees of the Crown. Land Department not to traffic in public lands or land scrip or

take fees for
official labor.

either in his own right, or by the interposition of any other person, or in the name of any other person in trust for himself, nor shall take or receive any fee or emolument for negotiating or transacting any business connected with the duties of his office or employment; and any title or interest thus obtained shall be null and void, and any person offending in the premises shall forfeit his office or employment, and be liable to a penalty of four hundred dollars to be recovered in an action of debt by any person suing for the same.

Penalty.

Penalty on
agent know-
ingly giving
false informa-
tion, &c.

40. If any agent appointed or continued in office under this act shall knowingly and falsely inform, or cause to be informed, any person applying to him to locate or purchase any land within his division and agency, that the same has already been located, assigned or purchased, such agent shall be liable therefor, to the person so applying, in the sum of five dollars for each acre of land which the person so applying offered and was entitled to locate or purchase, to be recovered by action of debt in any court of record having jurisdiction of the amount.

Agent may in
certain cases
refuse to sell
or locate lands.

41. Whenever it shall appear to any agent appointed or continued under this act that any land within his agency or division, at his disposal under existing regulations to sell or locate or to put under license, should be withdrawn from the list of lands so disposable within his agency or division, such agent may provisionally refuse to permit any person applying to him, to purchase any such land, or, where entitled, to locate the same, or to put it under license to him;—and if any such agent shall refuse or neglect to report to the commissioner of crown lands, within eight days thereafter, his reasons for such refusal to sell, locate, or put under license, as the case may be, any such land, such agent shall be liable therefor to the person so applying in the sum of five dollars for each acre of land which the person so applying offered and was entitled to locate or purchase or to have put under license to him, to be recovered by action of debt in any court of record having jurisdiction of the amount.

Hindering bid-
ders at public
sales of lands
of the Pro-
vince by inti-
midation, &c.,
how punished.

42. If any person or persons shall, before or at the time of the public sale of any of the lands of the province, by intimidation, combination, or unfair management, hinder or prevent, or attempt to hinder or prevent, any person from bidding upon or purchasing any lands so offered for sale, every such offender, his, her, or their aiders and abettors, shall, for every such offence, and on conviction thereof, be liable to a fine not exceeding four hundred dollars, or imprisonment for a term not exceeding two years, or both, in the discretion of the court.

Patent or title
of patentee or

43. With a view to remove doubts, and to quiet the titles to certain lands heretofore granted, it is enacted, that