

Production of Certificate to be sufficient proof of its contents, &c.

V. And be it enacted, That the production of the Certificate in the next preceding Section mentioned, shall be sufficient *prima facie* evidence of the facts therein stated, and of the authority of the Judge, Registrar or Clerk, without any proof of his appointment, authority or signature.

C A P. L X V I I .

An Act for vesting in the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, the estates and property therein described, and for granting certain powers to the said Commissioners, and for other purposes therein mentioned.

[30th August, 1851.]

Preamble.

WHEREAS divers messuages, lands, tenements, estates, and other hereditaments and real property lying within this Province, have been at various times set apart from the Crown Reserves, or other Crown Lands and property in this Province, or from the Clergy Reserves therein, as reserves for the forming or enlarging Her Majesty's Stations, Docks, Naval Arsenals, and Dock Yards therein, and for other public purposes connected with the Naval defence of the Province, and with the several Departments of the public service under the management or control of the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland; And whereas other messuages, lands, tenements, estates and other hereditaments and real property have been at divers times purchased for like purposes, and conveyed or surrendered to or in trust for Her Majesty or Her Royal Predecessors, or have been taken for like purposes under the authority of some Act or Acts of the Legislature of the late Province of Lower Canada, or of the late Province of Upper Canada, or otherwise, according to law, and by the provisions of such Acts or otherwise according to law, vested in Her Majesty, and the price or compensation of and for the same hath been paid out of the funds provided for that purpose by the Parliament of the United Kingdom; And whereas it is necessary and expedient that Her Majesty should be enabled to acquire lands hereafter for the like or similar purposes in this Province; And whereas it may be expedient that such parts of such lands, estates and property as may not be wanted for any of the purposes aforesaid, should from time to time be sold or disposed of; And whereas for effecting such sales and for the better protection and management of such property as aforesaid, and of the Works under the control of the said Commissioners as aforesaid, it is expedient and necessary that the same and all other messuages, lands, tenements, estates, hereditaments and other real property of the nature and description hereinafter mentioned, should be vested in the Lord High Admiral or the Commissioners for executing the office of Lord High Admiral of the said United Kingdom, for the time being, in trust of Her Majesty, Her Heirs and Successors, with the powers hereinafter granted to the said Lord High Admiral and Commissioners for executing the office of Lord High Admiral as aforesaid, and subject to the provisions hereinafter made: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of An Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, all Docks, Dock Yards, Arsenals, Piers, Wharves, Quays, Slips, Messuages, Lands, Lands covered with water, Beaches, Beds of Rivers, Canals, Roads and works connected therewith, tenements, estates and other hereditaments, real property, rights, easements and servitudes whatsoever, (all which things shall be intended by the words "Lands and other Real Property" wheresoever they occur in this Act) within this Province, and immediately before that time vested in Her Majesty, the Lord High Admiral or Commissioners for executing the office of Lord High Admiral aforesaid, or in any other person or persons,

Officer

Lands vested in the Commissioners of the Admiralty.

Officer or Officers, Commissioner or Commissioners in trust for Her Majesty, and set apart, used or occupied for purposes connected with the Naval defence of this Province or any other the purposes aforesaid, or placed under the charge or control of the Officers of Her Majesty's Navy, or any of them, whether the same have become vested in Her Majesty or Her Royal Predecessors for such purposes by the Cession of this Province, or have been by Her or them set apart or transferred from the lands, demesnes, or other real property of the Crown, or from the Clergy Reserves, or have been intended to be so set apart or transferred for any of the purposes aforesaid, or have heretofore been purchased for such purposes or any of them, by any Officer or other person whomsoever for any such purpose, and paid for out of funds provided for that purpose by the Parliament of the United Kingdom, and surrendered or conveyed to Her Majesty or Her Royal Predecessors, or to some person in trust for Her or them, or have been set apart or transferred, or have been taken for any such purposes under the authority of any Act or Law in force in this Province, or in any part thereof, by whatsoever mode of conveyance the same shall have been purchased and taken, and whether in fee or absolute property, or for any life or lives or term or terms of years, or for any lesser interest, or *à titre de cens*, and more especially, but without intending that the enumeration or specification thereof should exclude any other lands or real property within the descriptions aforesaid, the lands and other real property mentioned and described in the Schedule to this Act annexed, and all such lands and other real property, and all others which, having been acquired and purchased or taken for the Crown, and the price or compensation thereof paid out of funds provided by the Imperial Parliament, Her Majesty shall be pleased to direct to be vested as hereinafter mentioned, and all erections and buildings which now are or shall hereafter be erected or built thereon, together with the rights, members and appurtenances to the same respectively belonging, and also all the moveable and personal property of Her Majesty held or used for the services and purposes aforesaid, or any of them, shall be and the same are hereby vested and shall remain vested in the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, for the time being, and their successors in the said office for ever, according to their respective nature and quality, and the several estates and interests therein, subject to the provisions of this Act and in trust for Her Majesty, Her Heirs and Successors for the service of the said Department, or for such other services as Her Majesty, Her Heirs or Successors, or the said Commissioners, for the time being, may direct: Provided always, that nothing in this Act shall extend to vest in the said Commissioners any lands or buildings which have been purchased or erected for Provincial purposes with funds provided by the Legislature of this Province, or of either of the late Provinces of Upper or Lower Canada, unless the same shall be lawfully purchased by, and conveyed to the said Commissioners under the provisions of some Act or Law in force in this Province, or any lands or buildings belonging to the Civil Government of the Province, notwithstanding that the same may have been under the charge and control, or in the use or occupation of the Lord High Admiral or Commissioners of the Admiralty, or any subordinate or other branch of the Naval Department or any Officer or Officers thereof: And provided also, that nothing in this Act shall extend or be construed to extend to vest in the said Commissioners any lands which may, before the passing of this Act, have been granted by Her Majesty or Her Royal Predecessors to any other person or party, unless the same shall have been, subsequently to such grant, lawfully purchased, acquired or taken for the purposes of the said Naval Department of the Public Service, nor to impair, diminish, or affect any right, title, or claim vested in or possessed by any person or party at the time of the passing of this Act, to, in, or upon any lands or real property whatsoever; nor to give the said Commissioners any greater or better title to any lands or real property than is now vested in the Crown, or in some person or party in trust for the Crown to the same.

Proviso.

Proviso.

II. And be it enacted, That upon the death, resignation, or removal of any Lord High Admiral, or Commissioners for executing the office of Lord High Admiral of the said

On death of Lord High Admiral or Commissioners,

Lands to vest in Successors,

said United Kingdom, or any of them, all lands, and other real property theretofore vested in or held by him or them under the provisions of this Act, shall become vested in and shall be held by his or their successors in office, according to the respective nature and quality of the said lands or other real property, and the several estates and interests in the same respectively, in trust as aforesaid.

Public lands may be granted to Commissioners.

III. And be it enacted, That all public lands which shall be necessary for the erection of any dock, dock yard, quay, slip, pier, wharf or arsenal, or for the free use of or approach to such work, or for preserving such work free from obstructions, may, on an Order of the Governor of this Province in Council, be freely granted by Letters Patent under the Great Seal of this Province to the said Commissioners in trust as aforesaid, and being so granted, may be disposed of by them in the same manner as other lands vested in them under the provisions of this Act, and all other public lands may be purchased by and granted to and vested in the said Commissioners in trust as aforesaid, on the payment of the price thereof by the said Commissioners out of any funds provided for that purpose by the Imperial Parliament.

Leases, &c. now existing, confirmed.

IV. And be it enacted, That any Lease or Conveyance, or any duly authorized contract for any Lease or Conveyance of any part of the lands or other real property hereby vested in the said Commissioners, or of any estate or interest therein, made or entered into before the passing of this Act by any officer or person under whose control such lands or property were placed, or in whom the same were vested in trust for the Crown, shall be held good and valid by the said Commissioners, who shall be bound to ratify and confirm the same, and to execute all deeds and instruments which may be necessary for that purpose, on the terms and conditions on which such lease or conveyance or contract was made.

Power to sell or dispose of property vested by this Act.

V. And be it enacted, That it shall be lawful for the said Commissioners to sell, exchange, or in any manner to dispose of, or to let or demise any lands or other real property vested in them by virtue of this Act, or any estate or interest therein so vested, or any of the said moveable or personal property hereby vested in them, either by public auction or by private contract, and to convey, surrender, assign, or make over, grant, demise or deliver the same (as the case may require) to any party willing to take the same in exchange or otherwise; and also to grant, dispose of, and do any other matter or thing in relation to any such lands or other real, moveable, or personal property, as the said Commissioners shall deem beneficial for the public service and conducive to the better management and use of the property hereby vested in them, which might be done by any person having an estate or interest in the same, of the same nature as shall be vested or held by the said Commissioners in trust as aforesaid.

Moneys arising from sale, &c. of property, to be paid as Commissioners may direct.

VI. And be it enacted, That when any moneys arise or are produced by the sale or exchange, demise or disposal of any such lands, or other real property as aforesaid, which shall be sold or exchanged, demised or disposed of under the provisions of this Act, such moneys shall be paid by the purchaser or purchasers thereof, or the person or persons making such exchange, or to whom the same shall be demised or disposed of, to such person or officer as the said Commissioners shall appoint to receive such moneys, for such purposes as Her Majesty, Her Heirs and Successors shall direct; and the receipt of such person or officer as aforesaid (such receipt being endorsed or written upon or subjoined to the conveyance, surrender or assignment, lease or other instrument, or an authentic copy thereof,) shall effectually discharge the purchaser or purchasers, person or persons, by whom or on whose account such moneys shall be paid.

Commissioners may enter upon and survey lands.

VII. And be it enacted, That it shall be lawful for the said Commissioners, and for their Surveyor or Surveyors and workmen, at any time or times during the day, upon giving seven days' notice in writing for the first time, and afterwards and from time to time forty-eight hours' notice in writing, such respective notices to be given either to the owner or occupier of the lands in question, or to be posted up in some conspicuous part of such lands, to enter into and upon any lands within this Province, for the purpose of surveying and valuing the same lands, without being deemed trespassers, and without being subject or liable to any fine, penalty or punishment on account of entering

entering or continuing upon the said lands, or any part or parts thereof, for the purposes aforesaid.

VIII. And be it enacted, That it shall be lawful for the said Commissioners, from time to time, to contract for the purchase of and take for and on behalf of Her Majesty, Her Heirs and Successors, any lands or other real property, or any lease for or other interest in the same, which shall in their judgment be desirable to be purchased or taken for the service of the said Naval Department of Her Majesty's service, or the Defence of this Province, upon such terms as to the said Commissioners for the time being shall seem meet, and to enter into any contracts necessary for that purpose; and all such lands or other real property, estate, or interest therein so to be purchased, shall be conveyed, granted or surrendered to the said Commissioners in trust as aforesaid.

Commissioners may take conveyances and make contracts.

IX. And be it enacted, That it shall be lawful for all persons, bodies politic or corporate, or ecclesiastical or civil, and for all Trustees and Feoffees in Trust for charitable and other purposes, and all Executors, Administrators and Curators, not only for and on behalf of themselves, their successors, heirs, executors, administrators and curators respectively, but also for and on behalf of *cestuique* trusts, whether infants, *femes-covert*, idiots, lunatics, or persons not born or not ascertained, or out of this Province; and also for all tenants for life, or for years absolute or determinable upon any life or lives, or in substitution (*grevés de substitution*) or otherwise, and all persons having any other description of any partial or qualified estate or interest, not only for and on behalf of themselves, their executors, administrators, curators, and issue, but also for and on behalf of the persons entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest, or where such person or any of such persons, whether entitled to the next or any subsequent estate or interest, or any part thereof, shall not be ascertained, or shall be incapable of contracting or settling, and for all guardians on behalf of their respective wards, husbands on behalf of their respective wives, committees on behalf of the persons of whose estates they shall be committees, and the executors, administrators, curators and issue of such wards, wives, or persons respectively, and for all *femes-covert* entitled in their own right to any such lands or to dower or other interest therein, on behalf not only of themselves, but also of their respective heirs, executors, administrators, curators and issue, and also where such wards, wives, persons or *femes-covert* respectively, shall be tenants for life or in tail, or for years absolute or determinable upon any life or lives, or otherwise, or shall have any other description of partial or qualified property, estate or interest, to and for such guardians, husbands, committees, *femes-covert*, on behalf of the person or persons on behalf of whom such wards, wives, persons or *femes-covert* respectively, if of full age, unmarried, or of sound mind, might have contracted for the sale and have sold the same lands or any of them, and for all and every other persons and person whomsoever, who are, is, or shall be seized or possessed of, or interested in all or any of the said lands, or entitled to any subsisting estates, leases, terms, shares and interests therein, which the said Commissioners shall think necessary for the public service, to contract and agree with the said Commissioners for the absolute sale to them of all or any of the said lands, and all estates and interests therein, and to convey the same and the fee simple or absolute property thereof to the said Commissioners, for such compensation, equivalent or satisfaction in money or lands, or any estate or interest in lands, or partly in money and partly in lands, or any estate or interest in lands, as to the contracting parties shall seem expedient and reasonable; and all contracts, agreements, acts, conveyances and deeds, which shall be made or executed by such contracting, conveying or selling persons as aforesaid, shall be as valid and effectual as if such persons were the absolute owners, and seized in fee simple of the lands so conveyed by them respectively, and such persons are hereby indemnified for or in respect of any such sale which they shall respectively make by virtue of or in pursuance of this Act.

Parties empowered to sell.

X. Provided always, and be it enacted, That it shall be lawful for the said Commissioners to give in exchange for any lands to be taken for the purposes of this Act,

Commissioners may give lands in exchange, &c.

Act, any lands in the same vicinity belonging to Her Majesty and vested in the Principal Officers of Her Majesty's Ordnance, with the previous consent of that Department.

XI. And be it enacted, That after the setting apart, grant, purchase, conveyance, demise or taking thereof, all lands and other real property, estate or interest therein which shall at any time or times hereafter be granted to or purchased or taken by the said Commissioners, or by any person or persons for them for the service of the said Naval Department, or shall be surrendered to or taken by Her Majesty, or purchased or taken by any person in trust for Her Majesty for such service under the provisions of this Act, or of any other Act or Law, and all erections and buildings which shall then or which may thereafter be erected or built thereon, with the rights, members and appurtenances to the same respectively belonging, shall in like manner be, become and remain vested in the said Commissioners and their successors in the said office according to the nature and quality of the said lands and real property, or the several and respective estates and interests of and in the same respectively and in trust as aforesaid.

XII. And be it enacted, That all persons hereinbefore capacitated to contract for and sell and convey any such lands as aforesaid, and any owner or owners thereof, or of any share or interest therein, or charge thereon, may accept and receive such satisfaction and recompense for the value thereof, and such person or persons, owner or owners, and also any tenant or tenants or other occupier or occupiers of any such land entitled to any compensation for tenant's fixtures, or for any good will or improvements, or for any injury or damage which shall be sustained on account of the execution of this Act, or in any wise relating thereto, may accept and receive such sum of money in respect thereof as shall be agreed upon between them respectively and the said Commissioners, and in case the said Commissioners and the parties interested in such lands or fixtures, good will or improvements, or sustaining any such injury or damages as aforesaid, cannot or do not agree as to the amount or value of such recompense, satisfaction or compensation, the same respectively shall be ascertained and settled by a Jury in manner hereinafter directed.

XIII. And be it enacted, That before the expiration of three calendar months next after notice in writing from the said Commissioners for the time being, or their Secretary, or from their Agent duly authorized, of the intention to purchase, take or use any lands for the purposes of this Act, shall have been given to the persons hereby or otherwise capacitated to sell, or to their officer or agent, or to the person who shall be the owner of such lands, or in case he cannot be found or ascertained, left at his usual or last known place of abode, or with the tenant, or occupier of the same lands, or shall be affixed upon the same premises (and for the purpose of this Act any person hereby capacitated or otherwise enabled to sell shall be deemed the owner of such lands,) all owners and other persons seized, possessed of or interested in, or authorized by this Act or otherwise to accept and receive recompense or compensation for the value of the same land, or any estate, share or interest therein, or claiming to be entitled to any compensation for any good will or improvements or for fixtures, or for injury or damage sustained on account of the execution of this Act, or in any wise relating thereto, shall deliver or cause to be delivered to the said Commissioners, in the manner hereinafter provided by the forty-eighth section of this Act, for the services of process and other proceedings upon them, a statement in writing of the particulars of the estate, share, interest, charge, fixtures, good will or improvements which they claim to be entitled to, or to compensation for, and of the injury and damage sustained by them, and of the amount of money which they may be willing to receive for the sale, and in satisfaction of such their estate, share, interest, claim and demand as aforesaid; provided always, that no such lands or other real property shall be so taken in absolute property without the consent of some party who might under this Act convey the same, nor for any term of years or other term without the consent of some party who might have demised the same for such term, unless the necessity for taking the same shall be first certified under his hand and seal by the Commander in Chief or Senior Naval Officer.

of

Lands hereafter purchased to be vested in Commissioners.

Compensation for lands how fixed.

Disputes to be settled by Jury.

Before the end of three months after notice by Commissioners, all parties interested must send in their claim.

Proviso.

of Her Majesty's Naval Forces on the Lakes of Canada, or unless an enemy shall have actually invaded this Province when such lands or real property shall be so taken.

XIV. And be it enacted, That in all cases where any lands or real property shall have been demised to or taken by the said Commissioners for any term of years, or for such period only as the exigencies of the public service shall require, it shall be lawful for the said Commissioners, notwithstanding any thing in this Act or in any other Act or Law, at any time before they shall deliver up possession of the same, to take down and remove all such buildings or other erections as shall or may have been built or erected thereon for the public service, after such lands or real property was or were demised or taken by the said Commissioners, and to carry away, sell, or dispose of the materials thereof, making such compensation to the owner or owners of such lands or real property, or the person or persons authorized to act on his or their behalf, for the damage or injury done to such lands or real property by the erection of such buildings or otherwise, in consequence of the same having been occupied for the public service, as the said Commissioners shall think reasonable, or as shall be agreed upon in that behalf; and if the owner or owners or person or persons authorized to act on his or their behalf, shall not be willing to accept the compensation so offered, it shall be lawful for the said Commissioners to apply to and require any two Justices of the Peace for the District, County, City or place, to settle and ascertain the compensation which ought to be made for such damages or injury as aforesaid, and such Justices shall settle and ascertain the same accordingly, and shall grant a certificate thereof, and the amount so ascertained shall be forthwith paid by the said Commissioners to the person or party entitled to the same: Provided always, that nothing in this Act contained shall extend to alter, prejudice or affect any agreement which hath been or shall or may be entered into by the said Commissioners with the owner or owners of any land or real property, or any person authorized to act on his or her or their behalf, with regard to any such building or erections, but every such agreement shall remain valid and effectual according to the intent and purport thereof.

Commissioners may remove buildings erected by them on lands demised to them.

XV. And be it enacted, That if any person hereby or otherwise capacitated to sell land so required by the said Commissioners, or interested in any share or shares, estate or estates therein, or charge or charges thereon, or in any improvement, good will, fixtures or damages, shall neglect or refuse to treat, or shall not agree in the premises, or by reason of absence or disability shall be prevented from treating with the said Commissioners for the sale and disposal of their respective estates and interests therein, or the respective estates and interests which they are hereby respectively capacitated to sell, or for compensation for any such good will, fixtures, damages or improvements as aforesaid, or cannot be found or known, or shall, not produce or evince a clear title to the premises they may be in possession of, or to the interest they shall claim, to the satisfaction of the said Commissioners, or shall, by reason of any impediment or disability not provided for by this Act, be incapable of effectually making such agreement or sale thereof, or in any other case, where agreement for compensation for any good will, improvements or fixtures, or for damages incurred in the execution of this Act, cannot be made, or if the said Commissioners shall not be apprised to their entire satisfaction who is the person entitled or by this Act capacitated to sell, then on the requisition of the said Commissioners, it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government of this Province, being satisfied of the facts aforesaid, to require any Sheriff of the District, County, City, Town, or place where such lands or other real property may lie, to cause the said Commissioners to be put in possession thereof, which such Sheriff shall accordingly do by issuing a Warrant under his hand and seal, taking with him sufficient assistance, and the said Sheriff or his Deputy shall summon twenty-four persons qualified to be Special Jurors, who shall stand first in order on his lists, to be and appear at the Court House of the County or District, on a day and at an hour to be named in such Warrant, and not being less than ten days after the Sheriff shall have put the said Commissioners or such persons or person as they may appoint in manner in the forty-eighth section hereinafter mentioned,

Proviso.

Proceedings, if parties refuse to agree upon compensation, &c.

into possession as aforesaid, and of which day and hour he shall give notice in writing to the owner or proprietor, and to all persons whom he shall find on the premises when he shall give possession thereof, and at the time so appointed, a Jury shall be formed out of the Jurymen so summoned, allowing to the parties, if present, their lawful challenge to any Juror, but not to the array; and the said Jury being sworn before the Sheriff (or his Deputy) authorized to issue the Warrant of possession, (and such Sheriff or his Deputy are or is hereby empowered to administer all necessary oaths, as well to the Jurors as to the witnesses to be produced by the parties,) shall, on hearing the witnesses and the evidence which shall be adduced before them, inquire of and determine the price and compensation which shall be paid by the said Commissioners, either for the absolute purchase of the lands, or other real property in question, or for the possession or use thereof, as the case may be, and their verdict shall be certified by the Sheriff or his Deputy as aforesaid, with the costs to be ascertained as hereinafter mentioned.

If sufficient Jurors do not attend, proceedings may be adjourned.

XVI. And be it enacted, That in case a sufficient Jury to take the inquisition shall not appear upon the return of the Sheriff's Summons, it shall be lawful for the said Sheriff or his Deputy Sheriff, and he is hereby required from time to time, until a sufficient Jury shall have been obtained by the means aforesaid, to adjourn the inquiry to any future day not exceeding fourteen days, nor less than four days from the adjournment thereof, and when a sufficient number of Jurors shall appear, he shall proceed to swear and impanel twelve of them, who shall thereupon inquire as aforesaid.

No party to be heard unless he has sent in statement of claim.

XVII. And be it enacted, That no person shall be heard before the said Sheriff or Deputy Sheriff and Jury, touching the matter of the inquiry, unless such a statement as hereinbefore mentioned, of the particulars of every such claim, and how and in what manner the amount thereof is made out and computed, shall have been given to the Commissioners by and on behalf of such person, within three calendar months after such notice in writing of its being the intention of the said Commissioners to purchase and take such lands, and all persons who shall not give such statement within such period as last aforesaid, or shall not appear to any inquisition, shall, as well as all other persons, be bound by such verdict and judgment as aforesaid.

Wilful false swearing, &c., to be perjury.

XVIII. And be it enacted, That all persons who, upon any examination to be taken by virtue of this Act, shall wilfully and corruptly give false evidence either on oath or affirmation, before any Jury, or before any Justice of the Peace acting as such in the execution of this Act, shall be deemed to be guilty of perjury, and may be prosecuted for the same, and upon conviction thereof shall be subject to such and the same pains and penalties as persons, guilty of wilful and corrupt perjury, are or shall be by the laws in force subject or liable to.

Inquisition to be deposited of record.

XIX. And be it enacted, That all inquisitions, verdicts and judgments, which shall be taken or given under this Act, shall be deposited with the Clerk of the Court within the Jurisdiction of which the lands being the subject of dispute shall be situate, to be kept and preserved by him among the records of such Court, and shall be deemed to be records to all intents and purposes whatsoever, and the same, or copies thereof certified by such Clerk for the time being, shall be allowed to be good and conclusive evidence in all Courts and proceedings whatsoever, and all persons shall have liberty to inspect the same, paying for every such inspection the sum of One Shilling, and to take or make copies thereof or extracts therefrom, paying for every copy or extract made by such Clerk with his certificate thereon, after the rate of Six Pence for every one hundred words.

Copies, &c.

XX. And be it enacted, That in case any Jury to be summoned pursuant to the authority of this Act, shall give in a verdict or assessment for more money as a recompense, compensation or satisfaction, for the rights, interest or property of the parties interested in any such lands, or for any such good will, improvements, fixtures, injury or damage as aforesaid, than shall have been agreed to be given or offered for the same in the aggregate by the said Commissioners, before the summoning and returning of such Jury, or where by reason of absence from this Province or other

In what cases the costs shall be borne by the Crown or by the opposite party.

incapacity

incapacity or disability as aforesaid, or from any other cause, there shall not be, or shall not be found any person legally capacitated to enter into any contract with the said Commissioners on behalf of Her Majesty, then and in every such case all the reasonable costs, charges and expenses of causing and procuring such recompense, compensation or satisfaction to be assessed by a Jury, shall be settled by the Sheriff or his Deputy Sheriff before whom such claim shall have been tried or investigated, and shall be paid by the said Commissioners on behalf of Her Majesty; but in every case in which any such Jury shall be of opinion that the statement delivered by the claimant or claimants of the manner in which any amount of moneys which shall have been demanded as a recompense, compensation or satisfaction, has been computed and made up, did not give sufficient particulars to enable the said Commissioners to make a proper offer to such claimant or claimants, unless such claimant or claimants shall prove to the satisfaction of the Jury, that he, she or they were not and could not be in possession of such additional information at the time the particulars referred to were furnished to the said Commissioners, and in every case in which any such Jury shall give in a verdict or assessment for no more or for less money as such recompense, compensation or satisfaction as aforesaid, than shall have been agreed to or offered by the said Commissioners in the aggregate before the summoning and returning of the said Jury, or in case no damages or less damages than those offered by the said Commissioners shall be given by the verdict, where the dispute is for damages only, or where the causing or procuring such Jury to be summoned, shall have arisen from a refusal to treat or agree with the said Commissioners by any person whomsoever, who is by the provisions of this Act or otherwise legally empowered to treat, then, all such costs, charges and expenses to be settled by such Sheriff or his Deputy in manner aforesaid, shall be paid to the said Commissioners on behalf of Her Majesty, by the said person so claiming, or entitled to such recompense, compensation or satisfaction, or refusing to treat and agree as before mentioned respectively; and all costs, charges and expenses hereby directed to be paid to the said Commissioners on behalf of Her Majesty, shall and may be deducted and retained by them out of the moneys adjudged and assessed to be paid by them, as so much money advanced to and for the use of the person entitled to such money so adjudged, and payment or tender of the remainder of such money, if any, shall be deemed and taken to be a payment or tender of the whole sum or sums so adjudged or assessed, or in case no money or no sufficient sum of money shall be awarded or assessed to be paid by the said Commissioners, on behalf of Her Majesty, whereout such costs, charges and expenses can be deducted, then the same or the remainder thereof, shall and may be recovered by execution against the person, lands and goods of such party, to be sued forth out of the Court into which such proceedings shall be returned, as in the case of other judgments in favor of Her Majesty.

XXI. And be it enacted, That the costs to be allowed and settled by such Sheriff or Deputy Sheriff as aforesaid, shall be,—to himself, for executing the Warrant of possession and summoning the Jury, Twenty Shillings, and also such mileage for his necessary travel in causing such Juries to be summoned as shall be taxable in the Court of the highest jurisdiction of that section of this Province within which such lands shall lie, by any one of the Judges of such Court, or by the ordinary taxing Officer, for the travel required in summoning Special Jurors for the trials of issues in such Courts; also to himself, for swearing such Jury, presiding at the inquiry and receiving the verdict, Forty Shillings, together with necessary travelling expenses,—to each Juror sworn, Ten Shillings for each day on which the said Jurors shall be engaged on the said inquest or inquisition, and a reasonable allowance to each material witness.

XXII. And be it enacted, That in all cases in which any person shall claim any satisfaction or compensation for, or in respect of any unexpired term or interest which he shall claim to be possessed of or entitled unto, in any lands intended to be taken or used by the authority of this Act, under or by virtue of any demise or lease, or agreement for a demise, or lease or grant thereof, the said Commissioners are hereby authorized

Amount of costs to be allowed.

Commissioners may require proof in support of claims of lessors.

authorized to require such persons to produce or shew the document in respect of which such claim for satisfaction or compensation shall be made, or the best evidence thereof in his power, and if such document or such best evidence thereof as aforesaid shall not be produced or shewn to the said Commissioners or their Agents, within twenty-one days after the demand made by the said Commissioners, or any person by them authorized, the person claiming such satisfaction or compensation shall be considered or treated as tenant at will.

XXIII. And be it enacted, That every sum of money to be agreed upon or assessed as aforesaid, for the purchase of any lands which may be required by the said Commissioners, or of any estate or interest therein, or for any recompense, compensation, or satisfaction as herein mentioned, (except as herein otherwise provided,) shall be paid by the said Commissioners, either to the person thereunto entitled, or into Her Majesty's Public Provincial Treasury as hereinafter mentioned, as the case may require, on a clear title to the lands, estate or interest in respect of which the same shall be payable, being adduced and shewn to the satisfaction of the said Commissioners, or of their Counsel.

XXIV. Provided always, and be it enacted, That if any money shall be agreed or assessed to be paid for the purchase of any lands lying within Upper Canada, to be taken or used by the said Commissioners by virtue of their powers under this Act, or any estate or interest therein, or for any recompense, compensation or satisfaction under this Act, which any person, tenant for life, or in tail, feoffee in trust, executor, administrator, curator, husband, guardian, committee or other trustee, for or on behalf of any infant, lunatic, idiot, *feme-covert* or *cestuique* trust, or any person or persons whose lands so taken or limited in strict or other settlement, or any person or persons under any other disability or incapacity shall be entitled unto, interested in, or hereby capacitated to sell, or in case the lands or interest for the purchase whereof the same shall be agreed or assessed to be paid, shall be subject to, or charged or chargeable with any incumbrances, liabilities, claims or demands which cannot or shall not be ascertained, got in, paid off or discharged, such moneys, in case the same shall be equal to or shall exceed the sum of Two Hundred Pounds, shall not be paid into the hands of the person or party who shall make and execute the sale, exchange or other conveyance, warranty or quit-claim, but shall with all convenient speed be paid, together with the interest payable in respect of the same, if any, into Her Majesty's Public Provincial Treasury, to be placed to the credit of an account opened for that and similar purposes, in the Provincial Books of Account, under the name of Trust Deposit, and subject to the order, control and disposition of Her Majesty's Court of Chancery for Upper Canada, which said Court, on the application of any party making claim to such money, or any part thereof, by motion or petition, is hereby empowered, in a summary way of proceeding or otherwise, as to the said Court shall seem meet, to order the same to be laid out and invested in the public funds of the Province, or to order distribution thereof, or payment of the dividends or interest thereof, according to the estate, title or interest of the party making claim, or to make such other order in the premises as to the said Court shall seem proper, upon every which order of such Court a Warrant shall issue for the payment of such money according to the same.

XXV. Provided also, and be it enacted, That in any case where such moneys as are lastly hereinbefore mentioned shall be less than the sum of Two Hundred Pounds currency, and shall exceed the sum of Twenty-five Pounds currency, the same shall not be paid into the hands of the person or party who shall make and execute the sale, exchange or other conveyance, warranty or quit-claim, but shall, at the option of the party for the time being entitled to the rents and profits of the land or other real property purchased or taken, or of the guardian or guardians, committee or committees of such party, in case of infancy or lunacy, to be signified in writing under their respective hands, be paid, under the orders and directions of two Justices of the Court of Queen's Bench, into the Public Provincial Treasury, as hereinafter mentioned, or otherwise, at the like option, shall be paid to three trustees nominated by the party making

Purchase money how to be paid.

Purchase money exceeding £25 how to be dealt with in cases of parties unable to convey, &c.

Cases in Upper Canada in which compensation is between £25 and £200.

making such option and approved by the said Commissioners, (such nomination being signified in writing, under the hand of the nominating and approving parties,) in order that such money may be invested in the public securities of the Province, and that such stock when purchased, and the dividends arising therefrom, may be applied in the manner herein directed, so far as the same may be applicable, without obtaining the order and direction of any Justices of the said Court, and with the same effect as if such payment had been made under such orders and directions.

XXVI. Provided always, and be it enacted, That when any money shall have been or shall be agreed, or shall have been or shall be required by the verdict of any Jury to be paid by the said Commissioners for the absolute purchase or exchange of any land or other real property, being within Lower Canada, or of any estate or interest in such lands or real property which shall have been conveyed by or taken from any body politic or corporate, person or party, who without this Act would have been unable legally to convey the same, or shall not have the absolute interest therein, such money shall not be paid into the hands of the person or party who shall make and execute the sale, exchange, or other conveyance, or warranty or quit-claim, but the same shall be deposited, with a copy of the deed of sale, or exchange or other conveyance or of warranty or quit-claim, in the hands of the Sheriff for the District in which the lands or other real property shall lie, and upon the making and granting of the receipt which such Sheriff is authorized and required to grant to the said Commissioners, the land or other real property and estate therein conveyed by the said deed shall be and become vested in the said Commissioners in trust as aforesaid; and it shall be the duty of the said Sheriff, after the receipt of the said money, and on the application of any party claiming the same, or any interest therein, and filing such claim with the application, to make and insert during four months in the *Official Gazette* of the Province, and also in one other public newspaper published in each of the Cities of Quebec and Montreal, a notice in both languages, containing the date and nature of the deed and conveyance, and the amount of money deposited, and a description of the lands or other real property to which such deed or conveyance shall relate, and calling upon all and every person or party who may be legally entitled to claim the whole or any part of the said money, or may be possessed of any rights, titles, hypothecs or interest which ought to be paid out of or secured upon the same, either personally or as duly representing some interested party, to file their claims, within thirty days after the expiration of the said four months, in the office of the said Sheriff, after which delay no claims shall be received or admitted: And all married women entitled to dower not then open on such lands or real property, and persons duly representing minors, lunatics, idiots, or persons absent from the Province, having any right, title, interest or claim to or in the said money, and all persons and parties having any such right, title, interest or claim in their own name, are hereby authorized to file their claims; and the Superior Court sitting in the District, with the Sheriff whereof the said claims may be filed, is hereby authorized and required to hear and determine the same, and to order a final distribution of the said moneys to or among the parties entitled to the same, or to order the application or placing of the same or any part thereof so as to secure present and future rights, in manner as is hereinafter mentioned in the twenty-eighth section of this Act.

XXVII. And be it enacted, That where any money so agreed or assessed to be paid as hereinbefore mentioned, for or in respect of lands, either in Upper or Lower Canada, shall not exceed the sum of twenty-five pounds, the same shall be paid to the respective parties who would for the time being have been entitled to the rents and profits of the lands taken or used for the purposes of this Act, or in respect of which such recompense, compensation or satisfaction shall be paid for their own use and benefit, or in case of coverture, idiocy, lunacy or other incapacity, then such money shall be paid to their respective husbands, guardians, curators, committees or trustees, to and for the use and benefit of the parties respectively entitled thereto.

As to compensation for lands in Lower Canada taken from parties not having the absolute interest therein.

As to payment of compensation amounting to not more than £25.

Case of parties refusing to accept compensation, or absent from the Province, &c. provided for.

XXVIII. And be it enacted, That in case any party to whom any money shall be agreed or assessed to be paid for the purchase of any lands to be taken or used by virtue of the powers of this Act, or any estate or interest therein, or for recompense, compensation or satisfaction as aforesaid, shall refuse to accept the same, or cannot be found, or shall be absent from this Province, or shall refuse or neglect, or be unable to make a title to and convey such lands, estate or interest, to the satisfaction of the said Commissioners, within twelve calendar months from the period of the value of the lands or amount of recompense, compensation or satisfaction being agreed on or assessed as aforesaid, or if any party entitled to contract or agree for the sale of such lands, estate or interest shall not be known, or shall be absent from this Province, or shall refuse to execute any proper contract or conveyance for the sale thereof respectively, within the said twelve calendar months, then and in every such case it shall be lawful for the said Commissioners to cause the money so agreed upon or assessed as aforesaid, to be paid into Her Majesty's Public Provincial Treasury, at the credit of the said hereinbefore mentioned Account of Trust Deposits, subject to the order, control and disposition of whichever of Her Majesty's said Courts shall, according to the Fifty-fourth Section of this Act, have jurisdiction in the premises; which said Court, on the affidavit of any party making claim to such money or to any part thereof, by motion or petition, is hereby empowered in a summary way of proceeding or otherwise, as to the said Court shall seem meet, to order the same to be laid out and invested in the public funds of the Province, or to order disposition thereof, or payment of the dividends or interest thereof, according to the estate, title or interest of the party making claim thereto, or to make such other order in the premises as to such Court shall seem proper; and upon the application of any person or party having any interest in the said money, it shall be lawful for any two Justices of the said Court, upon reading the said petition, and any declaration, deed or instrument filed with the same, and receiving such further satisfaction as they shall deem necessary, in a summary way to make and pronounce such orders and directions for paying the said money, or any part of the same, or for placing such part thereof as shall be principal in the public securities of this Province, or real securities, and for the payment of the interest or dividends thereof, or any part thereof, to the respective parties entitled to receive the same, or for laying out the principal or any part thereof in the purchase of lands or other real property, to be conveyed and settled to and for and upon the same uses, intents and purposes, as the lands or other real property for which such money shall be the compensation, stood settled at the time they were conveyed or taken as aforesaid, or as near thereto as the same can be done, or otherwise concerning the disposition of the said moneys or any part thereof, for the benefit of the party or parties entitled to or interested in the same respectively, or for appointing any person or persons to be a trustee or trustees for all or any of such purposes, or for requiring any security from any person to whom such moneys or any part thereof shall be paid or entrusted, as to the said Justices shall appear just and right; and all such orders and directions shall be obeyed by the proper officer of the Provincial Treasury, and the receipt of the person or party to whom they shall pay the said money or any part thereof, in obedience to such orders and direction, shall be the valid discharge of such Officer and of the said Commissioners for the moneys paid.

Upon payment or tender of compensation, Commissioners may enter upon lands which shall be vested in them in trust for Her Majesty,

XXIX. And be it enacted, That upon payment or tender of such sums of money as shall have been agreed upon between the parties, or awarded by a jury, for the purchase of any lands, or whenever any of the respective cases shall happen wherein such money is herein authorized to be paid in manner above mentioned by the said Commissioners, it shall be lawful for the said Commissioners immediately to enter upon such lands, and thereupon, such lands, and the fee simple and inheritance thereof, and all the estate, use, trust and interest of all parties therein, shall thenceforth be vested in and become the property of the said Commissioners in trust for Her Majesty, Her Heirs and Successors, for the purposes of this Act; and when any money has been paid into Her Majesty's Public Provincial Treasury as aforesaid, the said

Commissioners

Commissioners shall not be bound to see to the application thereof, and such payment or tender, or such deposit in Her Majesty's Public Provincial Treasury, shall in all respects, and to all intents and purposes, operate in the same manner as if a conveyance under the provisions of this Act had been made of the lands in question to the said Commissioners; and in all cases whatsoever in which the said Commissioners shall have a right of entry under the provisions of this Act (except a right of entry for the purpose only of making such survey and valuation as aforesaid,) and delivery of possession shall be refused or withheld, it shall be lawful for any one of the Judges of either of the Courts aforesaid to issue his Precept or Warrant to the Sheriff of the County or District in which such land shall be situate, to enter upon the lands the possession whereof shall be refused or withheld, and to take possession thereof and to deliver the possession of the same to such person as shall in such Precept or Warrant be nominated to receive the same, being a person appointed on that behalf by the said Commissioners, and the said Sheriff is hereby authorized and required to take possession and to deliver the same accordingly.

XXX. And be it enacted, That when any question shall arise touching the title of any person to any money paid into Her Majesty's Public Provincial Treasury by the said Commissioners in pursuance of this Act, for the purpose of or as recompense, compensation or satisfaction for any damage or injury to any lands purchased or used in pursuance of this Act, or to any public securities of this Province to be purchased with any such money as herein mentioned, or to the interest or dividends of such public securities, or to any part of such money, public securities or dividends, or interest respectively, the person who shall have been in possession of such lands or in receipt of the rents and profits thereof, at the time of such purchase, or at the time when such damage or injury shall have accrued, and all persons claiming under such person or under or consistently with the possession of him, shall be deemed to have been lawfully entitled to such lands according to such possession, and the said purchase money, awarded or tendered, shall be paid and disposed of accordingly, unless it shall be made to appear that such possession was a wrongful possession, and that some and what other person was or were lawfully entitled to such, or to some and what part of such lands, or to some and what estate or interest therein or charge thereon.

XXXI. And be it enacted, That when the purchase money for any lands to be taken or used for the purposes of this Act, or the money paid for any such recompense, compensation or satisfaction as aforesaid, shall be paid into Her Majesty's Public Provincial Treasury as aforesaid, under or in pursuance of this Act, it shall be lawful for the Court having jurisdiction in the premises (if it shall think fit) to order the costs, charges and expenses attending any such motion, petition or application as aforesaid, and the proceedings to be had thereon, or so much of such costs, charges and expenses as the said Court shall deem reasonable under the circumstances of the case, together with the costs and charges of obtaining such order, to be paid by the said Commissioners, who shall from time to time pay such sums of money, in such manner and for such purposes as the said Court shall direct.

XXXII. And be it enacted, That where the money awarded or tendered to be paid for any lands which shall be used for the purposes of this Act, shall be paid into Her Majesty's Public Provincial Treasury by the Commissioners in manner hereinbefore directed, in consequence of a good title not having been made to such lands to the satisfaction of the said Commissioners, by reason of the same lands respectively being subject, either alone or together with other lands not required for the purposes of this Act, to a rent payable to some person unable or unwilling to release therefrom the lands required to be used for the purposes of this Act, then and in every or any such case the lands for the value of which the money to be paid into the said Provincial Treasury, together with the money (if any) to be paid for costs and charges under the authority of this Act, shall be agreed or assessed to be paid, shall be and are hereby released and for ever discharged from such rent, and all claims and demands in respect thereof, and all powers and remedies for recovering the same, and the money to be paid

Party in possession to be deemed entitled to the compensation until such possession be proved to be wrongful.

Where money paid into P. Treasury, Court may make order as to payment of costs.

Deposit of money shall release lands from rents charged upon them.

into

into the Provincial Treasury shall be laid out and invested under the directions and with the approbation of the Court having jurisdiction in the premises, to be signified by an order made upon motion or petition to be preferred or made in a summary way by the person who would have been entitled to the rents and profits of the land for the value of which such moneys respectively shall have been paid as aforesaid, in the purchase of other lands which shall be conveyed and settled, subject either alone or together with such other lands (if any), as the case may be, to such rent to the like uses, intents, trusts and purposes, and in the same manner as the said lands so to be used as aforesaid stood settled or limited, or such of them as at the time of making such conveyance and settlement shall be existing, undetermined and capable of taking effect, and in the mean time and until such purchase shall be made, the said money shall, by order of the said Court, upon application thereto as aforesaid, be invested in the purchase of public securities in this Province, and in the mean time and until such public security shall be ordered by the said Court to be sold for the purposes aforesaid, the interest, dividends and annual produce thereof, shall from time to time be paid, by order of the said Court, to the person who would for the time being have been entitled to the rents and profits of the said lands hereby authorized to be purchased in case such purchase and settlement were made, and the lands so to be purchased and settled shall be, either alone, or as the case may be, together with the said other lands not required for the purposes of this Act, and already subject to the same rent, and shall in the conveyance and settlement thereof, be declared to be subject thereunto in the same manner, to all intents and purposes, as the lands taken or to be taken for the purposes of this Act as aforesaid were subject thereto, and the person to whom such rent shall be payable shall have such and the same powers and remedies for enforcing the payment thereof or of any part thereof, out of or upon the lands to be comprised in such conveyance and settlement and declared to be subject thereto, as he would have been entitled to if such rent had originally been reserved out of or charged upon the same, either alone, or as the case may be, together with such other lands not required as aforesaid, instead of the lands to be taken for the purposes of this Act, or the same lands and such other lands (if any), as aforesaid, in the same manner to all intents and purposes as such rent was reserved out of or charged upon the lands so taken either alone or together with the other lands subject thereto, as the case may be, and in the meantime and until such purchase shall be made, it shall be lawful for the said Court upon application thereto as aforesaid, to order any part of the interest, dividends and annual produce of the public securities in which the said last mentioned money shall be invested, to be paid from time to time to the person for the time being entitled to the said rent in discharge thereof or part thereof, as the case may be.

XXXIII. And be it enacted, That where any lands purchased or wanted or intended to be purchased by the said Commissioners on behalf of Her Majesty, shall be charged or subject, solely or jointly with other lands not intended or wanted to be purchased, to or with any rent service, rent charge or chief rent or other rent, payment or incumbrance, it shall also be lawful for the said Commissioners (if they shall think proper) to agree for the release of the lands so purchased or wanted, or intended to be purchased, from such rent, payment or incumbrance, for such gross sum as shall be agreed upon between the said Commissioners and the party who, under the provisions of this Act, shall agree to sell or apportion the same, and which agreement may be entered into by all persons absolutely entitled, and by all persons by this Act authorized, capacitated and empowered to sell or convey lands, and the moneys to be paid shall be paid and applied in manner hereinbefore directed with regard to the purchase moneys in the sale of lands, and in case any difference shall arise respecting the value of such rent, payment or incumbrance, or respecting the apportionment thereof, the same shall be determined by a Jury if required, in like manner as the price of land is by this Act directed to be settled, in case of dispute as to the value thereof, and which Jury shall assess and determine the value of the rent, payment or incumbrance affecting the lands purchased or intended to be purchased for the purposes of this Act, and shall also where
 necessary

When lands purchased are liable to a rent &c. jointly with other lands, how such rent &c. may be released or apportioned.

necessary or convenient, apportion the rent, payment or incumbrance affecting the lands, jointly subject to such rent, payment or incumbrance as hereinbefore mentioned, according to the respective values of the lands purchased or intended to be purchased, and of the lands not purchased or intended to be purchased by the said Commissioners, and all contracts which shall be made by and between the said Commissioners on behalf of Her Majesty, Her Heirs and Successors, and any such party as aforesaid respecting such release or apportionment, shall be valid and effectual in the law, and all contracts or assurances which shall be made with or to the said Commissioners respecting such release, shall extinguish the whole or a proportionate part of such rent, payment or incumbrance, as the case may be: Provided always, that where the party entitled to such rent, payment or incumbrance shall consider the remaining part of the lands so jointly subject a sufficient security for such rent, payment or incumbrance, and shall be willing to release the lands so purchased therefrom, then and in such case, it shall be lawful for the person absolutely entitled to the said rent, payment or incumbrance, or by this Act authorized, capacitated or empowered, to apportion such rent, payment or incumbrance, or to release the lands so purchased or intended to be purchased therefrom, with the consent of the said Commissioners, and also of the owner of the lands so jointly subject as aforesaid, although such owner may only have a limited or partial interest in such last mentioned lands, to release the lands so purchased or intended to be purchased as aforesaid from the rent, payment or incumbrance affecting the same, as aforesaid, jointly with other lands, on condition or in consideration of such other lands continuing or remaining solely and exclusively subject to such rent, payment or incumbrance: Provided also, that when any of the lands purchased by the said Commissioners shall be released from a part only of any rent, payment or incumbrance affecting the same jointly with other lands, such last mentioned lands shall be charged only with the remainder of such rent, payment or incumbrance, and such apportionment shall not prejudice the title to the remaining part of such rent, payment or incumbrance, or the remedies for such remainder, but the same shall at all times thereafter remain as effectual as if the lands not so purchased had been originally charged with that amount only: Provided also, that when a part of any rent, payment or incumbrance shall be released, it shall be lawful for the said Commissioners, on tender for that purpose, by any deed or instrument creating or transferring the remainder of such rent, payment or incumbrance, to cause to be endorsed a memorandum on such deed or instrument, declaring what part of the lands subject to such rent, payment or incumbrance shall have been purchased or intended to be purchased by virtue of this Act, and what proportion of the said rent, payment or incumbrance shall have been released, and also declaring the amount of the rent, payment or incumbrance which shall continue payable, and such memorandum shall be evidence in all Courts of the facts therein stated, but shall not exclude any other evidence of the same facts.

XXXIV. And be it enacted, That in all cases in which a part only of any lands comprised in any agreement for a lease, or any lease, and subject to any rent, shall be required for the purposes of this Act, the rent payable in respect of any such lands shall, (if the said Commissioners think fit) be apportioned between so much of the same lands as shall be acquired for the purposes of this Act, and the residue of such lands and such apportionment shall, in case the same shall not be settled by agreement between the parties, be ascertained and settled by the verdict of a jury, if required, in like manner as the price of any lands to be taken in pursuance of this Act is directed to be settled in case of dispute as to the value thereof; and in case such apportionment shall be settled by agreement between the parties, such agreement shall be made with, and any person hereby or otherwise capacitated or authorized to sell lands, and who shall be a lessor, shall be capacitated to assent to such apportionment, and to bind the property in respect of such apportionment; after such apportionment, the tenant or lessee of such lands comprised in such lease or agreement for lease shall, as to all future accruing rent, be liable only to so much of the rent reserved in such lease or agreement

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Where a part only of leased lands shall be taken, rent may be apportioned.

for

for lease as shall have been apportioned in respect of the lands not required for the purposes of this Act, and the lessor of the same lands shall have all such and the same remedies for recovering and compelling payment of the rent so apportioned in respect of the lands not required for the purposes of this Act, as before such apportionment he had or was entitled to in respect of the rents reserved, or agreed to be reserved, in such lease or agreement for lease as aforesaid, and such apportionment shall not prejudice or affect any of the covenants, conditions or agreements in such lease or agreements for lease contained.

Provision in case lands taken be of less value than mortgage secured upon them, or part only of mortgaged lands shall be taken.

XXXV. And be it enacted, That in all cases in which any lands lying within Upper Canada, subject to any mortgage shall be required for the purposes of this Act, and in which such lands shall be of less value than the principal moneys, interest and costs secured thereon, or in which a part only of the lands subject to any mortgage shall be required for the purposes of this Act, and such part shall be of less value than the principal money, interest and costs secured on such lands by mortgage, and the mortgagee or mortgagees thereof shall not consider the remaining part of such lands to be a sufficient security for the money charged thereon, or shall not be willing to release the part required for the purposes of this Act from the principal or mortgage money, and all interest due or to become due thereon, and all costs; the value of such lands, or, as the case may be, of such part of the said lands as shall be required for the purposes aforesaid, and also the compensation (if any) for any damages done in respect of the parts so required, shall be settled and agreed upon by and between the mortgagee or mortgagees, and the trustee or other person entitled to the equity of redemption of such lands, whether absolutely or for such estate as might capacitate him, her or them, to convey for the purposes of this Act, on the one part, and the said Commissioners on behalf of Her Majesty on the other part; and in case of any difference between them, then such value and compensation shall be determined by the verdict of a jury, in the same manner as in other cases of difference under this Act; and the amount of such value and compensation to be so agreed or determined as aforesaid, shall be paid to such mortgagee or mortgagees in satisfaction of his, her, or their claim, so far as the same will extend; and such mortgagee or mortgagees shall thereupon convey, assign, and transfer all his, her, or their interest in such mortgaged lands, the value whereof or compensation for which shall so have been agreed upon or determined as aforesaid, or in case of his, her or their neglecting or refusing to convey or assign or transfer as hereinbefore directed, then the amount of such value and compensation shall be paid into Her Majesty's Provincial Treasury, to the credit of such mortgagee or mortgagees, and such payment to the mortgagee or mortgagees, or into Her Majesty's Public Provincial Treasury, as above mentioned, shall be accepted in satisfaction of the claim of such mortgagee or mortgagees, so far as the same will extend, and also in full discharge and exoneration of such part of the mortgaged lands as shall be so taken or used, from all principal and interest and other money due or secured thereon, and thereupon such mortgaged lands so taken or used shall become absolutely vested in the said Commissioners, who shall be deemed to be in the actual possession thereof, to all intents and purposes whatsoever: Provided nevertheless, that all mortgagees shall have the same powers and remedies for recovering or compelling payment of their mortgage money, or the residue thereof, (as the case may be,) or the interest thereof respectively, upon and out of the residue of the mortgaged lands not required for the purposes aforesaid, as they would have had or been entitled to for the recovering or compelling payment thereof upon or out of the whole of the lands originally comprised in such mortgage: Provided also, that when a part only of the lands subject to any mortgage shall be required or shall have been taken for the purposes of this Act as aforesaid, and the value of the lands so taken, shall, on the assignment or conveyance thereof to the said Commissioners, have been paid to the mortgagee or mortgagees thereof, in part satisfaction of his, her or their mortgage debt, a memorandum of what shall have been so paid shall be endorsed on the deed creating such mortgage at the time of executing such assignment or conveyance to the said Commissioners, and shall be signed by such mortgagee

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mortgagee or mortgagees, and a copy of such memorandum shall at the same time, if required, be furnished by the said Commissioners to the person so entitled as aforesaid to the equity of redemption of the lands comprised in such mortgage deed.

XXXVI. And be it enacted, That conveyances of lands purchased by virtue or in pursuance of this Act, may be made according to the following form, or as near thereto as the number of the parties, and the circumstances of the case will admit, that is to say :

Form of conveyance under this Act.

“ I of in consideration of the sum of
“ to me, (or, as the case may be,) into the Bank of paid by the Commissioners
“ for executing the Office of Lord High Admiral of the United Kingdom of Great Britain
“ and Ireland, do hereby convey to the said Commissioners all (describing the lands to be
“ conveyed), together with all ways, rights and appurtenances thereunto belonging, and
“ all such estate, right, title and interest in and to the same and every part thereof, as I am
“ or shall become seized or possessed of, or am by an Act of the Parliament of this
“ Province, passed in the Session held in the year of
“ the Reign of Her Majesty Queen Victoria, chapter (the chapter of this Act,) and
“ intituled, (here set forth the title of this Act,) capacitated or empowered to convey : to
“ hold the said lands to the said Commissioners in trust, and according to the intent and
“ meaning of the said Act. In witness whereof, I have hereunto set my hand and seal the
“ day of in the year of Our Lord ;”

And all such and other conveyances to the said Commissioners shall be valid and effectual in the law to all intents and purposes, and shall operate to merge all terms of years, attendant by express declaration, or by construction of law on the estate or interest so thereby conveyed, and to bar and destroy all estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts and interests whatsoever, of and in the lands in such conveyances respectively comprised ; but although any such terms of years shall be merged as aforesaid, yet they shall in equity respectively afford the same and the like protection and priority against mesne incumbrances, as if such terms of years were assigned and kept on foot, in trust for the said Commissioners, and to attend the freehold, reversion or inheritance of the lands therein comprised.

Effect of such conveyance.

XXXVII. And be it enacted, That it shall be lawful for the said Commissioners, without any Writ being issued, or other legal proceeding being adopted, to stop up and divert any landing place, turnpike road, highway, street, carriage-way, horse-way, foot-way and cause-way, on, near or adjoining to any land required for the purposes of this Act, they, at the cost of Her Majesty, previously making and opening another good and sufficient landing place, road or way, with requisite boundary distance therefrom as to which may be diverted or stopped up, and at such convenient distance therefrom as to the said Commissioners shall seem proper and necessary ; and upon such substituted landing place, road or way being completed, the landing place, road or way diverted or stopped up, and the soil thereof, shall vest absolutely in the said Commissioners in trust for Her Majesty, Her Heirs and Successors, for the public service ; and the new landing place, road or way, and the soil thereof, shall vest in the same trustees, or other persons, as the landing place, road or way so directed or stopped up was vested in at the time of the diversion or stoppage thereof by the said Commissioners ; Provided always, That in case it shall be deemed necessary to stop up or divert any turnpike or other road, landing place, highway, street, carriage or other way, under or through which any public drain or sewer, or main pipe for the conveyance of water shall pass or be laid, the said Commissioners, previous to any such drain, sewer or pipe being disturbed or injured, shall, at the cost of Her Majesty, cause another good and sufficient drain or sewer to be made, and other and sufficient pipe or pipes, for the conveyance of water, to be laid down, through or under the road or way intended to be substituted.

Commissioners may stop up or divert any road, &c. on providing another equally good.

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XXXVIII. And be it enacted, That every road or way which shall be substituted by the said Commissioners for any road or way stopped up or diverted by them, shall be kept in repair by the said Commissioners, at the cost of Her Majesty, Her Heirs and Successors, for the space of twelve calendar months, from the time of the opening thereof,

How the substituted road shall be kept in repair.

thereof, and at the expiration of such twelve calendar months, the substituted road or way shall be repaired, for ever thereafter, by and at the cost of the Trustees or other persons who would or ought to have kept in repair the road or way so diverted or stopped up.

Canals or Rail-roads may be made through reserves by permission of Governor and Commissioners.

XXXIX. And provided always, and be it enacted, That nothing herein contained shall be construed to restrain or prevent the Governor of this Province for the time being, with the consent of the Lord High Admiral or Commissioners of the Admiralty for the time being, but not otherwise, from authorizing the construction of any Canal or Rail-way upon or over any lands which may have been reserved or set apart as aforesaid by the Governor, Lieutenant Governor, or person administering the Government of either of the late Provinces as aforesaid, in Council, for Military or Naval purposes, and which by this Act are vested in the said Commissioners.

Tenants by the year or at will to quit on notice, &c.

XL. And be it enacted, That every tenant or lessee for a year, or from year to year, or any other person or persons in possession of any lands which shall be acquired or purchased by virtue of this Act, who shall have no greater interest in such lands than as lessee for a year, or from year to year thereof, shall, at the expiration of any notice, not being less than three calendar months, such notice being in writing, signed by the said Commissioners, or by any person under their authority, and given to him, her, or them, or left at the lands which are the subject of such notice, and whether such notice be given with reference to the time or times of such tenants holding or not, quit and relinquish the said lands unto the said Commissioners, or unto such person or persons as shall be by them authorized to receive possession thereof; and in case any such tenant or lessee shall be compelled to quit before the expiration of his term or interest in any such lands, then and in such case the said Commissioners shall give satisfaction and compensation for the loss or damage which he shall sustain thereby; and in case of any difference as to the amount of such satisfaction or compensation, the same shall or may be settled and ascertained by a Jury in the same manner as the sums of money to be paid for the purchase of any lands (and liable to the same conditions as to costs) are hereinbefore directed to be ascertained; or if the said Commissioners and the other parties in difference shall so agree, the same may be settled by a reference to the award of an arbitrator or arbitrators, to be agreed on or chosen by the parties; and that all persons so in the possession of any lands or any part of the same, which shall or may be required or purchased in pursuance of this Act, shall, upon tender or payment as aforesaid of such recompense or satisfaction for any of his term, estate or interest in the premises as shall be mutually agreed upon, or as shall be settled and awarded by any arbitrator, referee or umpire, or by verdict or inquisition of a Jury in manner aforesaid, quit and relinquish the said lands so in their respective possessions, unto the said Commissioners, or to such person or persons as shall be by them authorized to receive possession of the same, and all the leases and agreements whatsoever, by virtue whereof any such person shall hold the said lands, shall, at the expiration of such notice, or upon such payment or tender as aforesaid in case the party shall be entitled to compensation, be absolutely void as against Her Majesty, Her Heirs and Successors, and the said Commissioners; and if any such tenant or lessee or other person, shall refuse or neglect to deliver up the lands in his, her or their possession, at the expiration of such notice, or upon such payment or tender as aforesaid, it shall be lawful for any Justice of the Peace to issue his Precept or Warrant to a Constable to enter upon the said lands and to take possession thereof, and to deliver the possession thereof to such person as shall in such Precept or Warrant be nominated to receive the same, being a person appointed in that behalf by the said Commissioners, and the Constable is hereby authorized and required to cause such possession to be taken and delivered accordingly.

Amount of claims may be referred to arbitration.

XLI. And be it enacted, That all persons hereby or otherwise capacitated to sell, and who may not agree with the said Commissioners as to the price to be paid or the lands to be given in exchange for any lands required to be purchased by virtue of this Act, or for any estate or interest therein, or charge or incumbrance thereon, or as to the

the amount to be paid by way of compensation for any damage whatsoever, or with reference to the value of any good will, improvements or fixtures, may, if they shall think fit, agree with the said Commissioners to refer it to any person or persons to assess the amount to be paid, and every such agreement and the award of such person or persons shall be in all respects binding and effectual.

XLII. And be it enacted, That no action, suit or other proceeding shall be commenced or brought against any person for any thing done in execution or in pursuance of this Act, until after twenty-eight days' notice thereof shall have been given to such person, clearly and explicitly specifying the cause of action, suit or proceeding, and the name and place of abode of the person commencing the same, and of his attorney or agent (if any), nor after a sufficient compensation or tender thereof made to the party aggrieved, nor after three calendar months next after the act committed; and the defendant in every such action or suit may at his, her or their election, plead either specially or the general issue, and give this Act or the special matter in evidence at any trial to be had thereupon, and that the same was done in the execution and in pursuance of and by the authority of this Act, and if the same shall appear to be so done, or if such action or suit shall be brought before twenty-eight days' notice thereof shall have been given as aforesaid, or after sufficient compensation made or tendered as aforesaid, or after the time limited for bringing the same as aforesaid, the Jury shall find, or the Court shall give judgment if the case be tried in Lower Canada, and without the intervention of a Jury, for the defendant, and upon such verdict or judgment, or if the plaintiff shall be non-suited or discontinue his, her or their action or suit after the defendant shall have appeared, or if upon demurrer, judgment shall be given against the plaintiff, then the defendant shall be entitled to and recover his full costs, and shall have such remedy for recovering the same as any defendant hath for his costs in any other cases by law.

Notice of action to be given for things done under this Act.

XLIII. And be it enacted, That if the said Commissioners or any person or party interested in the lands and other real property, so marked out and taken as aforesaid, shall be dissatisfied with the verdict of such jury, it shall be lawful for such Commissioners or person, at the Term commencing next after the rendering of such verdict if the owner or some person hereby empowered to convey such lands and other real property shall have had due notice of the taking thereof, or within one year if they shall have been taken as belonging to some party unknown, or as being absent from the Province, and having left no known person therein who might convey or demise the same on behalf of such party, to apply to the Court having jurisdiction in the premises, according to the provisions of the fifty-fourth section of this Act, and to suggest that they have reason to be dissatisfied with such verdict, and to give notice of such application to the opposite party, or to such persons as are hereinafter mentioned, and to give security to the satisfaction of the Court for the payment of costs, and thereupon the proceedings which have been had in the matter, and the verdict of the jury, shall be returned into Court, and if it shall appear to the Court that the application ought to be granted, then the Court shall direct the compensation to be paid to be assessed and ascertained by a jury, according to law and the course and practice of the Court, and such damages may be inquired of and ascertained by a jury, and the verdict of such jury shall be final and conclusive, unless a new assessment of damages shall for sufficient reason be granted by the Court according to the course and practice thereof and to law.

Appeal to Superior Court in certain cases.

XLIV. And be it enacted, That no enrollment of any deed conveying any lands or real property, or any estate therein to the said Commissioners, shall be necessary to vest the same in them in trust as aforesaid, but it shall be lawful for the said Commissioners at their option to cause any deed or instrument, not being a Notarial instrument, relating to any lands or real property vested in them, to be enrolled, upon payment of the usual fees, in the office of the Provincial Registrar, without its being necessary for them to produce to that Officer any proof of the execution of such deed or instrument; and a copy of such enrollment, signed by the Provincial Registrar, and proved upon

As to enrollment of deeds to Commissioners.

oath to be a true copy, shall for every purpose whatsoever be sufficient evidence of the contents of such deed or instrument in any Court of Law and Equity, and on every occasion shall have the same force and effect to all intents and purposes as such deed, instrument or document would have if the same were respectively produced and shewn forth.

Commissioners may free lands acquired by them from Seigniorial Tenure.

XLV. And whereas it is expedient that the said Commissioners should have the power of freeing lands or real property vested in them from all seigniorial rights, burdens and charges, Be it therefore enacted, That it shall be lawful for the said Commissioners to pay or tender to the seignior within the *censive* of whose seigniority any lands or real property vested in them shall lie, such sum as at the legal rate of interest would produce annually a sum equal to the *cens et rentes*, payable annually on such lands or real property, and a further sum equal to one-fifth part of the price then last paid for the same over and above all *lods et ventes* and arrears which may then have accrued and be due, and on such payment or tender, such lands or real property shall be forever after freed from all seigniorial rights, burdens and charges, and if thereafter conveyed to any other party by the said Commissioners, shall be held *en franc-alleu roturier* for ever.

Commissioners empowered to sue and be sued in matters relative to property held by them.

XLVI. And be it enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and empowered to bring, prosecute and maintain any action or actions of ejectment, or other actions and proceedings, either at law or equity, for recovering possession of any lands or other real property vested in them, or to which they may become entitled under the provisions of this Act, or otherwise howsoever, and to distrain and sue for any arrears or any other dues of any kind which have become or shall become due, for or in respect thereof, under any parol or other demise, grant or concession from the said Commissioners, or from Her Majesty, or any person or officer acting for or on behalf of Her Majesty, or from any party holding such lands or real property in trust for Her Majesty, and also to bring, prosecute and maintain any other action, suit or proceeding in law or in equity, in respect of any such lands or other real property, or of any right or interest therein, or of any trespass or encroachment committed thereon, or damage or injury done thereto; and also upon all covenants and contracts whatsoever, now or hereafter to be made by, to or with the said Commissioners, and in any way relating to such lands and real property; and in every such suit, action or other proceeding, the said Commissioners shall be called "The Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland," without naming them or any of them, and the said Commissioners shall and may, by the said name, be sued and impleaded and prosecuted, and may answer and defend any suit, action, prosecution, or proceeding to be brought or instituted against them in any Court of Law or Equity in this Province, by any person or party whomsoever, and no suit, action or proceeding to which the said Commissioners shall be a party, shall abate or be discontinued or interrupted by the death, resignation, or removal of such Commissioners, or any of them; any law to the contrary notwithstanding.

No action to abate by reason of appointment of Lord High Admiral or Commissioners.

XLVII. Provided always, That when and as often as there shall be a transfer of the powers by this Act conferred from a Lord High Admiral to Commissioners for executing the Office of Lord High Admiral, or from such Commissioners to a Lord High Admiral, by its being the pleasure of Her Majesty, Her Heirs and Successors, to appoint a Lord High Admiral or Commissioners for executing the office of Lord High Admiral of the said United Kingdom, no such proceeding, either at Law or in Equity, or before any Justice of the Peace, or other tribunal or judicial, or other Officer whatsoever or whomsoever, pending by or against the Lord High Admiral or the Commissioners for executing the Office of Lord High Admiral of the said United Kingdom, for the time being, shall abate or be discontinued, or otherwise affected by such transfer, but the fact of Her Majesty, Her Heirs and Successors, having been pleased to make such new appointment since the last proceeding therein, having been suggested of Record or otherwise, as the Court, Justice or other Officer before whom

the same shall be pending may direct, the proceedings shall thereupon continue to be conducted in the name of the Lord High Admiral, or of the Commissioners for executing the Office of Lord High Admiral, as the case may be, and judgment given, and execution awarded with all the consequences, as if such proceedings had been originally instituted in the name of the Lord High Admiral or the Commissioners, as aforesaid: And provided also, that any such suggestion may be entered *nunc pro tunc* whenever such Court, Justice or other Officer, before whom such proceeding shall have been pending at the time, shall think fit to order the same so to be entered.

XLVIII. And be it enacted, That all such suits, actions or proceedings to be brought or instituted against the said Commissioners, may be brought or instituted in the Court within the local jurisdiction whereof the lands or other real property to which such suits, actions or proceedings may respectively relate shall be situate, or the cause of action shall have arisen; and service of any Writ, Summons, Process, Order, Notice or other Document, required to be made for that purpose, or in the progress of any such action, suit or proceeding to which the said Commissioners shall be parties, shall be deemed to be validly made upon the said Commissioners, by leaving a true copy thereof at the office or place of residence of such officer or person as shall have been appointed by the said Lord High Admiral, or Commissioners, for executing the office of Lord High Admiral as aforesaid for the time being, to execute the powers of this Act conferred under the fifty-sixth section thereof, within the local jurisdiction of such Court, or if there be more than one such officer or person, then at the office or place of residence of any one of the officers or persons so appointed as aforesaid within such local jurisdiction of the said Court, and if there be no such officer or person within the jurisdiction of the said Court, then on the senior Naval Officer in command within this Province, or if there shall be no such officer or person so appointed then resident within this Province, and the said senior Naval Officer should be out of the jurisdiction of the said Court for the time being, then by transmitting a true copy of such Summons, Process, Order, Notice of other Document, through the Post Office, directed to Her Majesty's Attorney General for that section of this Province in which such suit, action or proceeding shall be brought or be pending.

How service may be made upon the said Commissioners.

XLIX. And be it enacted, That in all suits, actions and other proceedings at law or in equity, in which a verdict shall pass, or judgment or decision shall, be given for or in favor of the said Commissioners, the said Commissioners shall in addition to all damages to which they may be entitled, have judgment for their full costs and charges in such suits, actions or proceedings, to be assessed and taxed against the defendant or other opposing party, and to be recovered and levied in the same manner and form as they might have been assessed, taxed, recovered and levied in favor of any private party.

Commissioners may recover costs.

L. Provided always, and be it enacted, That nothing herein contained, shall be taken to defeat or abridge, in any such action or other proceeding, the several rights, privileges and prerogatives of Her Majesty, Her Heirs and Successors, but that in all such suits, actions and other proceedings brought or instituted in the name of the said Commissioners, and in all matters relating thereto, it shall be lawful for the said Commissioners to claim, exercise and enjoy all the same rights, privileges and prerogatives which have been heretofore claimed, exercised and enjoyed, in any suits, actions or proceedings whatsoever in any Court of Law or of Equity, by Her Majesty or Her Royal Predecessors, in the same manner as if the subject matter of such suits, actions or other proceedings were vested in Her Majesty, and as if Her Majesty were actually made a party to the same: Provided also that it shall be lawful for Her Majesty, if so advised, to proceed by information in the proper Court of King's Bench or Queen's Bench, or Superior Court, or by any other Crown Process, legal or equitable, in any case in which such suits, actions or other proceedings might otherwise have been instituted by the said Commissioners.

Saving of Her Majesty's rights.

Proviso.

LI. And be it enacted, That in all contracts of every description, and in all conveyances, surrenders, leases, and in other deeds, and in other instruments whatsoever relating

Name and style to be adopted by Commissioners in Deeds, &c

relating to the public service, which shall or may be made or entered into by, to or with the said Commissioners, or whereunto they shall be a party, it shall be sufficient to call or describe them by the style and title of the "Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland," without naming them or any of them, and all such contracts, conveyances, surrenders, leases and other deeds and instruments, wherein the said Commissioners shall be so called and described as aforesaid, shall be as valid and effectual and shall have the same force and effect to all intents and purposes whatsoever, as if the said Commissioners had been particularly named and described therein, and with regard to their successors in office, as if such successors had made and entered into the same, and had been named and described therein.

Power to Commissioners to give notices, &c.

LII. And be it enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and empowered to give any notice, and make any entry, claim or demand which it shall be requisite or expedient to give or make on behalf of Her Majesty, with a view to compel any tenant, lessee, or occupier of any lands or other real property which shall be vested in the said Commissioners under the provisions of this Act, to quit or deliver up possession thereof, or to compel the performance of any covenant, contract or engagement relating thereto, or to recover possession on non-performance of any covenant, contract or agreement, or to compel the payment of any sum of money which ought to be paid in respect thereof, and to give any other notice and make any claim or demand, or to do any other act or thing which it shall be requisite to make, give, or do on behalf of Her Majesty, touching or concerning any such lands or other real property, or any right, title or interest therein; and the same being so made, given or done, shall be valid and effectual to all intents and purposes whatsoever.

Judgment clause.

LIII. And be it enacted, That nothing contained in this Act, or to be contained in any covenant, contract, lease, or other instrument hereby authorized to be entered into, made, taken or executed by the said Commissioners, or any of them, or by any person or officer acting under them, shall extend to charge the persons of such Commissioners, person or officer executing such covenant, contract, lease or other instrument, or their heirs, executors, administrators, curators, or other legal representatives, or their or any of their own proper lands or tenements, goods or chattels, with the performance of any of the covenants, conditions and agreements in such covenants, contract or lease, or other instrument entered into on the part of such Commissioners for the public service, and by their name of office as aforesaid; nor shall the said Commissioners, or any of them, be personally liable; nor shall any property of such Commissioners, or any of them, be liable to any legal process or execution in such suits, actions, or other proceedings as aforesaid.

What Courts shall have jurisdiction in certain cases under this Act.

LIV. And be it enacted, That the Courts into which all inquisitions to be taken under this Act shall be returned, to which all appeals upon such inquisitions shall lie, and which shall have jurisdiction in the matter of all moneys paid into Her Majesty's Public Provincial Treasury under the same, with all the other powers, authority and jurisdiction conferred upon such Court for the better carrying this Act into effect, shall be Her Majesty's High Court of Chancery for Upper Canada, and Her Majesty's Superior Court for Lower Canada, and that in all cases in which the lands or other real property in respect of which the proceedings have arisen or are required, shall be situate in Upper Canada, all such jurisdiction in the premises shall be vested in and belong to Her Majesty's said High Court of Chancery for Upper Canada, and not in or to the said Superior Court; and that in all cases in which such lands or other real property shall be situate in Lower Canada, all such jurisdiction in the premises shall be vested in and belong to Her Majesty's Superior Court for Lower Canada, and not in or to the said Court of Chancery: Provided always, nevertheless, firstly, that nothing herein contained shall extend or be construed to extend to preclude appeals from such decision of the said Courts respectively in the premises as would be incident to such decisions, from the nature or character thereof, according to the law of that section of the Province within

Proviso,

which

which such Courts respectively have jurisdiction; and provided also, secondly, that nothing herein contained shall extend or be construed to extend to derogate from the original summary powers by this Act conferred in certain cases on Justices of the Peace or other local Officers, or to prevent any such summary proceedings before any such Sheriff or others from being received or otherwise dealt with according to the laws of that section of the Province in which they shall have taken place.

Proviso.

LV. And be it enacted, That whenever it shall please Her Majesty, Her Heirs or Successors, to appoint a Lord High Admiral of the United Kingdom, then and so long and as often as there shall be a Lord High Admiral of the United Kingdom, all the lands and powers vested in or given or hereafter to be vested in or given to the Commissioners for executing the Office of Lord High Admiral of the said United Kingdom, under or by virtue of any Act or Acts now in force, or of this Act, or of any Act or Acts in this present Session of Parliament, or hereafter to be passed, shall be and become vested in the Lord High Admiral of the United Kingdom for the time being, in trust for Her Majesty, Her Heirs and Successors for the public service, and he, for the time being, shall be the sole Commissioner for carrying this Act into effect; but that when and so often as there shall be no Lord High Admiral of the said United Kingdom, but it shall please Her Majesty, Her Heirs or Successors, to appoint any persons Commissioners for executing the Office of Lord High Admiral of the said United Kingdom, then so long as the said office shall be executed by Commissioners as aforesaid, all acts, deeds, matters and things to be done or executed by the said Commissioners in pursuance or under the authority of this Act, may be done or executed by any two of such Commissioners for the time being, and the same shall be as valid and effectual as if done or executed by all the said Commissioners.

Property to be vested in Lord High Admiral when there shall be one, &c.

LVI. And be it enacted, That it shall be lawful for the Lord High Admiral of the said United Kingdom for the time being, or if there be no Lord High Admiral, then for the Commissioners for executing the Office of Lord High Admiral for the time being, or for any two or more of such Commissioners, and he or they respectively are hereby empowered from time to time as occasion may require, to authorize and empower any person or persons, or any Officer or Officers, by his or their name or title of office, to exercise or execute all or any of the powers, authorities or duties, or to perform and do and execute all or any acts, matters and things, which, by virtue of this Act, the said Lord High Admiral or Commissioners for executing the office of Lord High Admiral of the said United Kingdom, may exercise, execute, perform or do, as validly and effectually as the said Lord High Admiral or Commissioners aforesaid might exercise, execute, perform and do the same, and to revoke such authority at pleasure, and such authority shall, notwithstanding the death, resignation, or removal from office of such Lord High Admiral or Commissioner, or any one or more of them who shall have given the same, remain in force as if given by the said Lord High Admiral or Commissioners for executing the office of Lord High Admiral for the time being, until it shall be revoked by the said Lord High Admiral for the time being, or by the Commissioners for executing the office of Lord High Admiral for the time being, or any two of them.

Powers given by this Act may be deputed.

LVII. And be it enacted, That in the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the following words shall bear the meaning assigned to them respectively, that is to say: the words "Lower Canada," wheresoever they occur in this Act, or in the Schedule hereunto annexed, shall be held to mean all that part of this Province which formerly constituted the Province of Lower Canada, and the words "Upper Canada," all that part of this Province which formerly constituted the Province of Upper Canada; and the words "Her Majesty," or "the Crown," shall be held to mean and include Her Majesty and Her Royal Predecessors and Successors, and the words "Commissioners of the Admiralty," and the word "Commissioners," shall severally be construed to mean the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, for the time being, but shall

Interpretation clause.

apply also to the said Lord High Admiral whenever there shall be such Officer; the words "person" or "persons" shall each of them be construed to include all bodies politic, corporate, collegiate, ecclesiastical and civil, both aggregate and sole, as well as every private individual; the word "lands," shall be construed to include lands of every tenure, and also houses, buildings, grounds, tenements and hereditaments, both corporal and incorporeal, of every description and tenure; and all words importing the singular number or the masculine gender only, shall be held to include the plural number, and females as well as males, unless the context shall clearly require that a more limited meaning be assigned to them.

Public Act.

LVIII. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

SCHEDULE

Of certain Lands vested in the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, by this Act.

Firstly. The three Reserves in the Township of Sherbrooke, in the County of Haldimand, at or near the *embouchure* of the Grand River, on the north shore of Lake Erie, containing two hundred and eighty-eight acres, more or less, to wit: The first, at the mouth of Grand River, containing two hundred and nineteen acres, more or less; the second, at Barbet Point or *Pointe au Barbet*, containing forty-eight acres two roods and thirty-two perches, more or less; and the third, at Mohawk Bay, containing twenty acres, more or less.

Secondly. Those Reserves situate in the Townships of Tiny and Tay, in the County of Simcoe, on the south-easterly side of Penetanguishene Harbor, containing three hundred and eighty-nine acres, more or less.

Thirdly. Those Reserves situate near the City of Kingston, to wit: So much of Point Frederick in the Township of Pittsburg in the County of Frontenac, now in the possession of the Naval Authorities at Kingston, and included between a fence or fences on the south side of the road leading from the east end of the Catarqui Bridge to the Village of Barrifield, and another fence at the south-west end of the Naval Yard separating it from the Tower on the extremity of Point Frederick; and also Point Frederick, the Inlets designated as Haldimand Cove and Hamilton Cove.

Fourthly. Those Reserves, situate on the east branch of the Holland River, in the town plot of Gwillimbury, in the County of Simcoe, to wit: Lots numbers forty-nine, fifty, fifty-one and fifty-two, west side of Meadow Street, containing together about four acres.

Fifthly. Those Reserves at Pointe Pelée, in the Township of Mersea, in the County of Essex, containing three thousand acres, more or less.

Sixthly. Lot number thirteen, in the eleventh concession of the Township of Vespra, in the County of Simcoe, containing two hundred acres, more or less.

Seventhly. Lots number one, in the first and second concession of the Island of St. Joseph in Lake Huron, with the broken fronts to the south of the said lots, containing five hundred acres, more or less.

Eighthly. The south half of lot number six, in the ninth concession of the said Island of St. Joseph, on Milford Haven, containing one hundred and six acres, more or less.

Ninthly. All the land conveyed by a certain deed from Captain R. O'Connor, acting by his Attorney J. B. Marks, to Commissioner R. Barrie, bearing date twenty-third of August, one thousand eight hundred and nineteen, and witnessed by Wm. Joseph Robins and James Nichols, Junior.