

SCHEDULE 111/ITEM 1

GOVERNMENT STRUCTURES IN CANADA

February 1999

(1990 Regulations)

(Closed Book)

Time: 3 hours 100 Marks

Note: This examination consists of 3 questions.

Part I (30 marks)

Provide a brief explanation of ten (10) of the following terms or concepts:

- 1) backbencher
- 2) Committee of the Whole
- 3) aboriginal rights
- 4) equalization payments
- 5) P.M.O
- 6) Treasury Board
- 7) responsible government
- 8) judicial independence
- 9) Policy Mandarin
- 10) constitutional convention
- 11) supremacy of parliament
- 12) partisan politics
- 13) Joint Standing Committees

Part II (30 marks)

Answer three of the following questions in two or three paragraph answers:

1. Describe the various determinants of interest group influence or success.
2. Describe the essential stages of the "Policy Process" in the Canadian Political System.
3. What are the various functions of the present Canadian Senate?
4. Briefly describe the major elements of Canada's "written constitution".
5. Describe the role of the official opposition in the Canadian Parliament.

Part III (40 marks)

Answer one of the following questions in a 400-500 word (3-4 page) essay.

1. Specifically describe the various ways our political system "audits" or acts as a "check" on, the executive government in Canada.
2. Describe the evolution and function of "third parties" in Canada and comment on the present role of third parties in the Parliament, given the fact that for the first time there are three third parties.
3. Discuss whether or not our political institutions fulfil their representative function for Canada.

SCHEDULE III / ITEM 2

ACTS AND REGULATIONS RELATING TO SURVEYS OF CANADA LANDS

February 1999

(1990 Regulations)

(Closed Book)

Time: 3 hours Marks

Note: This examination consists of 12 questions on 3 pages.

1. List the three ways by which the Surveyor General of Canada manages legal surveys.
2. Give the full names of four statutes or regulations which specifically provide for surveys to be made by a Canada Lands Surveyor.
3. List the three jurisdictional areas over which the powers, duties and functions of the Minister are prescribed in the Department of Indian Affairs and Northern Development Act.
4. The Canada Wildlife Act, the Canada Petroleum Resources Act and the Constitution Act, 1982 each contain a non-derogation clause. Explain the purpose of this clause.
5. At what time is a plan of survey filed in the Yukon Land Titles Office binding on the person filing or registering it?
6. Lot 6, Group 1052, Plan 43098 CLSR, 21555 LTO is a seven hectare parcel of privately owned land in a remote area of the Yukon Territory. You have been engaged by the Ministry of Transport to subdivide a 0.5 hectare parcel in the centre of Lot 6 for a non-directional beacon installation for a nearby aerodrome. Lot 6 is approximately square with boundaries in cardinal directions and fronts on a public road. The new beacon site within Lot 6 will be connected to the public road by an access road to be constructed within a 5 metre wide right-of-way. The four corner monuments of Lot 6 are CLS Standard Posts and are found to be in undisturbed condition.

Once the plan of survey of the new parcel is registered, MOT will purchase that parcel from the joint-tenant owners, Erwin and Mary Bourne, who hold Lot 6 under Certificate of Title 1 17YY. A right-of-way charge will be secured against the Bourne's title.

Compile a neat plan showing all information required for acceptance for registration in the Land Titles Office. Assume dimensional information as necessary to complete the picture. 14

7. Draw a neat, fully dimensioned or labeled sketch, as appropriate, to illustrate each of the following.

- (a) a full size placer mining claim on Boulder Creek, Yukon Territory 2
- (b) the narrowest possible maximum size claim which may be located pursuant to the Canada Mining Regulations 2
- (c) Unit K, Section 27, Grid Area 69°00', 135°00' as provided in the Canada Oil and Gas Land Regulations 2
- (d) a fractional mineral claim located pursuant to the Yukon Quartz Mining Act 2
- (e) a second tier right limit bench claim for placer mining on Prisoner Creek, Yukon Territory 2
- (f) the orientation of pits and mound at a right-angle corner monumented by a CLS Standard Post 2
- (g) an iron and mica claim subsequently determined to contain only copper mineralization. 2

8. You are required to prepare an explanatory plan of a fibre optic line easement across numerous adjoining properties which are shown on four separate official plans confirmed over a number of years. Each of the four plans has a different bearing origin. Explain how you would show bearings on your explanatory plan together with any required statements to be included in the plan legend. 8

9. State four common reservations from a grant of territorial lands pursuant to the Territorial Lands Act. 8

10. Explain the concept of 'grouping' as provided for in the Yukon Quartz Mining Act. 5

11. Name the official or entity having the following responsibilities or jurisdiction:

- (a) authorization of surveys of Indian reserves and the preparation of plans and reports with respect thereto 2
- (b) allotment of land in a reserve to an Indian 2

(c) appointment of the Board of Examiners for Canada Lands Surveyors 2

(d) establishment of a Coordinated Survey Area within Canada Lands 2

(e) cancellation in whole or in part or amendments or alterations of a plan of survey at the instance of the person filing or registering the plan. 2

12. The boundaries of a new parcel of Canada Lands are laid out by a Canada Lands Surveyor and contain nine angles.

- (a) What is the maximum allowable angular misclosure in the survey of the parcel? 4
- (b) What is the semi-major axis of the 95% confidence region ellipse of monument 4 with respect to monument 5 if the distance between them is 1,000.40 metres? 6
- (c) Express the result in (b) as an accuracy ratio. 2

100

SCHEDULE III / ITEM 3

PROPERTY RIGHTS SYSTEMS ON CANADA LANDS

February 1999

(1990 Regulations)

(Closed Book)

Time: 3 hours Marks

Note: This examination consists of 10 questions on 2 pages.

- '1. The holder of a group of mineral claims within Category A Settlement Land of the Tro'n dek Hwech'in in Yukon Territory has what is known in the Tro'n dek Hwech'in Final Agreement as an "encumbering right". Exploration results indicate a likely extension of ore-grade mineralization beyond the limits of the claim block. What options are open to the miner to acquire mineral rights over the extension area? 10

2. What are "Canada Lands" in the Canada Lands Surveys Act? 10

3. How are Canada Lands created within a province? 8

4. Describe the land tenure system within Indian reserves. 10

5. There have been basically four types of actions which have established the federal and provincial jurisdictions over land in Canada. List them and give an example of each. 12

6. Name the five statutes which form the legislative base for property rights in the Northwest Territories. 10

7. With some surprise, three Canada Lands Surveyors arrive more or less simultaneously at the same point on Quartz Creek in the Klondike area of Yukon Territory to commence official surveys for their respective clients. Surveyor A has been engaged to survey a 1981 agreement-for-sale parcel which is being acquired by Client A, and Surveyor A has been issued instructions for the survey. Surveyor B has been engaged by Client B to survey his 1992 full size placer mining creek claim on Quartz Creek which has previously had its baseline surveyed. The Regional Surveyor has issued a lot number to Surveyor B for his survey. Surveyor C has been engaged by Client C, the estranged wife of Client B, to survey her full size quartz mining claim located and recorded in 1996. Surveyor C has also been issued a lot number for his survey. It is clear at the outset that each parcel will contain parts of one or both of the others.
 - (a) Assuming any configuration which will satisfy the above fact situation, draw a neat single sketch identifying the areas which will be dealt with by the plans of each of the surveyors

involved. 10

(b) Name the statute which creates jurisdiction for each of the three interests being dealt with. 6

(c) Name the statute which applies to all three interests being dealt with. 2

8. For surveying purposes, lands in the Yukon may be divided into three classes.

Name them. 6

9. Two federal-provincial accords provided for management regimes for offshore petroleum rights off Canada's Atlantic coast.

a) Give the full name of the statutes giving effect to each accord and the name of the agency created by each. 6

b) Name the two statutes which are incorporated by the statutes referred to in (a). 4

10. Name two National Parks in each of the following regions of Canada.

(a) Atlantic Canada 2

(b) Yukon 2

(c) British Columbia 2

100

SCHEDULE III / ITEM 4

NATIVE GOVERNMENT ISSUES

February 1999

(1990 Regulations)

(Closed Book)

Time: 3 hours Marks

Note: This examination consists of 7 questions on 2 pages.

1. Describe in point form the main steps in the process for surrender of Indian reserve lands in Canada. 5
2. The Supreme Court of Canada's December, 1997 ruling in *Delgamuukw v. Attorney General of B.C.* is widely regarded as a landmark decision in the interpretation of aboriginal rights and title.
 - (a) Who were the plaintiffs in the case? 4
 - (b) What did the decision say about the content of aboriginal title? 7
 - (c) What test was established by the Supreme Court to determine the existence of aboriginal title? 7
 - (d) What did the court say about consultation in the context of the test of justification of an infringement of aboriginal title? 6
 - (e) What did the court say about litigation and negotiation? 4
3. The Nisga'a Final Agreement was ratified by the Nisga'a people in November, 1998.
 - (a) What is the origin and history of this settlement? 8
 - (b) What is the significance of this treaty in the Canadian context? 4
 - (c) The NFA utilizes a new approach to the provision of certainty in a treaty, differing from the two options provided in Canada's 1987 Comprehensive Land Claims Policy. Describe the main elements of this new model. 6
 - (d) Polling of British Columbia residents indicates a majority in favour of submitting the NFA to a provincial referendum. The Official Opposition party in the B.C. Legislative Assembly supports this opinion and has commenced a legal challenge to require such a referendum to be held. What is the basis for this challenge? 5
 - (e) Assuming that the NFA survives any legal challenges, what two remaining actions are required to bring the treaty into effect? 4
4. Name three Indian self-government statutes currently in force in Canada. 6
5. Explain or define each of the following:
 - (a) specific claims 4
 - (b) comprehensive claims 4
 - (c) "Guerin-type" fiduciary obligation 4
 - (d) "Sparrow-type" fiduciary obligation 4
 - (f) B.C.R. 4

6. In Yukon Territory, land claim settlements are in effect for seven Yukon First Nations. How many Yukon First Nations have still to conclude their settlements? 4

7. Explain the role and composition of the British Columbia Treaty Commission. 10

100

SCHEDULE III - ITEM 5

OFFSHORE MANAGEMENT

(1990 Regulations)

(Closed Book)

Time - 3 hours

FEBRUARY 1999

(Note: This examination consists of seven (7) questions on 2 pages plus three (3) maps, two (2) of which are to be handed in.)

MARKS

1. Define the following terms: 4@5

- a) Cannon Shot Rule,
- b) Foot of the slope,
- c) International Strait,
- d) Low Water Line.

2. During 1998, there was news coverage of the Pacific Salmon dispute. 10

The international boundary in Dixon Entrance as claimed by Canada and the United States is shown on the attached map. Do Section "A" or Section "B".

Section "A"

Take the role of one of the following persons and do the assigned task:

- a) hydrographic expert on the Canadian delegation and supply technical data that defends Canada's position, or
- b) hydrographic expert on the American delegation and supply technical data that defends the American position, or
- c) hydrographic expert assisting a third party conciliator and provide technical data that would assist the conciliator in making a proposed solution.

Section "B"

How do the countries justify what they claim?

Why is their position important to them?

3. What are the roles (if any) of the Canadian Hydrographic Service and the Geological Survey of Canada in defining Canada's Territorial Sea, EEZ, and Continental Shelf limits.

4. On the attached map, construct the equidistance line between the low water lines of State "A" and State "B". Show how the line was constructed. 15

5. The Flemish Cap is over 300 nautical miles from Newfoundland. (See the attached map.) On the attached map, show the limit beyond which Canada cannot claim a Continental Shelf under Article 76 of the United Nations Convention on the Law of the Sea. Show, or describe, your construction lines. Specify any presumptions made. 15

6. Describe the survey calculation steps necessary to compute the position in latitude/longitude of the intersection of a line parallel to and 12 nautical miles from a Territorial Sea straight baseline and an arc of a circle with a radius of 12 nautical miles centred on an isolated baseline point (small island) that is 1 nautical mile seaward of the straight baseline. 15

7. A foreign registered ship leaves a European port and enters the Gulf of St. Lawrence via Cabot Strait, does some oceanographic work and exits also via Cabot Strait, all the time staying more than 12 nautical miles from any Canadian land. Has the ship violated "Innocent Passage"? Justify your answer. 10

Schedule IV/Item 1

Professional Affairs

February 1999

(1990 Regulations)

(Closed Book)

Time: 3 hours Marks

Note: This examination consists of 8 questions on 2 pages

1. In order that the public interest is served and that the dignity of the profession is retained, codes of ethics are set by the governing body. Describe the general principle of the 6 articles of the Code of Ethics for Canada Lands Surveyors. 15
2. A land surveyor has been requested to locate a boundary for a client. After completing his research and planting monuments to mark the boundary, the positions of the monuments are being disputed by an adjoining owner. Are the positions of the monuments final and conclusive or just an opinion expressed by the surveyor? 15
Describe the steps that a surveyor would recommend to settle the dispute.
3. What is the purpose and role of the Canadian Council of Land Surveyors? 10
4. Professional associations have been accorded self-regulating status by virtue of provincial legislation. This privilege, which brings a heavy responsibility on the association to govern its members, include at least 5 areas of responsibility. Describe these 5 areas of responsibility. 15
5. Continuing education in a profession is essential to provide members with the opportunity to maintain their professional competence. Describe what an association should do to encourage and provide continuing education. Should continuing education become mandatory for renewing for one's license to practice? 15

Board of Examiners for Canada Lands Surveyors

6. Define the following clearly and concisely: 10

Riparian Rights

Torrens System

Joint Tenancy

Geographic Information System

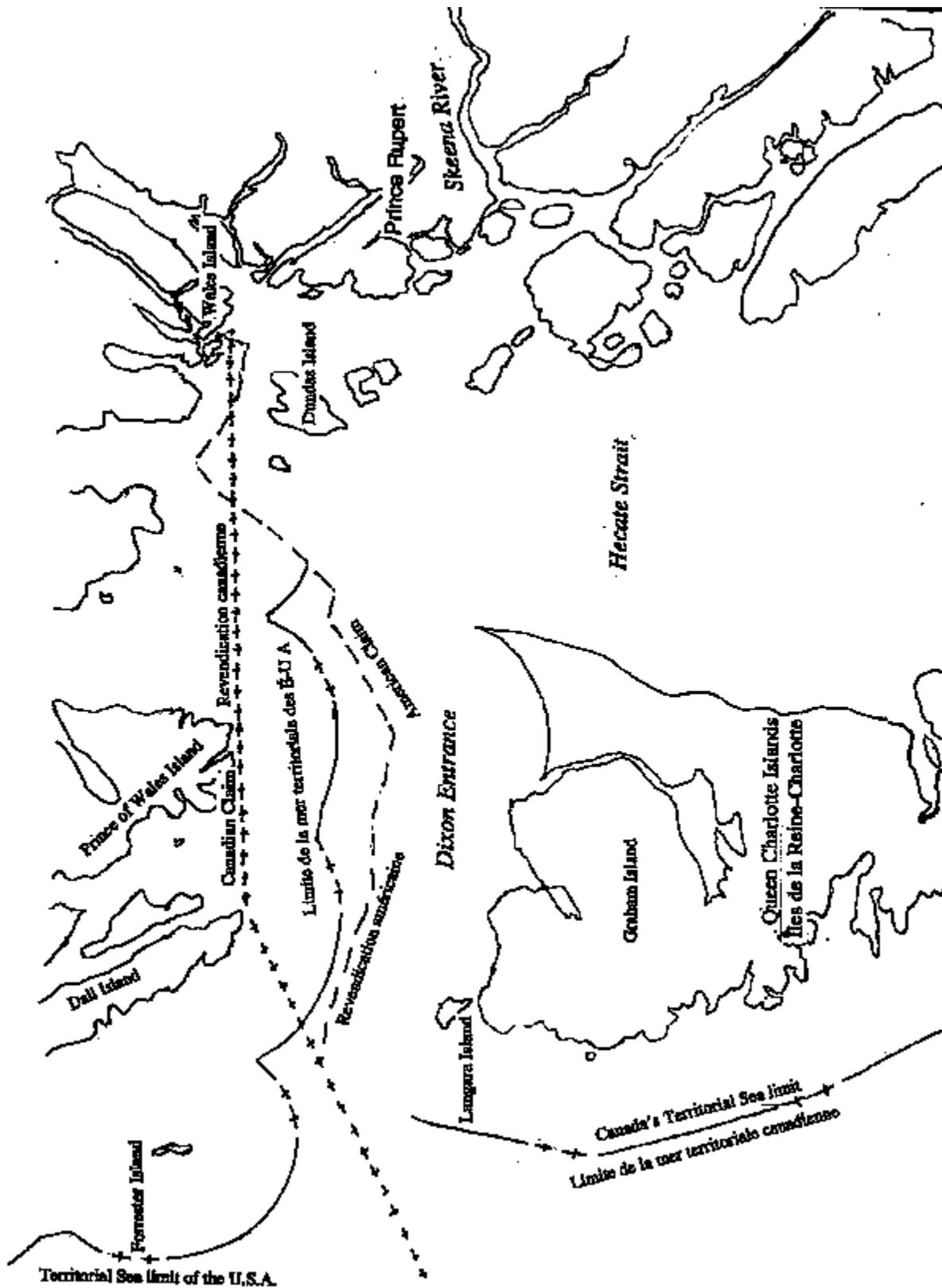
Standard of Care

7. A land surveyor is often required to appear in court as an expert witness. Discuss the role and qualifications of an expert witness. 10
8. You have recently purchased (and kept the name) of an old and well-respected land surveying firm in

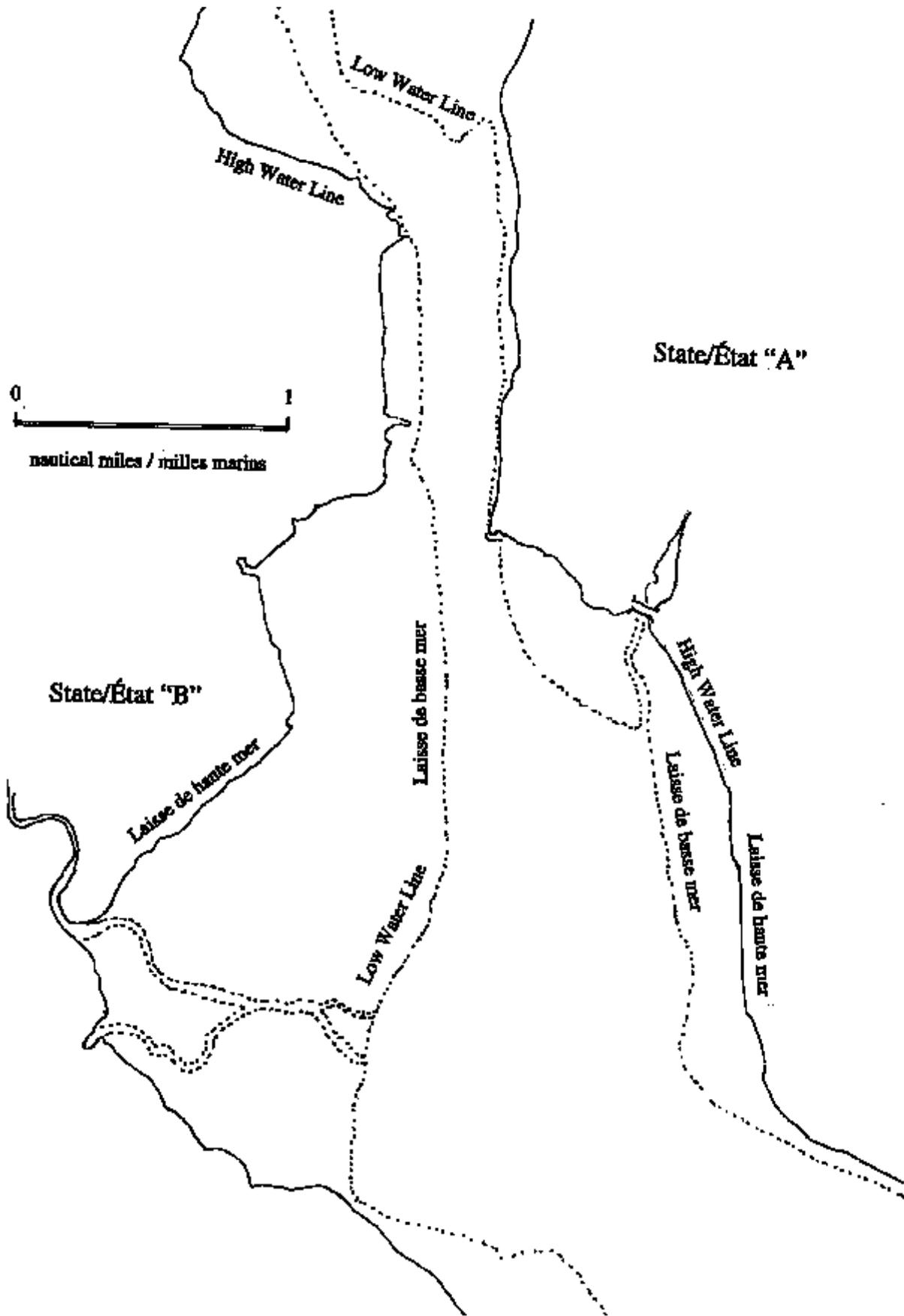
a small town. Unfortunately, two months later, you are notified of a pending court case against your firm due to an error in an old survey conducted by the firm previous to your ownership. What are the liabilities and responsibilities with regards to yourself and your predecessor? 10

Total Marks100

SCHEDULE III – ITEM 5 OFFSHORE MANAGEMENT MAP FOR QUESTION 2



SCHEDULE III – ITEM 5 OFFSHORE MANAGEMENT MAP FOR QUESTION 4



SCHEDULE III – ITEM 5 OFFSHORE MANAGEMENT MAP FOR QUESTION 5

