

SCHEDULE III / ITEM I

GOVERNMENT STRUCTURES IN CANADA

February 1998

(1990 Regulations)

(Closed Book)

Time: 3 hours Marks

Note: This examination consists of 3 questions on 1 page. 100

Part 1(3 marks each - total 30 marks)

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

- 1) political culture
- 2) corporatism
- 3) aboriginal rights
- 4) equalization payments
- 5) P.M.O.
- 6) interest group
- 7) constitutional convention
- 8) responsible government
- 9) Budget Speech
- 10) Treasury Board
- 11) policy
- 12) supremacy of parliament
- 13) partisan politics
- 14) functions of political parties
- 15) roles of the official opposition

Part II (15 marks each - total 30 marks)

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

1. Describe the concept of political elites in the Canadian political system.
2. Describe the essential stages of the "Policy Process" in the Canadian political system.

Explain why some political scientists feel Canada's history strongly influences our political culture.

4. Briefly describe the elements of Canada's "written constitution",
5. Describe the functions of the electoral process in Canada.

Part III (40 marks)

Answer one of the following questions in a 500-word essay.

1. Describe the major international and domestic influences that affect Canada's Political Environment.
2. Using specific examples, assess the influence of judicial decisions on the evolution of Canadian Federalism from 1867 to the present.
3. What is the role of the bureaucracy in the development of public policy?

SCHEDULE III / ITEM 2

ACTS AND REGULATIONS RELATING TO SURVEYS OF CANADA LANDS

February 1998

(1990 Regulations)

(Closed Book)

Time: 3 hours Marks

Note: This examination consists of 8 questions on 3 pages.

Provide the full title of the single official or entity having the responsibility for each of the following matters:

- a) administration, direction and control of surveys under the Canada Lands Surveys Act
- b) appointment of a Board of Examiners pursuant to the Canada Lands Surveys Act
- c) registration of each Canada Lands Surveyor commission granted
- d) making regulations for the division and subdivision of frontier lands pursuant to the Canada Petroleum Resources Act
- e) proclamation of an amendment to the Constitution of Canada following appropriate authorizations, pursuant to the Constitution Act, 1982
- f) providing consent for the entry onto any land to survey and take levels of the land, make borings or sink trial pits deemed necessary for any purpose related to a public work, pursuant to the Expropriation Act
- g) the officer in the Department of Indian Affairs and Northern Development who has charge of the Indian Register and Band Lists maintained in the Department
- h) authorization of surveys of reserves pursuant to the Indian Act
- i) issuance of a certificate granting a pipeline company leave to construct a line pursuant to the National Energy Board Act
- j) administration, management and control of Canada's National Parks
- k) appointment of a Commissioner of the Yukon Territory

- 1) approval of returns of survey of placer claims following the publication required pursuant to the Yukon Placer Mining Act
- m) giving a decision on a dispute following the filing of a notice of protest pursuant to the Canada Mining Regulations
- n) recommendation to the Governor in Council for the prohibition of entry on certain land in the Yukon Territory pursuant to the Yukon Placer Mining Act and the Yukon Quartz Mining Act
- o) selection of 1/3 of the reversionary lots to be held by the Commissioner of the NWT which are created by subdivision of a 5 ha parcel of land in a town site 30

2. In the 1980's, parliament amended s.12 of the then Yukon Quartz Mining Act to remove the historic eight claim limit for any locator. The provision required that any claim beyond eight in number located by a locator within a twelve month period be situate more than ten miles from any other claim located by him during that period.

- a) What effect would this action have on a company locating a 2,000 claim block?
- b) What effect would it have on gores or gaps between claims subsequently discovered?
- c) What effect would it have on the work of a Canada Lands Surveyor conducting a legal survey of the claim block for the recorded owner of the block?

3. Canada Lands within a province are to be surveyed under instructions of the Surveyor General. What procedure is followed to avoid conflict between federal and provincial survey requirements and in general which standard of survey is followed?

4. A 20 ha parcel of Crown land is being surveyed in southern Yukon fronting on the surveyed right-of-way of the British Yukon Railway (White Pass & Yukon Route). The boundary opposite the railway frontage will be the natural boundary of the navigable Tutshi River. The customary statutory 100 foot reservation to the Crown will not be taken, by prior agreement with the Northern Affairs lands administration.

The remaining two sides of the parcel are rectilinear with one slight bend in each. The terrain is generally rolling and ground conditions include well consolidated gravels and bedrock exposure. Forest cover is moderate with mixed pine and spruce to 40 cm diameter.

Compile a neat, legible plan of survey suitable for submission for examination.

Separate field notes have already been compiled, submitted and approved.

Assume any other missing information you require to complete the scenario. Do not attempt any mathematical calculations.

5. As a Canada Lands Surveyor in private practice, you have been engaged by the Canadian Frontier Petroleum Company to make a well site location survey in a recently opened area of the Northwest Territories. A survey of a location almost directly south was approved by the Surveyor General twenty years earlier. That survey was made in Unit P, Section 11, Grid Area 69°20', 133°30'.

CFPC's in-house survey personnel have surveyed in the location using the published values from the approved plan of the adjacent exploratory well. You now discover that instead of being close to the centre of the target area as planned, CFPC's well site is approximately 80 metres south and 20 metres east of the "correct" target area centre determined by you.

a) Give the full designation of your client's location

b) Draw a sketch to approximate scale to show the effect of your discovery of the discordance of the designated units

6. Answer each of the following questions with TRUE or FALSE.

a) The markings on the location posts of a fractional mineral claim located in Yukon are the same as those on a claim of the full size, except that the letter "F" must be written below the name given to the claim.

b) A surveyor making a legal survey of a claim or group of recorded claims in the NWT has authority to establish a new legal post, with the permission of the holder of the claim or claims, in order to reduce the area of the claim or claims to the maximum allowable.

c) A plan of survey of remote rural lands in rural Yukon made under the Canada Lands Surveys Act must show balance bearings and distances.

d) An explanatory plan may show details of restoration or re-establishment of official monuments provided those monuments were placed in the same survey as the monuments for the parcel which is being dealt with by the plan.

e) In the situation where only one control survey marker exists within one kilometre of a survey being made, it is sufficient to make a connection only to this marker.

f) Land claim final agreements in effect in Yukon may modify some of the technical requirement for surveys contained in the general instructions of the Surveyor General.

g) Trees along a legal boundary in undeveloped wooded areas must be blazed on the two sides facing along the boundary in each direction.

h) The holder of a certificate of title to land in NWT described by metes and bounds may have a survey made and apply to the Registrar to replace the description with the plan description established in the survey.

i) Specific survey instructions are not required for condominium surveys in the Yukon and Northwest Territories.

j) The Board of Examiners for Canada Lands Surveyors may suspend a commission for a surveyor's unfair pricing practices if it can be shown that the pricing is not within a generally accepted range. 20

7. What methods are acceptable for determination and measurement of natural boundaries for small and large parcel surveys. What plotting accuracy must be achieved for a resulting plan? 5

8. Explain the method for determination of minimum accuracy requirements where only the work of one surveyor is involved. 7

MARKS100

SCHEDULE III / ITEM 3

PROPERTY RIGHTS SYSTEMS ON CANADA LANDS

February 1998

(1990 Regulations)

(Closed Book)

Time: 3 hours Marks: 100

Note: This examination consists of 6 questions on 3 pages.

- a) What forms the legislative base for the property rights system of Canada's National Parks? 4
 - b) List four types of official designations for special areas available pursuant to the National Parks Act. 4
 - c) In some instances boundaries of new National Parks are established in conjunction with the settlement of native claims. What mechanism is used to protect these areas pending the final settlement of a claim? 4
 - d) Which province has a policy of permitting leases of land in National Parks to be registered in the provincial land registration system? What effect does this policy have over federal records for the same transaction? 4
2. a) What are the three main activities of the Legal Surveys Division of Geomatics Canada, Department of Natural Resources? 3
 - b) What factor generally dictates the nature and complexity of a survey framework in a given area? 3
 - c) Most surveys of interests in Canada lands are requested by private persons holding an interest in those lands or by officials with responsibility for administration of federal or Commissioner's lands. Which other officials may instigate a survey of Canada Lands in the Yukon Territory? 4
3. a) The Canada Oil and Gas Land Regulations issued under the Public Lands Grants Act specify several situations which require a survey approved by the Surveyor General of Canada Lands. List these situations. 4
 - b) Draw a neatly labeled sketch showing the following elements of a typical grid area as defined in the Canada Oil and Gas Land Regulations: target area, unit, section. 6
 - c) What is the effect of the confirmation by the Surveyor General of the first plan of survey in a grid area pursuant to the Canada Oil and Gas Land Regulations?

4. a) What document established the role of the British Crown as the protector of Canada's Indian people? 3
- b) Explain sections 25 and 35.(1) and 35.(3) of the Constitution Act, 1982 as they relate to Indian people. 6
- c) Under the Indian Ad, there is provision for the granting of permits and leases to a non-Band member. What are the main attributes of each of these interests as granted? 6
- d) The Indian Lands Registry maintains five major registers to record interests. List these registers. 5
5. The Ekati diamond mine at Lac de Gras, Northwest Territories, jointly owned by The Broken F1111 Proprietary Co. Ltd. (BHP) and other parties, 15 scheduled to commence production in the fall of 1998.
- a) In point form, outline the main activities in the acquisition of the mining rights for the project. (It is not necessary to describe the process for locating a mineral claim.) Cite any relevant legislation and obligations on the holder of the claim(s) at each stage. 12
- b) In point form, outline the process for acquisition of surface rights to accommodate the supporting infrastructure for the project. 8
6. Pursuant to legislation enacted to give effect to land claim agreements concluded in Yukon, a new category of land - Settlement Land - has been created. Most Settlement Land is identified as Category A or Category B, over which there has been no cession, release or surrender of the aboriginal claims, rights, titles and interests. A small amount of Settlement Land will be held by each First Nation in standard fee simple tenure.

The Umbrella Final Agreement which is subsequently incorporated into each Land Claim Final Agreement makes provision for each First Nation to establish a system to record interests in its Settlement Land." There is also provision that Category A or B Settlement Land may be moved into fee simple category in the public registry system, an action which is accompanied by an automatic surrender of the aboriginal rights, titles and interests. Thereafter these lands are governed by the Yukon Land Titles Act.

You are a Canada Lands Surveyor in private practice in Yukon who has worked closely with a number of First Nations in the legal survey of their Settlement Land. You have now been asked to assist four of them to investigate options for a recording system for their respective Lands and Resources Departments. Word of this initiative travels to the remaining ten First Nations which are in various stages of concluding their own Final Agreements. Interest is expressed by all 14 First Nations to investigate a centrally located jointly-managed system/agency with electronic access from each community. Twelve of the fourteen First Nations have in-house GIS installations and are interested in marrying

the recording system to the other initiatives they have underway in compiling an information base for effective land and resource management and administration.

Your clients have asked you to prepare a proposal/workplan to guide your investigation.

Prepare an outline in concise point form which your detailed proposal will be written. Do not concern yourself with all the intricacies of transactions and provisions in normal land titles legislation (caveats, lis pendens, etc.). Consider the interface between the First Nation and public registry system and those elements of the former which the registrar of the latter will be concerned with. 20

MARKS **100**

SCHEDULE III / ITEM 4

NATIVE GOVERNMENT ISSUES

February 1998

(1990 Regulations)

(Closed Book)

Time: 3 hours Marks

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

1. The 1986/1987 Comprehensive Land Claims Policy of the Government of Canada provides two alternatives for providing for extinguishment of all aboriginal title to lands and resources as part of a claim settlement.

Summarize each of these alternatives. Give an example of a treaty concluded pursuant to each alternative. 14

2. Canada to date has relied on the effectiveness of a four word phrase in the text of a treaty to achieve certainty to lands and resources in treaty and land claim settlements with aboriginal groups. What is this phrase? 10

3. Explain or define ANY **FOUR** of the following:

- a) federal policy on inherent right of self-government
- b) delegated model of self-government
- c) CYJ/CYFN Category B Settlement Land
- d) s.91.(24) lands
- e) T.L.E. Lands
- f) aboriginal title
- g) status Indian 16

4. Treaty negotiations between Canada, British Columbia and many B.C. First Nations are currently in progress.

- a) Describe the composition of the B.C. Treaty Commission
- b) Explain the role of the B.C. Treaty Commission.
- c) In point form, list the six major steps in the B.C. treaty process. 18

5. Give the background and highlights of **TWO** of the following topics in point form.

- a) the Imperial Orders in Council of 1870
- b) the Nisga'a Agreement-in-Principle

- c) the CYI/CYFN Comprehensive Claims
- d) the Sparrow Case [R. v. Sparrow: SCC 1990]

6) The Gitksan and Wet'suwet'en Indian peoples of northern British Columbia have been involved since 1988 in litigation against the Province of British Columbia seeking confirmation of ownership and rights to 58,000 sq km of traditional territory. [Delgamuukw v. Attorney General of B.C.]

In point form, trace the journey of this action through the courts and give the significant findings of various decisions handed down. 15

7) You are the Senior Advisor to the Minister of Indian Affairs and Northern Development. You have received a recommendation for issuance of a water licence for a new base metal mine from the Yukon Territory Water Board pursuant to the Yukon Waters Act. The Board has conducted a review and hearing and forwarded its reasons for the favourable recommendation. The Board notes that an intervention by a Yukon First Nation, which has not yet completed a land claim agreement with Canada and Yukon, has raised certain matters which are beyond the Board's jurisdiction, along with other matters which have been addressed in the recommendations.

The Minister also receives a direct submission from the First Nation raising a number of matters including: negative impact on its members' aboriginal harvesting rights, the "unfinished business" of the land claim settlement, the Minister's fiduciary obligation and a general demand for "...a piece of the action from development of our traditional lands...".

You are required to prepare a briefing and recommendation for the Minister's consideration.

- a) What are the relevant legal factors to be considered? 5
- b) What are some of the relevant political factors to be considered? 5
- c) What is your resulting recommendation to your Minister? 5

MARKS 100

SCHEDULE III - ITEM 5

OFFSHORE MANAGEMENT

Time - 3 hours

FEBRUARY 1998

(Note: this examination consists of six (6) questions on 2 pages plus a map that is to be handed in.)

1. Define the following terms: 4@5

- a) Thaiweg,
- b) Half-Effect (with respect to a maritime boundary),
- c) Natural Prolongation,
- d) Internal Waters.

2. Article 7 of the Law of the Sea Convention allows States to claim straight baselines for the Territorial Sea "in localities where the coastline is either deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity. The drawing of straight baselines must not depart to any appreciable extent from the general direction of the coast."

Design a set of standards to be used to quantify the meaning of:

- a) localities,
- b) deeply indented and cut into,
- c) fringe of islands,
- d) along the coast,
- e) immediate vicinity.

Justify the numerical values that you have selected. 12

3. With respect to each of Territorial Sea, 15 Exclusive Economic Zone, and Continental Shelf, can a State regulate the following activities:

- a) mining of non-renewable resources below the sea bed,
- b) hydrography by a foreign State,
- C) design of a foreign ship,
- d) fishing of non-migratory fish,
- e) dumping of pollutants?

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

5. A point "X" is 300 nautical miles from the closest point on the Territorial Sea baseline. It is 65 nautical miles from the foot of the slope (Law of the Sea Convention definition), and 95 nautical miles from the 2500 metre depth contour. The sediment thickness at point "X" is 1026 metres. Is point "X" on the Continental Shelf (Law of the Sea Convention definition)? Justify your answer. 20

6. What is the significance of the Supreme Court of 10 Canada decision in the case involving the British Columbia Offshore Mineral Rights?

SCHEDULE III - ITEM 5 OFFSHORE MANAGEMENT MAP FOR QUESTION 4

