

No. 182.

2nd Session, 3rd Parliament, 12 Victoria, 1849.

BILL.

An Act to repeal certain Acts therein mentioned, and to make better provision respecting the Admissions of Lands Surveyors, and the Survey of Lands in this Province

Received and Read first time, Friday, 16th
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Honble. Mr. PRICE.

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BILL.

An Act to repeal certain Acts therein mentioned, and to make better provision respecting the admission of Land Surveyors and the Survey of Lands in this Province.

- W**HEREAS the Laws now in force in Preamble.
 this Province respecting Land Surveyors and the Survey and Admeasurement of Lands are in many cases, owing to the
 5 changes which have taken place in the method of surveying lands, found to be inapplicable: And whereas it is expedient to consolidate and amend them; Be it therefore enacted, &c.
- 10 And it is hereby enacted by the authority of the same, That the Ordinance passed in the Certain Ordinances and Acts repealed.
 twenty-fifth year of the Reign of His late Majesty King George the Third, by the Lieutenant Governor and Legislative Council
 15 of the late Province of Quebec, intituled, "*An Ordinance concerning Land Surveyors and the Admeasurement of Lands,*"—and the Quebec, 25 Geo. 3, c. 3.
 Act of the Legislature of the late Province of Upper Canada, passed in the thirty-eighth
 20 year of the Reign of His said late Majesty King George the Third, intituled, "*An Act to ascertain and establish on a permanent footing the boundary lines of the different Townships in the Province,*"—and the Act of
 25 the said Legislature passed in the fifty-ninth year of the Reign of His said late Majesty King George the Third, and intituled, "*An Act to repeal an Ordinance of the Province of Quebec, passed in the twenty-fifth year*" U. C., 38 Geo. 3, c. 1.
 30 "*of His Majesty's Reign, intituled, 'An Ordinance concerning Land Surveyors and the Admeasurement of Lands,' and also to*" U. C., 39 Geo. 3, c. 14.

“ extend the provisions of an Act passed in
 “ the thirty-eighth year of His Majesty’s
 “ Reign, intituled, ‘ An Act to ascertain and
 “ ‘ establish on a permanent footing the bound- 5
 “ ‘ dary lines of the different Townships of
 “ ‘ this Province, and further to regulate the
 “ ‘ manner in which Lands are hereafter to be
 “ ‘ Surveyed,’ ”—and the Act of said Legis-
 “ tature passed in the second year of Her
 U. C. Majesty’s Reign, and intituled, “ An Act to 10
 2 Vic. c. 17. “ extend the provisions of an Act passed in the
 “ fifty-ninth year of the Reign of His late
 “ Majesty King George the Third, intituled,
 “ ‘ An Act to repeal an Ordinance of the
 “ ‘ Province of Québec, passed in the twenty- 15
 “ ‘ fifth year of His late Majesty’s Reign, in-
 “ ‘ tituled, ‘ An Ordinance concerning Land
 “ ‘ ‘ Surveyors and the Admeasurement of
 “ ‘ ‘ Lands,’ ”—and also to extend the provi-
 “ sions of an Act passed in the thirty-eighth 20
 “ year of His late Majesty’s Reign, intituled,
 “ ‘ An Act to ascertain and establish on a per-
 “ ‘ manent footing the boundary lines of the
 “ ‘ different Townships of the Province,’ ” and
 “ further to regulate the manner in which 25
 “ Lands are hereafter to be surveyed,”—and
 the Act of the Legislature of this Province,
 passed in the Session held in the fourth and
 fifth years of Her Majesty’s Reign, and in-
 tituled, “ An Act to grant authority to licensed 30
 “ Surveyors, in that part of this Province
 “ call’d Upper Canada, to administer an
 “ Oath in certain cases, and to protect them
 “ while in the discharge of their duty in Survey-
 “ ing Lands,”—shall be and the said Acts 35
 are hereby repealed: Provided always, that
 no Ordinance, Act or provision of law re-
 pealed by those hereby repealed, or by
 any of them, shall revive, but shall be and
 remain repealed; and provided also, that all 40
 the boundary or division lines legally estab-
 lished, and ascertained under the authority
 of the Ordinance or Acts hereby repealed, or
 any of them, shall remain good; and all
 other acts, and things legally done and per- 45
 formed under the authority of the said Ordi-

Canada,
 4 and 5 Vic.
 c. 9.

Proviso.
 Repealed Acts
 not to revive.

Proviso.
 Things done to
 remain good.

nance and Acts, or any of them, and in conformity to the provisions thereof, shall remain good and valid notwithstanding such repeal, and all prosecutions and all actions or suits at law
 5 or equity actually commenced before the passing of this Act, under the provisions of the said Ordinance or Acts, or any of them, may be continued, tried and determined, and execution may be done therein; as if this Act
 10 had not been passed.

II. And be it enacted, That no person shall, after the passing of this Act, survey lands for hire or profit within Upper
 Canada or Lower Canada, or act in any way
 15 as a Land Surveyor within either portion of this Province, for hire or profit, unless he shall be duly authorized to practise as a Land Surveyor according to the provisions of this Act, or shall have been so authorized
 20 before the passing thereof, according to the laws then in force, under a penalty of pounds currency for each offence, to be recovered by any person who shall sue for the same in any Court having
 25 civil jurisdiction to the amount of such penalty, one moiety whereof shall belong to Her Majesty and make part of the Consolidated Revenue Fund of this Province, and the other moiety shall belong to the person suing
 30 for the penalty.

Penalty of persons practising as Surveyors without being duly licensed.

III. And be it enacted, That from and after the passing of this Act, no person shall be admitted to practise as a Land Surveyor in and for Upper Canada or Lower Canada;
 35 until he shall have attained the full age of twenty-one years, nor unless he shall have gone through a course of Geometry, including at least the first six books of Euclid, and of plane Trigonometry, Mensuration of Sur-
 40 perfcies, Plotting and Map Drawing, and be well versed therein, and shall also be sufficiently conversant with Spherical Trigonometry and Astronomy to enable him to ascertain the latitude, and to draw a meridian line,

Qualification of persons applying to be licensed as Surveyors.

Period of service or apprenticeship.

Proviso as to persons already admitted in one part of the Province and wishing to practise in the other.

Proviso as to persons admitted to practise in other parts of H. M. dominions.

Proviso as to persons apprenticed before the passing of this Act.

and shall have served regularly and faithfully, for and during the space of three successive years, under an instrument in writing duly executed before two witnesses, or in Lower Canada under a Notarial *Acte*, as Apprentice to a Land Surveyor for Upper Canada or Lower Canada, duly admitted and practising therein as such, nor until he shall have received from the said Land Surveyor a certificate of his having so served during the said period : Provided nevertheless, that any person who shall have been admitted to practise as a Land Surveyor in Lower Canada shall not, in order to be admitted to practise in Upper Canada, be holden to serve under an instrument in writing during three years as aforesaid in Upper Canada, but only during six months of actual practise in the field with a Land Surveyor duly admitted and practising in Upper Canada, after which he may undergo the examination by this Act prescribed, on complying with all the other requirements thereof, and the like rule shall apply to persons admitted to practise in Upper Canada who shall wish to practise in Lower Canada ; Provided also, that any Land Surveyor duly admitted to practise in any of Her Majesty's Dominions other than this Province, shall not be holden to serve under an instrument in writing during three years as aforesaid, but only during twelve successive months of actual practice, after which he may undergo the examination by this Act prescribed, on conforming with all the other requirements thereof ; And provided also, that any person who shall, before the passing of this Act, have been *bonâ fide* an Apprentice under some agreement in writing, to a Land Surveyor duly admitted and practising in and for Upper Canada or Lower Canada, and shall have served regularly and faithfully as such, shall be entitled to reckon the time he shall have so served as part of the three years during which, under this Act, he ought to serve before he can be admitted as a Land

Surveyor, provided such person shall, within three months after the passing of this Act, become regularly articulated by an instrument in writing as aforesaid to some Land Surveyor, 5 duly admitted and practising in and for Upper Canada or Lower Canada, and shall afterwards complete the remainder of the said period of three years, according to the requirements of this Act; And provided also, that the fact of 10 his having so served before the passing of this Act, shall be proved on oath, by himself, and by other evidence to the satisfaction of the Board of Examiners, any one of whom is hereby empowered to put the requisite ques- 15 tions, and to administer the requisite Oath or Affidavit, which shall be signed by the person making the same, and shall remain with the said Board: Provided also, that if any Surveyor shall die or leave the Pro- 20 vince, or be suspended or dismissed as hereinafter provided, his Apprentice may complete his term of apprenticeship, under an instrument in writing as aforesaid, with any other Surveyor duly admitted: Provided 25 also, that it shall be lawful for any Surveyor to transfer, by an instrument in writing as aforesaid, his Apprentice, with his consent, to any other Surveyor duly admitted, with whom he shall serve the remainder of the 30 term of his apprenticeship.

Proviso: proof of service required.

Proviso as to death of the Master, &c.

Proviso as to transfer of indentures.

IV. And be it enacted, That before any person shall be admitted to practise as a Land Surveyor in Upper Canada or for Lower Canada, he shall be publicly examined 35 with respect to his ability, and the sufficiency of his instruments, by a Board of Examiners composed of the Commissioner of Crown Lands, and six other competent persons to be appointed from time to time by the Go- 40 vernor, Lieutenant Governor, or Person administering the Government of this Province for the time being, and who shall take an Oath of Office, and any three of such seven Examiners shall form a *quorum*; and the 45 said Examiners, if satisfied of his ability as

Candidates for admission as Surveyors to undergo examination before a Board to be appointed for that purpose.

hereinbefore provided, and of his having complied with all the requirements of this Act, and of the sufficiency of his surveying instruments, shall give him a Certificate thereof, and of his being admitted as a Land Surveyor, in the form of the Schedule A. to this Act; and such Certificate shall, on his complying with the other requirements of this Act, enable him to practise as a Land Surveyor in and for Upper Canada or in and for Lower Canada as the case may be: Provided always, that it shall be the duty of the said Examiners to cause all persons applying for admission to practise as such Land Surveyors, to produce satisfactory Certificates as to character for probity and sobriety, and to perform such practical operations in their presence as they shall require, previous to their giving him their Certificate, and to answer such questions on oath, (which oath any one of the Examiners may administer) with regard to the actual practice of such applicant in the field and with regard to his instruments.

Proviso: Candidates to produce Certificates of character. They may be questioned upon oath.

Board may appoint a Secretary: his duties.

V. And be it enacted, That the said Board, or a majority thereof, shall and may appoint from time to time a fit and proper person to be Secretary of the Board, who shall attend the sittings thereof, and keep a record of its proceedings, of which he shall have the custody.

Meetings of the Board.

VI. And be it enacted, That the said Board shall meet at the Office of the Commissioner of Crown Lands, on the first Monday in each of the months of January, April, July and October, in every year, unless such Monday be a Holiday, (in which case they shall meet on the day next thereafter not being such Holiday,) and may adjourn such meeting from time to time if they shall deem it necessary.

Power to adjourn.

Candidates to give notice to the Secretary.

VII. And be it enacted, That every person desiring to be examined by the Board

as to his qualification to be admitted as a Land Surveyor, shall give due notice thereof in writing to the Secretary of the said Board, at least one week previous to the meeting thereof, and shall then pay, to the Secretary as his fee for receiving and entering such notice; and each applicant obtaining a Certificate, shall pay to the said Secretary as his fee upon the Certificate.

Fee on receiving certificate.

VIII. And be it enacted, That each applicant receiving a Certificate as aforesaid, shall pay to the Secretary a sum of currency for the same, out of which said sum the expenses attending the examination of such applicant (if any) shall first be paid, and the remainder shall be divided equally among such Members of the Board, as shall have attended the examination of such applicant, and shall not be salaried officers of the Government.

Contribution towards the expenses of the Board.

IX. And be it enacted, That each applicant after receiving the above mentioned Certificate, shall enter into a bond jointly and severally with two sufficient sureties to the satisfaction of the said Board of Examiners, in the sum of two hundred and fifty pounds currency, to Her Majesty, Her Heirs and Successors, conditioned for the due and faithful performance of the duties of his office, and shall take and subscribe the oath of allegiance, and the following oath, before the Board of Examiners who are hereby empowered to administer the same:

Candidates admitted to give security, £250.

And take the oath of allegiance and of office.

"I, A. B. do solemnly swear (or affirm, as the case may be) that I will faithfully discharge the duties of a Land Surveyor, agreeably to law, without favour, affection or partiality: So help me God."

The oath of office.

And the said oaths shall be deposited in the Office of the Commissioner of Crown

Deposit of oaths.

Lands, and the said bond shall be deposited and kept in the manner by law prescribed with regard to the bonds given for like purposes by other public officers, and shall enure to the benefit of any party sustaining damage by breach of the condition thereof. 5

Board may suspend or remove a Surveyor.

X. And be it enacted, That it shall be lawful for the Board of Examiners to suspend or dismiss any Land Surveyor from the practice of his profession, as they shall in their discretion deem proper, whom they shall find guilty of gross negligence or corruption in the execution of the duties of his office: Provided nevertheless, that the Board shall not suspend or dismiss such Land Surveyor, without having previously summoned him to appear in order to be heard on his defence, not without having heard the evidence, which shall have been offered either in support of the complaint or in behalf of the Surveyor inculpated. 10 15 20

Proviso: the party accused to be summoned and heard.

Chain-bearers to be sworn.

XI. And be it enacted, That each and every chain-bearer, whether acting in Upper or in Lower Canada, shall, before he commences his chaining or measuring, take an oath or affirm, to act as such justly and exactly according to the best of his judgment and abilities, and to render a true account of his chaining or measuring to the Surveyor by whom he may have been appointed to such duty, and that he is absolutely disinterested in the survey in question, and is not related or allied to any of the parties interested in the survey within the fourth degree, according to the computation of the civil law, that is to say, within the degree of Cousin German which oath the Surveyor employing such chain-bearer is hereby authorized and required to administer; nor shall any person related or allied to any of the parties within the said degree, be employed as a chain-bearer on any survey. 25 30 35 40

Not to be related to the parties.

XII. And be it enacted, That the Commissioner of Crown Lands shall procure a Standard of English Measure of length, and a Standard of the old French Measure of length, compared with and corrected by the Standards for such Measures established in this Province, which shall remain in his office for the purpose of comparing therewith the Standards to be kept by each Surveyor as hereinafter provided.

Standard measures to be kept by the Commissioner of Crown Lands.

XIII. And be it enacted, That each and every Land Surveyor duly admitted, and practising, or who shall be hereafter admitted for Upper or Lower Canada, shall procure and shall cause to be examined, corrected and stamped or otherwise certified, by the Commissioner of Crown Lands or some one by him deputed for that purpose, a Standard Measure of length, under the penalty of the forfeiture of his Licence or Certificate, and shall, previously to proceeding on any survey, verify the length of his chains and other instruments for measuring by such standard.

Surveyors to have a Standard to check their measures by.

XIV. And be it enacted, That from and after the passing of this Act, if any person or persons shall, in any part of this Province, interrupt, molest, or hinder any Land Surveyor, while in the discharge of his duty as a Surveyor, such person or persons shall be deemed to have been guilty of a misdemeanor, and being thereof lawfully convicted in any Court of competent jurisdiction, may be punished either by fine or imprisonment, or both, in the discretion of such Court, such imprisonment not being for a period not exceeding months, and such fine not exceeding , without any prejudice to any civil remedy which such Surveyor or any other party may have against such offender or offenders, in damages by reason of such offence; and any Land Surveyor, when engaged in the performance of the duties of his profession, shall be, and he is hereby authorized and empowered to pass

Punishment of persons molesting Surveyors on duty.

Civil remedy not taken away.

Power to Surveyor to examine certain lines; doing no actual damage.

over, measure along and ascertain the bearings of any Township line, concession or range line or other governing line or side line, and for such purposes to pass over the lands of any person whomsoever, doing no actual damage to the property of such person; any law to the contrary notwithstanding.

Mode of bounding lands in Lower Canada.

XV. And be it enacted, That every such Land Surveyor who shall survey or admeasure lands in Lower Canada shall, when thereunto required by the parties, place one or more boundary marks of stone, either to mark the boundary of any property or to show the course of any line of division, of which boundary marks the length above ground shall be six inches at least, between Seigniors or between Co-Seigniors, or between two Townships, or between a Seignior and a Township, or between the waste lands of the Crown and a Seignior or Township, and at least three inches above the ground between persons holding grants in a Seignior or Township, and at least twelve inches in the ground in every case; and under such boundary marks he shall place pieces of brick, or delf, or earthenware, flag of iron, or broken glass, and in the country parts and open ground, before every boundary mark a post of squared timber.

Certain substances to be put under boundary marks.

Procès Verbaux to be made by Surveyors in Lower Canada, and their form and contents.

XVI. And be it enacted, That each and every such Land Surveyor who shall hereafter be employed in any survey in Lower Canada shall, as soon as his operations shall be finished, if he have placed any boundary mark, or if thereunto required by any party employing him, or by the Court under whose order he shall act, draw up a *Procès Verbal*, in which he shall on pain of nullity and under the penalty imposed for any contravention of this Act, insert the date of the said *Procès Verbal*, and shall mention by the order of what Court or at whose desire and at what time or times he shall have operated, the residence of the parties and their additions,

and his own name and residence: And in such *Procès Verbal* the Surveyor shall, under the penalty last aforesaid, faithfully detail what he shall have done, according to the nature of the survey required of him, stating whether any and what title deeds were produced to him, according to which he may have guided his operations,—what is the form and the area of ground which he has surveyed,—what chainings he has performed, and what lines he has drawn, gone over or verified,—what remarkable fixed objects his lines may have intersected or run close to,—the true and also the magnetical course by his instrument of any lines he shall have drawn or verified, and the day and place, when and where the variation of such instrument shall have been then last ascertained by him, and whether it was so ascertained by the public meridian lines or marks hereinafter mentioned, (if any such lines or marks are established) or by direct astronomical observation; he shall also state what he has put under any boundary marks he may have placed, their respective distances from each other, (when there are several,) and their distance from any remarkable and fixed object: And the said Land Surveyor shall, on pain of nullity, and of the penalty last aforesaid, cause such *Procès Verbal* to be signed by the parties if they be present and able and willing to sign, and if they or any of them be not present or be unable or unwilling to sign, mention shall be made of the fact; and any party assenting to the *Procès Verbal*, but unable to sign, shall make his mark; and such *Procès Verbal* shall be signed by the Land Surveyor and by two witnesses, the said *Procès Verbal* being first read aloud in the presence of all the persons signing the same, all which facts shall be mentioned in the *Procès Verbal*, on pain of nullity and under the penalty last aforesaid, and he shall preserve the same as a minute, of which he shall give copies to the parties concerned; and he shall not enter any interline-

Further particulars in such *Procès Verbaux*.

Procès Verbal to be signed, &c.

No erasure or

interlineation
allowed.

ations nor make any erasure in his minutes, nor in the copies thereof, but shall mention the number of words struck out, and also the number of marginal references in each of his minutes, or copies of *Procès Verbaux*, which 5 references shall, in the minute, be signed with the initials of the parties, witnesses and Land Surveyor, or of such of them as can sign, and in any copy by the initials of the Land Surveyor, otherwise they shall be null 10 and void.

Recital of
doubts as to
certain *Procès
Verbaux*.

L. C. 2, W. 4,
c. 21.

Informal *Pro-
cès Verbaux*
confirmed in
certain cases.

XVII. And whereas from various causes, and more especially since the expiration of the Act of the Legislature of Lower Canada, passed in the second year of the Reign of 15 His Majesty King William the Fourth, and intituled, "*An Act to repeal an Ordinance therein mentioned, and to provide more ample regulations respecting Land Surveyors, and the Admeasurement of Lands,*" and the 20 consequent revival of the Ordinance hereby and by the said Act repealed, many *Procès Verbaux* of Survey have been drawn up in a manner substantially correct, but not in the precise form required by the said Ordinance, 25 and doubts might arise as to the validity of such *Procès Verbaux*, and law-suits and vexatious proceedings might grow out of the same: For remedy thereof, Be it enacted, That all now existing *Procès Verbaux* of Sur- 30 vey in Lower Canada signed or assented to by the parties interested, or made under the order of any Court and accepted and confirmed by such Court, and every other such *Procès Verbal* of Survey made before or within three 35 months after the passing of this Act, which shall substantially contain such particulars as may be requisite for the full understanding of the Survey or operation to which it relates, and of the doings of the Surveyor and the intention 40 of the parties interested with regard to the same, shall be held to be authentic and valid, and shall have effect according to the tenor thereof, whatever be the form in which the same may have been drawn up. 45

XVIII. And whereas it hath also happened that boundary stones and other boundary marks have been placed by Surveyors, which have not the dimensions, or are not of the materials, or are not accompanied by marks prescribed by the said Ordinance, and law-suits and difficulties might arise in consequence: For remedy thereof, Be it enacted, That every such boundary mark in Lower Canada placed by a Surveyor before or within three months after the passing of this Act, and referred to in his *Procès Verbal*, shall be held to be effective and valid, if its place can be ascertained from such *Procès Verbal*, whatever be the form, dimensions or material thereof: Provided always, that nothing contained in this Section or in that next preceding it, shall be construed to render valid or effective any *Procès Verbal*, or boundary made or placed more than three months after the passing of this Act, and with regard to which the absolute requirements of this Act on pain of nullity, shall not have been complied with, but such *Procès Verbal* or boundary shall be null and void and of no effect, except only that in places where stones of the proper size cannot be procured, (which fact shall appear by the *Procès Verbal*,) boundary marks of wood or other material may be used, and they shall have the same effect as the boundary marks of stone mentioned in this Act.

Recital of doubts as to certain boundaries.

Boundaries confirmed in certain cases.

Proviso as to future cases.

XIX. Provided always, and be it enacted, That the Cities, Towns and places in Lower Canada where, from local circumstances, boundary stones or marks cannot be placed, the Surveyor shall in his *Procès Verbal* mention the fact, and shall fix the boundaries and describe his operations, by referring to Streets, neighbouring properties and other fixed objects, so as to enable any other Surveyor from such *Procès Verbal*, to repeat the operations, and ascertain the boundaries, points, lines and other particulars therein mentioned:

Provis.on as to boundaries in Cities and Towns in L. C.

Governor may
if he thinks it
necessary have
meridian lines
drawn.

XX. And be it enacted, That the Governor of this Province may, if he shall at any time deem it expedient, direct a meridian line to be properly drawn and marked, or the bearings between certain fixed points and objects to be so ascertained as to enable a Surveyor thereby to ascertain the variation of his instrument from the meridian, in or near the Cities of Quebec and Montreal, and the Town of Three Rivers, and the Towns of Sherbrooke and New Carlisle, by some Land Surveyor whom the Governor may appoint, and by which the Land Surveyors operating in such Districts, may verify their instruments when necessary. 5 10 15

Measures for
land in Lower
Canada fixed.

XXI. And be it enacted, That the measure for Land in Lower Canada shall be the same as it was before the Year of Our Lord one thousand seven hundred and sixty, in all grants of Seigniories, and in the concessions which have therein been made up to the present time, but in the Townships of Lower Canada the measure for Land shall be English measure. 20

Penalty for
putting improper
substances
under bounda-
ries in L. C.

XXII. And be it enacted, That every Land Surveyor who shall, in Lower Canada, after the expiration of three months from the passing of this Act, put as evidence or indications of his boundary marks, any other matter than is ordered by the section of this Act, shall for each such offence incur a penalty of 25 30

Surveyors in
L. C. to keep
the *Procès*
Verbaux in
proper order.

XXIII. And be it enacted, that each Land Surveyor practising in Lower Canada shall collect and place in regular and due order, all and every the minutes of *Procès Verbaux*, that may have been, or may be drawn up by him, in the order of time in which such *Procès Verbaux* may have been drawn up; and shall collate and put up minutes of his *Procès Verbaux* of every year in separate bundles, folded and covered with strong paper in the manner of a register, on the 35 40

back of which shall be endorsed the general contents of each bundle, and he shall make an exact index thereto.

XXIV. And be it enacted, That when
 5 any Land Surveyor practising in Lower Canada shall die, his registers, minutes, plans and other papers relative to his professional acts, and signed by him, shall be holden to be public records of the Court of
 10 Queen's Bench within the jurisdiction of which he may have acted as a Land Surveyor, and shall be deposited in the office of the said Court, for the benefit of all persons therein concerned; who shall have free
 15 access thereto; and the Clerk or Clerks of the said Court shall deliver copies thereof to such persons as may require them, upon their paying the usual and legal fees; and the widow, or if there be no widow, the
 20 heirs of such Land Surveyor so deceased, and whose registers, minutes, plans and other papers shall so have been deposited, shall be entitled to an annual correct account of the fees received by the said Clerk or
 25 Clerks, for the copies so delivered, and to receive one half thereof, for and during the space of five years from and after the day of the decease of such Land Surveyor.

As to the official papers of a surveyor in L. C. dying.

Share of the wid-w. &c. in the fees on such papers.

XXV. And whereas it is expedient to provide means for ascertaining and permanently defining and marking the angles and boundary lines of Townships or Concessions in Upper Canada: Be it therefore enacted,
 30 That stone monuments or monuments of other durable materials, shall be placed at the several corners, governing points, or offsets of every Township that hath been surveyed, or may hereafter be surveyed in Upper Canada, and also at each end of the
 40 several concession lines of such Townships; and that lines drawn in the manner herein after prescribed from the monuments so erected, or to be erected, shall be taken and considered to be the permanent boundary

Recital.

Stone monuments may be placed at certain points in Townships in Upper Canada.

lines of such Townships and Concessions, respectively.

To be placed under the direction of the Commissioner of Crown Lands.

XXVI. And be it enacted, That the monuments to be placed as above mentioned shall be so placed under the direction and order of the Commissioner of Crown Lands of this Province. 5

Boundaries ascertained as aforesaid to be deemed the true ones. U. C.

XXVII. And be it enacted, That the courses and lengths of the said boundary lines, so ascertained and established, shall on all occasions be and be taken to be the true courses and lengths of the boundary lines of the said Townships and Concessions, in Upper Canada whether the same do or do not, on actual survey, co-incide with the courses and lengths in any Letters Patent of Grant or other Instrument mentioned and expressed in respect of such boundary lines. 10 15

Punishment of persons removing or defacing land marks in U. C. or in L. C.

XXVIII. And be it enacted, That if any person or persons shall knowingly and wilfully pull down, deface, alter or remove any such monument so erected as aforesaid, in Upper Canada, such person or persons shall be adjudged guilty of felony; and if any person or persons shall knowingly and wilfully deface, alter or remove any other landmark, post, or monument placed by any Land Surveyor, to mark any limit, boundary or angle of any Township, Concession, range, lot or parcel of land, in Upper or in Lower Canada, such person or persons shall be deemed guilty of a misdemeanor, and being convicted thereof before any competent Court, shall be liable to be punished by fine or imprisonment or both, at the discretion of such Court, such fine not to exceed and such imprisonment not to be for a longer period than months, without any prejudice to any civil remedy which any party may have against such offender or offenders in damages, by reason of such offence; Provided that nothing herein contained shall 20 25 30 35 40

Proviso.

extend to prevent Land Surveyors, in their operations, from taking up posts or other boundary marks when necessary, after which they shall carefully replace them as they were before.

XXIX. And be it enacted, That it shall not be necessary for the Commissioner of Crown Lands to proceed to carry the provisions of the

10 Sections of this Act into execution, until an application for that purpose shall have been made to the Governor by the District Council of the District in Upper Canada, in which the Township or Town-

15 ships interested may be situate, who shall cause the sum requisite to defray the expenses to be incurred, or the proportion thereof payable by the inhabitants of any Township or Concession, to be levied on the

20 said inhabitants, in the same manner as any sum required for any other local purpose authorized by law may be levied.

Monuments not to be placed except on the application of the Municipal Council. U.C.

XXX. And whereas in several of the Townships in Upper Canada, some of the

25 Concession lines, or parts of the Concession lines, have not been run in the original survey performed under competent authority, and the surveys of some Concession lines or parts of Concession lines have been

30 obliterated, and owing to the want of such lines the inhabitants of such Concessions are subject to serious inconvenience: Be it therefore enacted, That it shall be lawful for the District Council of the District in

35 which any Township in Upper Canada may be situate, on application of one half of the resident land-holders in any Concession, (or without such application if the said Council shall deem it necessary,) to make application

40 to the Governor, requesting him to cause any such line to be surveyed, and marked by permanent stone boundaries under the direction and order of the Commissioner of Crown Lands, in the manner prescribed in this Act,

Recital.

In what cases the Municipal Council may apply to have monuments placed. U.C.

Expenses to be estimated and provided for.

Effects of the operation.

Expenses to be paid to the Government.

Proviso : as to adjacent concessions,

Recital.

Boundaries placed under the authority of the Government to be deemed the true ones, &c.
U. C.

at the cost of the proprietors of the lands in each Concession or part of a Concession interested; and it shall be lawful for such District Council to cause an estimate of the sum requisite to defray the expenses to be incurred to be laid before them, in order that the same may be levied on the said proprietors, in proportion to the quantity of land held by them respectively in such Concession or part of a Concession; in the same manner as any sum required for any other purposes authorized by law may be levied; and the lines or parts of lines so surveyed and marked as aforesaid, shall thereafter be taken and considered to be the permanent boundary lines of such Concessions or parts of Concessions to all intents and purposes of law whatsoever; and all expenses incurred in performing any survey or placing any monument or boundary under the provisions of this section or of the next preceding section, shall be paid by the District Treasurer to the person or persons employed in such services, on the certificate and order of the Commissioner of Crown Lands; Provided always, that the said lines shall be so drawn as to leave each of the adjacent Concessions of a depth proportionate to that intended in the original survey, as stated in the plan and field notes thereof in the office of the Commissioner of Crown Lands.

XXXI. And whereas it is necessary to make more definite provision than is now made by law, as to the mode in which the proper courses of boundary lines shall be ascertained in certain cases in Upper Canada: Be it enacted, That in Upper Canada all boundary lines of townships, cities, towns, villages, all concession lines, governing points, and all boundary lines of concessions, sections, blocks, gores, commons and all side-lines and limits of lots surveyed, and all posts or monuments, which have been placed or planted at the front angles of any lots or parcels of land, provided the same have

been or shall be marked, placed or planted under the authority of the Executive Government of the late Province of Quebec or of Upper Canada, or under the authority of
 5 the Executive Government of this Province, shall be and the same are hereby declared to be the true and unalterable boundaries of all and every of such townships, cities, towns, villages, concessions, sections, blocks,
 10 gores, commons, and lots or parcels of land, respectively, whether the same shall upon admeasurement be found to contain the exact width or more or less than the exact width expressed in any Letters Patent,
 15 grant or other instrument in respect of such township, city, town, village, concession, section, block, gore, common, lot or parcel of land, mentioned and expressed; and such township, city, town, village, concession,
 20 section, block, gore, common, lot or parcel of land, shall embrace the whole width contained between the front posts, monuments or boundaries, planted or placed at the front angles of any such township, city, town,
 25 village, concession, section, block, gore, common, lot or parcel of land as aforesaid, so marked, placed or planted as aforesaid, and no more nor less, any quantity or measure expressed in the original grant or
 30 patent thereof notwithstanding; and every patent, grant or instrument, purporting to be for any aliquot part of such township, city, town, village, concession, section, block, gore, common, lot or parcel of land,
 35 shall be construed to be a grant of such aliquot part of the quantity the same may contain, whether such quantity be more or less than that expressed in such patent, grant or instrument; any law, usage or custom
 40 to the contrary thereof in anywise notwithstanding.

Townships,
 &c. to comprise all the space included within their boundaries.

As to aliquot parts of Township, &c.

XXXII. And be it enacted, That in every City, Town or Village in Upper Canada which has been surveyed by
 45 the authority aforesaid, all allowances for
 Road allowances in Cities, &c. to be public highways, U. C.

road or roads, street or streets, lane or lanes, common or commons, which have been laid out in the original survey of such City, Town or Village, shall be and the same are hereby declared to be public highways and commons; and all posts or monuments which have been placed or planted in the original survey of such City, Town or Village, to designate or define any allowance for road or roads, street or streets, lane or lanes, lot or lots, common or commons, shall be and the same are hereby declared to be the true and unalterable boundaries of all such roads, streets, lanes, lots and commons; and all Land Surveyors, when employed to make surveys in such City, Town or Village, are hereby required to follow and pursue the same rules and regulations in respect of such surveys as is by law required of them when employed to make surveys in Townships,

Recital.

As to lands granted in blocks and subsequently surveyed by the Grantees. U. C.

XXXIII. And whereas many Townships, tracts or blocks of land in Upper Canada were granted by the Crown to companies and individuals before any surveys were made therein, and such Townships, tracts or blocks of land were afterwards surveyed by the owners thereof: Be it therefore enacted, That all such surveys of such Townships, tracts or blocks of land in Upper Canada, shall be and the same are hereby declared to be original surveys thereof, and to have the same force and effect as though the said original surveys and plans thereof had been made by the authority aforesaid; and all allowances for roads or commons which have been surveyed in such Townships, tracts or blocks of land, and laid down on the plans thereof, shall be and the same are hereby declared to be public highways and commons; and all lines which have been run and marked in such original surveys, and all posts or monuments which have been planted or placed in such original surveys, to designate and define any allowances for road, concession or concessions, lot or lots of land, common or commons,

shall be and the same are hereby declared to be the true and unalterable lines and boundaries of all such allowances for road, common or commons, lot or lots of land, and all Land Surveyors, when employed to make surveys in such Townships, tracts or blocks of land, are hereby required to follow and pursue the same rules and regulations in respect of such Townships, tracts or blocks of land, and the original surveys thereof, as is by law required of them to follow and pursue in all Townships, tracts or blocks of land which have been surveyed by the authority aforesaid.

- 15 XXXIV. And be it enacted, That the course of the boundary line of each and every concession, on that side from which the lots are numbered, shall be and the same is hereby declared to be the course of the division or side lines throughout the several townships or concessions in Upper Canada, respectively, provided always, that such division or side lines were intended, in the original survey performed under such competent authority as aforesaid, to run parallel to the said boundary; and all Surveyors shall and are hereby required to run all division or side lines, which they may be called upon by the owner or owners of any lands to survey, so as to correspond with and be parallel to that boundary line of the concession in which such lands are situate, from whence the lots are numbered as aforesaid, provided always, as aforesaid, that such division or side lines were intended, in the original survey performed under such competent authority as aforesaid, to run parallel to the said boundary; Provided also, that when that end of a concession, from which the lots are numbered, is bounded by a lake or river, or other natural boundary, or when it has not been run in the original survey performed under such competent authority as aforesaid,

Governing
lines declared.
U. C.

Proviso.

Proviso.

Proviso.

said, or when the course of the division or side lines of the lots therein was not intended in the original survey performed as aforesaid, to run parallel to such boundary, the said division or side lines shall run parallel to the boundary line at the other extremity of such concession, provided their course was intended, in the original survey performed as aforesaid, to be parallel thereto, and that such boundary line was run in the original survey; Provided further, that when in the original survey, performed under such competent authority as aforesaid, the course of the division or side lines in any concession was not intended to be parallel to the boundary line at either end of such concession, they shall be run at such angle with the course of the boundary line at that end of the said concession from which the lots are numbered, as is stated in the plan and field notes of the original survey, of record in the office of the Commissioner of Crown Lands of this Province, provided such line was run in the original survey as aforesaid, or with the course of the boundary line at the other extremity of the said concession, if the boundary at that end of the concession from which the lots are numbered was not run in the original survey as aforesaid; or if neither of the aforesaid boundaries of the concession were run in the original survey, or if it be bounded at each end by a lake or river or other natural boundary, then at such angle with the course of the line in front of the said concession, as is stated in the plan and field notes as aforesaid; Provided nevertheless, that if any division or side line between lots, or proof line intended to be parallel to the division or side lines between lots, shall have been drawn in any such concession in the original survey thereof, the division or side lines between the lots therein shall be drawn parallel to such division or side line or proof line; and when two or

Proviso.

Proviso.

more such division or side lines or proof lines have been drawn in the original survey; of such concession, that division or side line or proof line which is nearest to the boundary of the concession from which the lots are numbered shall govern the course of the division or side lines of all the lots in such concession between the boundary of the concession from which the lots are numbered to the next division or side line or proof line drawn in the original survey, which shall govern the course of the division or side lines of all the lots up to the next division or side line or proof line drawn in the original survey or to the boundary of the concession towards which the lots are numbered as the case may be: **Provido.** Further, that in all those townships in Upper Canada, which in the original survey have been divided into sections, agreeably to an Order in Council bearing date the twenty-seventh day of March, one thousand eight hundred and twenty-nine, the division or side lines in all concessions in any section shall be governed by the boundary lines of such section, in like manner as the division or side lines in townships originally surveyed before the said day are governed by the boundary lines of the concession in which the lots are situate.

XXXV. And be it enacted, That the front of each concession in any Township in Upper Canada, where only a single row of posts has been planted on the concession lines, and the lands have been described in whole lots, shall be considered to be, and the same is hereby declared to be, that end or boundary of such concession which is nearest to the boundary of the township from which the several concessions thereof are numbered: Provided always, that in those Townships in Upper Canada which are bounded in front by a river where no posts or other boundaries were planted in the original survey to regulate the width

What shall be deemed the front of a concession in certain cases.
U. C.

in front of the lots in the broken front concessions the division or side lines of the lots in such broken front concessions shall be drawn from the posts or other boundaries on the concession line in rear thereof, parallel 5 to the governing line determined as aforesaid to the river or lake in front.

Fronts of concessions in certain other cases; depths of lots, &c. U. C.

XXXVI. And be it enacted, That in those Townships in Upper Canada in which the concessions have been surveyed with double 10 fronts, that is, with posts or monuments planted on both sides of the allowances for roads between the concessions, and the lands shall have been described in half lots, the division or side lines shall be drawn 15 from the posts at both ends to the centre of the concession, and each end of such concession shall be and the same is hereby declared to be the front of its respective half of such concession, and that a straight 20 line joining the extremities of the division or side lines of any half lot in such concession, drawn as aforesaid, shall be the true boundary of that end of the half lot which has not been bounded in the original survey. 25

As to concessions in cases where alternate concession lines only have been run. U. C.

XXXVII. And be it enacted, That in those Townships in Upper Canada in which each alternate concession line only has been run 30 in the original survey, but with double fronts as aforesaid, the division or side lines shall 35 be drawn from the posts or monuments on each side of such alternate concession lines to the depth of a concession, that is to the centre of the space contained between such alternate concession lines, if the concessions 40 were intended in the original survey to be of an equal depth, or if they were not so intended, to the proportionate depth intended in the original survey, as shewn on the plan and field notes thereof of record in the office 45 of the Commissioner of Crown Lands of this Province; and each alternate concession line as aforesaid shall be and the same is hereby declared to be the front of each of the two concessions abutting thereon.

XXXVIII. And be it enacted, That every Land Surveyor, when and as often as he is employed in Upper Canada to run any division line or side line between lots, or any line required to run parallel to any division line or side line in the concession in which the land to be surveyed lies, shall, if it has not been done before, or if it has been done, but the course cannot at such time be ascertained, determine by astronomical observation, the true course of a straight line between the front and rear ends of the governing boundary line of the concession or section, and shall run such division line or side line as aforesaid, truly parallel to such straight line, if so intended in the original survey, or at such angle therewith as is stated in the plan and field notes as aforesaid, which shall be deemed to be the true course of the said governing or boundary line for all the purposes of this Act, although such governing or boundary line as marked in the field be curved or deviate otherwise from a straight course; and the same rule shall be observed, if a line is to be run at any angle with a front line or other line, which may not be straight.

Rule when a line is to be drawn parallel to a governing line, U. C.

XXXIX. And be it enacted, That in all cases when any Land Surveyor shall be employed in Upper Canada to run any side line or limit between lots, or lines between concessions, and the original post or monument from which such line should commence cannot be found, he shall in every such case, obtain the best evidence that the nature of the case will admit of, respecting such side line, post or limit: but if the same cannot be ascertained, then the Surveyor shall measure the true distance between the nearest undisputed posts, limits or monuments, and divide such distance into such number of lots or concessions as the same contained in the original survey, assigning to each a breadth or depth proportionate to that intended in such original

Case where the original post or monument cannot be found, provided for, U. C.

survey, as shewn on the plan and field notes thereof of record in the office of the Commissioner of Crown Lands of this Province; and if any portion of the line in front of the concession in which such lots are situate, or boundary of the Township in which such concessions are situate, intended in the original survey to be straight, shall be obliterated or lost, then the Surveyor shall run a straight line between the two nearest points or places where such line can be clearly and satisfactorily ascertained, and shall plant all such intermediate posts or monuments as he may be required to plant in the line so ascertained, having due respect to any allowance for a road or roads, common or commons, set out in such original survey; and the limits of each lot or concession so found shall be taken to be and are hereby declared to be, the true limits thereof; any law or usage to the contrary thereof in anywise notwithstanding.

Recital.

As, to allow-
ances for road
or streets in
Towns of Vil-
lages laid out
by private par-
ties. U. C.

XL. And whereas many Towns and Villages in Upper Canada have been surveyed and laid out by companies and individuals, and by different owners of the lands comprising the same, and lands have been sold therein according to the surveys and plans thereof; Be it therefore enacted, That all allowances for road, street or streets, common or commons, which have been surveyed in such Towns and Villages in Upper Canada, and laid down on the plans thereof, and upon which lots of land fronting on or adjoining such allowances for road, street or streets, common or commons, have been sold to purchasers, shall be and the same are hereby declared to be public highways, streets and commons; and all lines which have been run and the courses thereof given in the survey of such Towns and Villages, and laid down on the plans thereof, and all posts or monuments which have been placed or planted in the first survey of such Towns and Villages to designate or define any such allowances

for road, street or streets, lot or lots, common or commons, shall be and the same are hereby declared to be the true and unalterable lines and boundaries of all such allowances for
 5 such road, street or streets, lot or lots, common or commons, in such Towns and Villages, respectively: *Provido.* Provided always, that no lot or lots of land in such Towns and Villages shall be so laid out as to interfere
 10 with, obstruct, shut up, or compose any part of any allowance for road, common or commons, which was surveyed and reserved in the original survey of the Township or Townships wherein such Towns or Villages
 15 are or may be situate: *Provido.* Provided also, that any owner or owners of any such Towns and Villages, or the owner or owners of any original division thereof, shall have lawful right to amend or alter the first survey and
 20 plan of any such Town or Village, or any original particular division thereof, provided no lots of land have been sold fronting on or adjoining any street or streets, common or commons where such alteration is required
 25 to be made; *Provido.* Provided also, that from and after the passing of this Act, no such private survey shall be valid unless performed by a duly authorized Surveyor.

XLI. And be it enacted, That the original owner or owners of the lands forming the site of any Town or Village in Upper
 30 Canada, mentioned in the next preceding Section of this Act, or the agent or agents, heirs or other legal representatives of the
 35 original owner or owners of any such Town or Village, or any original division thereof, shall, within one year from and after the passing of this Act, make or cause to be made and deposited in the Registry Office of the
 40 County wherein such Town or Village is situate, a fair and correct plan or map of such Town or Village, or original division thereof, on a scale of not less than an inch to every four chains, and lay down thereon, or
 45 cause to be laid down thereon, all roads,

Original owners or their heirs, &c. to deposit plans of Towns, &c. Villages laid out by them, U. C.

poses as like penalties, fines and forfeitures are required to be collected and applied under and by authority of the sixth and seventh Sections of the Act passed in the eighth year 5 of Her Majesty's Reign, and intituled, "*An* 8 Vic. c. 58.
Act to declare certain Lands in Upper Canada liable to Assessment, and to oblige the owners of such Lands to make Returns thereof to the District Treasurer."

10 XLII. And be it enacted, That when-
 ever any such plan or map of any such
 Town or Village, in Upper Canada, or
 original division thereof, shall be made
 and deposited in the Registry Office of
 15 the County wherein the same shall be
 situate, it shall be the duty of the Regis-
 trar of such County to make a record of
 the same, and enter the day and year on
 which the same shall be deposited in his of-
 20 fice; and for such service the said Regis-
 trar shall be entitled to charge the same
 fees, and no more, that are by law established
 for making a record of any other document,
 which is by law required to be entered of
 25 record in such office; and such Registrar
 shall thereupon keep a separate book for
 the registering of title deeds of lands si-
 tuate in such Town or Village, in the same
 manner as is by law required for register-
 30 ing of title deeds for lands situate in Town-
 ships.

Duty of the Registrar in whose office any such plan shall be deposited. U. C.

XLIII. And for avoiding all doubt as to
 the application of the foregoing enactments
 in the cases hereinafter mentioned: Be it
 35 declared and enacted, That in all cases
 where any Letters Patent of grant, or other
 instrument, has issued for several lots or
 parcels of land in Upper Canada, in con-
 cessions adjoining each other, the side lines
 40 or limits of the lots or parcels of land
 therein mentioned and expressed, shall
 commence at the front angles of such lots
 or parcels of land respectively, and shall
 be run as hereinbefore provided, and shall

As to lands in adjoining concessions included in the same grant. U. C.

not continue on in a straight line, through several concessions, unless the side lines or limits, when run as aforesaid, shall intersect the corresponding post or monument in the front of the concession next in rear, that is to say, each such lot or parcel of land shall be surveyed and bounded according to the provisions of this Act, independently of the other lots or parcels mentioned in the same grant or instrument. 5 10

Surveyors in U. C. to keep regular journals and field notes, and furnish copies to parties interested.

XLIV. And be it enacted, That each and every Land Surveyor in Upper Canada shall keep exact and regular journals and field-notes of all his surveys, and file them in the order of time in which the said surveys have been performed, and shall give copies thereof to the parties concerned when so required, for which he shall be allowed the sum of

currency, for each copy, if the number of words therein do not exceed four hundred words, but if the number of words therein exceed four hundred, he shall be allowed additional for every hundred words therein, over and above four hundred words. 20 25

Surveyors in U. C. may administer oaths for certain purposes.

XLV. And be it enacted, That for better ascertaining the original limits of any lot, concession, range, township or tract of land in Upper Canada,, every Land Surveyor acting in that portion of this Province, shall be and he is hereby authorized and required to administer an oath or oaths to each and every person whom he may examine at any time concerning any boundary, post or monument, or any original land mark, line, limit or angle of any township, concession, range, lot or tract of land which such Surveyor may be employed to survey. 30 35

Evidence taken by Surveyors in U. C. to be re-

XLVI. And be it enacted, That all evidence to be taken by any Surveyor as aforesaid, in Upper Canada, shall be reduced to writing, and shall be read over to the 40

person giving the same and signed by such person, or if he cannot write, he shall acknowledge the same as correct before two witnesses, who shall sign the same with
 5 the Surveyor; and such evidence shall, and any document or plan prepared and sworn to as correct before a Justice of the Peace, by any Surveyor, with reference to any survey by him performed, may be
 10 fyled and kept in the Registry Office of the County in which the lands to which it relates shall be situate, subject to be produced thereafter in evidence in any Court of Law or Equity within Upper Canada; and
 15 for receiving and fyling the same, the Registrar shall be entitled to

duced to writing and signed; &c.

currency; and the expense of fyling the same shall be borne by the parties in the same manner as other expenses of the
 20 survey.

XLVII. And be it enacted, That if any person shall, in any part of this Province, wilfully swear or affirm falsely concerning any matter with regard to which an oath
 25 may be required under this Act, such person shall be deemed guilty of wilful and corrupt perjury, and being thereof convicted before any competent Court shall be liable to be punished accordingly.

Wilful false swearing under this Act to be perjury.

30 XLVIII. And be it enacted, That every contravention of, or wilful neglect to comply with, the provisions of this Act, for which no other penalty or punishment is hereby provided, shall be a misdemeanor, and punished
 35 as such in the discretion of the Court before whom the offender shall be convicted; but such punishment shall not affect the recourse of any party injured by such contravention or neglect.

Contravention of this Act not otherwise provided for to be a misdemeanor.

40 XLIX. And be it enacted, That if any action of ejectment shall be brought against any person or persons, who after any line or limit shall have been established accord-

As to cases in U. C. where from unskilful survey a party may have improved lands

afterwards
found to be-
long to his
neighbour.

ing to this Act, in Upper Canada shall be found, in consequence of unskilful survey, to have improved on lands not his, her or their own, it shall and may be lawful for the Judge of Assize before whom such action shall have 5 been tried, to direct the Jury to assess such damages for the defendant or defendants for any loss he, she or they may sustain in consequence of any improvement made before 10 the commencement of such action, and also to assess the value of the land to be recovered; and if a verdict shall be found for the plaintiff or plaintiffs, no writ of possession shall issue until such plaintiff or plain- 15 tiffs shall have tendered or paid the amount of such damages as aforesaid, or shall have offered to release the said land to the defendant, provided the said defendant should pay or tender to the plaintiff the value of 20 the land so assessed, before the fourth day of the ensuing term.

Plaintiff not to
have costs in
such cases
from the time
defendant of-
fers to give up
the lands on
receiving the
value of his
improvements,
stating the
amount. U. C.

L. And be it enacted, That from and after the passing of this Act, in all cases in which the Jury before whom any action of ejection shall be tried in Upper Canada, 25 shall assess damages for the defendant as provided in the next preceding section, for improvements made upon land not his own, in consequence of unskilful survey, and when it shall be satisfactorily made 30 to appear that the defendant does not contest the plaintiff's action for any other purpose than to obtain the value of the improvements made upon the land pre- 35 vious to the alteration and establishing of the lines according to law, it shall and may be lawful for the Judge before whom such action shall be tried, to certify such fact upon the record, and thereupon the defendant shall be entitled to the costs 40 of the defence, in the same manner as if the plaintiff had been non-suited on the trial, or a verdict rendered for the defendant; provided the defendant shall, at the time 45 of entering into the consent rule, have

Unless the
Jury shall as-
sess the im-

given notice in writing to the lessor or lessors of the plaintiff in such ejectment, or to his Attorney named on the Writ or declaration of the amount claimed for such improvements at less than the sum demanded.

5 improvements, on payment of which amount the defendant or person in possession will surrender the possession to such lessor or lessors, and that the said defendant does not intend at the trial to contest the title

10 of the lessor or lessors of the plaintiff; and if such notice shall on the trial be found not to have been given as aforesaid, or if the jury shall assess for the defendant a less amount than that claimed in the notice, or

15 shall find that the defendant has refused to surrender possession of the land claimed, after tender shall have been made of the amount claimed, then in any of such cases the Judge shall not certify, and the

20 defendant shall not be entitled to the costs of the defence, but shall pay costs to the plaintiff; any thing herein contained to the contrary notwithstanding; Provided always, that upon the trial of any such cause no

25 evidence shall be required to be produced in proof of the title of the lessor or lessors of the plaintiff.

Proviso: that no proof of Plaintiff's Lessor's title be required.

LI. And be it enacted, That the words "Governor of this Province" or "Governor" wherever they occur in this Act, shall be understood to include the Lieutenant Governor or Person administering the Government of this Province; and the words "Upper Canada" shall be understood to mean all

30 that part of the Province which formerly constituted the Province of Upper Canada; and the words "Lower Canada" shall be understood to mean all that part of this Province which formerly constituted the

35 Province of Lower Canada; and the words "Commissioner of Crown Lands" shall be understood to mean the person discharging the duties of that officer; and the words importing the singular number only shall be

40 understood to include several persons, mat-

45

Interpretation clause.

ters or things of the same kind, as well as one person, matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to or inconsistent with such construction. 5

Copy of this Act to be sent to Surveyors.

LII. And be it enacted, That a copy of this Act shall be sent to every Land Surveyor in this Province, in the same manner as the other Statutes are sent to the parties entitled to receive the same. 10

SCHEDULE A.

Form of a Certificate of admission as a Provincial Land Surveyor.

This is to certify to all whom it may concern, that A. B, of _____ in the District of _____ hath duly passed his examination before the Board of Examiners, and hath been found qualified to fill the office, and perform the duties of a Provincial Land Surveyor in and for Upper (or Lower) Canada, he having complied with all the requirements of the Law in that behalf. Wherefore the said A. B. is admitted to the said Office, and is by Law authorized to practise as a Land Surveyor in Upper (or Lower) Canada.

In witness whereof, We have signed this Certificate at _____ in the District of _____ of _____ Province of Canada, the _____ day of _____ one thousand eight hundred and _____

Signature of the President, C. D.
Signature of the Secretary, E. F.