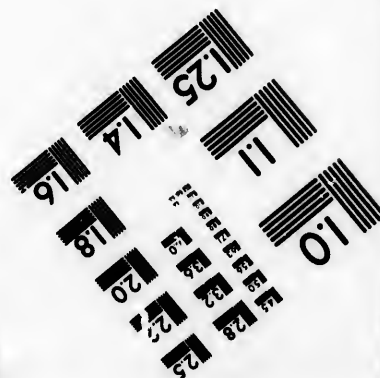
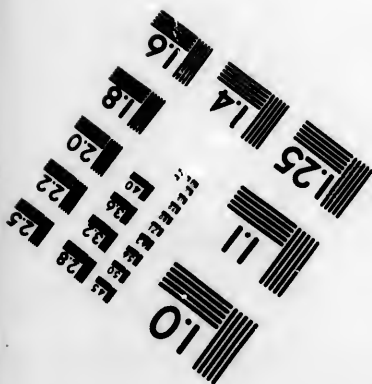
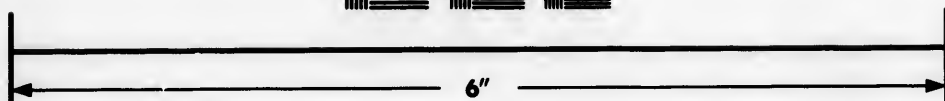
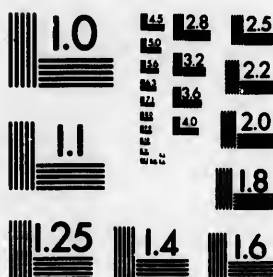


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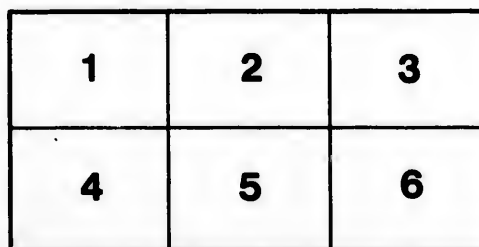
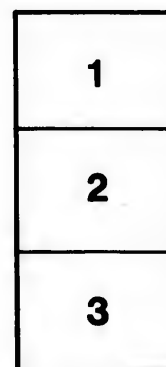
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**PROVINCIAL ACT RELATIVE
TO THE SURVEYING OF NEW,
AND TO DEFINE THE DUTIES OF THE SURVEYORS
OF HIGHWAYS OF ROADS, AND FOR OTHER PURPOSES THERE-
IN MENTIONED.**

PASSED 9th February, 1847.

WHEREAS the By-law passed by the Municipal Council of the District of Bathurst on the 16th day of November, 1844, providing for the surveying and the establishing of Roads, is defective and incomplete, and it is necessary that the same should be repealed, and new and more effectual provision made for the surveying and laying out of new Roads, or for the alterations of old ones: Be it therefore enacted by the Municipal Council of the said District of Bathurst, constituted and assembled at Perth, by virtue and under the authority of an Act passed during the first Session of the first Parliament of Canada, intituled, "An Act to provide for the better internal government of that part of this Province which formerly constituted the Province of Upper Canada, by the establishment of local or Municipal authorities therein," and also under and by virtue of another Act passed during the second Session of the second Parliament of Canada, in the 9th year of the Reign of Her Majesty Queen Victoria, chapter 40th, intituled, "An Act to amend the Laws relating to District Councils in Upper Canada," and it is hereby enacted by the authority of the same, that the said By-law relating to the surveying of Roads passed by the said Municipal Council of the said District of Bathurst on the 16th day of November 1844, be, and the same is hereby repealed.

1st. And be it enacted by the authority aforesaid, that the Road Surveyors now appointed, or hereafter to be appointed, by the said Municipal Council of the District of Bathurst, by virtue of the powers vested in the said Council, as contained in the 22d section of the Act 4th and 5th Victoria, chapter 10, and every of them, shall, before they or either of them enter on the duties of their office, take and subscribe a similar oath to that prescribed by the 2d Section of the Provincial Statute, 50th George III., chapter 1, which said oath shall be in the following words, that is to say:—

I do swear that I will faithfully and diligently discharge the duty of a Surveyor of Highways agreeably to the provisions and directions of the By-law made and passed by the Municipal Council of the District of Bathurst relating thereto, and agreeably to the provisions of an Act of the late Provincial Parliament of Upper Canada, made and passed in the fiftieth year of the Reign of His late Majesty King George the Third, intituled, "An Act to provide for the laying out, amending, and keeping in repair the public Highways and Roads in this Province, and to repeal the laws now in force for that purpose."

Which said Oath shall be taken and subscribed before any Justice of the Peace acting in and for the said District of Bathurst, and which said oath any such Justice of the Peace is hereby authorized and required to administer; and the said Surveyors of Roads shall deposit the same in the office of the District Clerk; and after having been

once sworn in this manner, they may continue to discharge their duty from year to year during their continuance in office.

2d. And be it enacted by the authority aforesaid, that if any complaint should at any time be made, by any person or persons, against any of such Road Surveyors, that any of such Road Surveyors are incompetent to the discharge of their duty, or negligent in the performance thereof, it shall and may be lawful for the said Municipal Council of the said District of Bathurst in Council assembled, to remove such Road Surveyor or Road Surveyors, and appoint some other person or persons in his or their stead.

3d. And be it enacted by the authority aforesaid, that upon application being made in writing to any such Surveyor by twelve freeholders in the said District, stating that any public Highway or Road in the neighborhood of the said freeholders, now in use, is inconvenient, and may be altered, so as better to accommodate Her Majesty's Subjects, and others travelling thereon, or that it is necessary to open a new Highway or Road for the better convenience and accommodation of such travellers, it shall and may be lawful for such Surveyor, and he is hereby required to examine the said alteration, or new line of Road, and report thereon in writing to the said Municipal Council of the said District of Bathurst, in the form hereinafter prescribed, at their next sitting after such examination, describing particularly the alteration intended to be made, or new Highway or Road to be opened, in which Report the width of the alteration of the Road, or the width of the new Road, shall be truly set forth.

4th. And be it enacted by the authority aforesaid, that no new Road, or alteration of any old one, shall be passed by the said Municipal Council, unless at least eight days previous notice in writing shall be given by the Road Surveyor who may have examined and surveyed the same, to the District Clerk of the said District, which said notice it shall be the duty of the District Clerk to lay before the said Council on the first day of their sitting next after such notice shall have been received.

5th. And be it enacted by the authority aforesaid, that it shall not be lawful for any such Road Surveyor in examining any alteration of a Road, or new line of Road required by twelve freeholders as aforesaid to be surveyed, to lay out the same so as to lead the Road through any orchard or garden, or to remove any building without the consent of the owner thereof first had and obtained.

6th. And be it enacted by the authority aforesaid, that it shall be the duty of every such Road Surveyor, and he is hereby required, to affix a notice in writing in two of the most public places adjacent to any new Road, or alteration of any old Road, he may survey, which notice shall be an exact copy of the Report which he intends to submit to the Council, and he shall also leave a notice in writing at the dwelling house of every person through whose land the Road may pass, describing the course of the said new Road, or alteration of the old one, and setting forth the time when an application will be made to the Council for the passing and the establishing thereof.

7th. And be it enacted by the authority aforesaid, that every such Road Surveyor shall carefully enter in his said Report the Requisition of the freeholders *verbatim*, and act strictly in accordance with it in making the Survey and Examination of the Road required, and shall see that it is in accordance with the Statute, according to the words of which *the Requisition* is to state "that any public Highway or Road in the neighborhood of the said freeholders now in use, is inconvenient, and may be altered, so as better to accommodate His (Her) Majesty's subjects and others travelling thereon, or that it is necessary to open a new Highway or Road."

8th. And be it enacted by the authority aforesaid, that every such Road Surveyor shall set forth in his Report an accurate description of the new Road intended to be laid out, or the proposed alteration of the old Road, giving the length and the

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courses as correctly as possible, and stating the marks by which the line of Road can be identified hereafter, on stakes or posts planted along the line of Road; which stakes or posts he is hereby required so to plant on each side thereof, at the terminus of each course, and to mark the same with distinguishing marks.

9th. And be it enacted by the authority aforesaid, that in every such Report to be submitted to the Council by any Road Surveyor, the true width of the Road shall be stated therein, and in all cases the Report shall be accompanied by a plan or diagram of such Road, on which said diagram the Road Surveyor shall mark the distance, from such new Road or alteration, of all parallel Roads, or Roads nearly parallel, whether the same shall be opened or not, and also of all other Roads in the vicinity of such new Road or alteration so required to be established, in order that the Council may judge whether a necessity exists for the establishing of the same.

10th. And be it enacted by the authority aforesaid, that no Road hereafter to be laid out shall be more than sixty-six feet, nor less than forty feet in width; nor shall any alteration of an old Road be of greater or less width than the Road from which such alteration leads.

11th. And be it enacted by the authority aforesaid, that every Report for the establishing of a new Road, or the alteration of an old one, shall be presented to the Council on the first day of their Session next after the examination and Survey of such Road has been made by such Road Surveyor, and whether there be or be not opposition thereto, the same may, during some day of such Session, be taken up for consideration, or may be referred to the Committee on Roads; and the said Council, after hearing evidence touching the said Survey, and after ascertaining that all the preliminaries required by this By-law have been duly complied with, and after making enquiry into the necessity of establishing such Survey, all of which evidence and answers to questions they may require to be on oath, which oath any Justice of the Peace acting within the District is hereby required and authorized to administer, and after hearing the statements on oath of the person or persons offering opposition, (if any there be,) may confirm the said Report, and establish such Survey as a public Highway or Road, or they may annul the same, or they may alter, amend, or modify the same as the exigency of the case may require, and establish as a public Highway or Road the line of Survey so altered, amended, or modified by them: and if the said Council should see fit to refer the consideration of the Report to the Committee on Roads, such Committee shall and may exercise all the said powers and authority hereby vested in the Council, and shall and may hear evidence on oath touching any matter relating to the said Survey, either from the said Surveyor, the applicants therefor, or the party or person making opposition: Provided always, that the decision of the said Committee shall not be final and conclusive towards the annulling or establishing of such Survey, but the said Committee shall report to the Council the result of their deliberations, for the approval or disapproval of the said Council in Council assembled.

12th. And be it enacted by the authority aforesaid, that if there should be any opposition made by any person or persons to the confirmation of any such Report submitted by any Road Surveyor, or to the establishing of such Survey as a public Highway or Road, then no such party or person making such opposition shall be heard before the Council, or before the Committee on Roads, unless he or they shall prove, either by oath or evidence in writing, that he or they has or have given at least six days' notice to the Road Surveyor who made such Survey, of his or their intention to make such opposition, in order that such Road Surveyor may have time to notify the applicants or Requisitioners for such Survey, so that they may be prepared to meet such opposition, and to sustain their application for the establishing of such Road.

13th. And be it enacted by the authority aforesaid, that whenever any new, or alteration of an old Road has been established by the Council as a public Highway or Road, for which no compensation shall be allowed to the owner of the land through which it passes, it shall and may be lawful for the said Council, in Council assembled, to direct the Pathmaster within whose division the said Road lies, to open the same, which such Pathmaster is hereby authorized and required to do.

14th. And be it enacted by the authority aforesaid, that in all cases in which claims are made for compensation for land taken for Roads established by the Council, the applicants for such compensation shall give notice to the Surveyor in the form hereinafter prescribed, of their intention to make such claim, and shall appear on the first day of the Session of the Council next after that at which the Report of the Road Surveyor shall be submitted for the consideration thereof, to support their claim, on its being reported on by the Surveyor of Highways in the form hereinafter prescribed; and in order that the Council may know who the parties are that support any application or Report so confirmed by the Council as aforesaid, the said Road Surveyors are required in their Reports, when copying the requisition for the Survey of an alteration of an old Road, or the laying out of a new one, to enter the names of the Requisitionists therein, and to give said requisitionists notice in the form hereinafter prescribed, that a compensation is claimed, so that they may also attend on the first day of the sitting of the Council next after that at which the Report of the Survey shall be submitted, to give their evidence respecting the value of the land so taken for such Road.

15th. And be it enacted by the authority aforesaid, that all claims for compensation for lands taken for Roads established by the Council, shall when lawfully reported on by the Surveyor of Highways, be, in the discretion of the Council, referred to the Committee on Roads, who, after investigating the same, shall report to the Council what sum, if any, shall be allowed to the claimant, and whether the Road is of a public or a private nature: and in case they shall find that it is of a private nature, and beneficial only to the Requisitionists or applicants therefor, no order shall issue to open the same, until the amount awarded by the Council as compensation shall be paid by the said Requisitionists or applicants to the claimant: and in case they shall find that the Road so established is of a public nature, and of general utility, then the amount so awarded by the Council as such compensation, shall be paid out of the general funds of the District and it shall be the duty of the Treasurer of the District, and he is hereby authorized and required to pay the same on the order of the Council, of which an extract shall be given, duly certified by the District Clerk: Provided always nevertheless, that the said Committee on Roads shall not proceed to estimate the value of such land so taken for any Road without having satisfactory evidence that the applicants for the said Road have had reasonable notice that such enquiry would, at such a time, take place: nor shall they proceed to an enquiry regarding such estimate of the value of the land so taken for any road unless in the presence of the claimant for compensation: and Provided also that nothing herein contained shall prevent or be construed to prevent the Requisitionists for the Survey of the said Road from tendering to the claimant such an amount of money for compensation as they may agree upon as being the value of such land so taken for the said Road: and Provided also, that in case the claimant should be dissatisfied with the sum awarded him by the Council as such compensation he may apply to the said Council at the next ensuing sitting thereof for a reconsideration of the case, which reconsideration, if granted, shall then be final.

16th. And be it enacted by the authority aforesaid, that no petition for compensation for land taken for a Road shall be acted on unless it be presented at farthest at the Session of the Council next after that at which the Road was passed and established,

for the land of which compensation is claimed.

17th. And be it enacted by the authority aforesaid, that should the owner of the land through which any alteration of a Road passes be willing to accept of the old road as a Compensation, it shall and may be lawful for the said Surveyor to give him a conveyance of the same, under his hand and seal: Provided always, that the said old Road may have become unnecessary, and that the Council shall have condemned the same.

18th. And be it enacted by the authority aforesaid, that with respect to the sale of land through which any old Road may have passed, and which may have become unnecessary, and which may have been condemned by the Council accordingly, and for the other duties connected with the office of Road Surveyor reference must be had to Provincial Statute, 50th Geo. 3rd, chapter 1st, herein before quoted, and to the Act 4th Geo. 4th, chapter 10th.

19th. And be it enacted by the authority aforesaid, that all claims for expenses and for surveys of Roads to be made by any Road Surveyor shall be referred to the Committee on Roads, who shall report to the Council thereon; and whether such claim should be paid out of the general funds of the District, or by the applicants for the Survey, and no Surveyor shall receive any allowance from the Council for his expenses of Survey or attendance at the sitting of the Council, unless his Report shall be made at the time herein before mentioned, nor unless his conduct shall have been conformable to law, nor unless his Report shall be made in the form following, that is to say:—

District of } To the Municipal Council of said District, in Council assembled—
Bathurst. }

I, one of the Surveyors of Highways in and for the said District of Bathurst, beg leave to Report: That on application in writing made to me by twelve freeholders of the said District of Bathurst, bearing date the day of

in the year one thousand eight hundred and , setting forth as follows; (here insert the Requisition verbatim with the names of the freeholders) I proceeded to examine the same, which I have surveyed and laid out as follows, that is to say, (here insert the description of the Road as surveyed,) and I have made the said Road feet in width, and have planted stakes or posts in the open ground at the termination or change of each course thereof: I have further to Report that I have given due public notice of this Survey according to the requirements of law, and of the By-law of the Municipal Council of the said District of Bathurst, by affixing an exact copy of this Report in of the most public places next adjacent to the place where the aforesaid Survey has been made; and I have likewise left at the house of every person through whose land the said Road passes, a notice containing a description of the course of the aforesaid Survey.

Dated at this day of in the year one thousand eight hundred and

A. B.

Surveyor of Highways, Bathurst District.

Provided always nevertheless, that the refusal on the part of the Council to pay such claim to the Surveyor so made by him, shall not preclude him from receiving the same from the requisitionists for the said Survey.

20th. And be it enacted by the authority aforesaid, that the following forms shall be used in all surveys and claims for compensation for land taken for Roads; that is to say:—

NOTICE OF OPPOSITION TO THE SURVEY.

To Mr. **Surveyor of Highways.**

Take notice that I oppose the Survey of the Road made by you over my land, being lot (or part of lot, as the case may be,) No. in the Concession of the township of and that I shall appear before the District Council at its next meeting, for the purpose of making such opposition.

Dated at this day of 184

C. D.

NOTICE TO REQUISITIONISTS OF OPPOSITION TO SURVEY.

To Take notice that Mr. has this day given me notice that he intends to oppose the Survey of the Road made on your application to me, over his land, being lot (or part of lot, as the case may be,) No. in the Concession of the township of and that he will appear before the District Council at its next meeting for the purpose of making such opposition.

Dated this day of 184

A. B.

Surveyor of Highways, Bathurst District.

NOTICE OF COMPENSATION CLAIMED.

To Mr. **Surveyor of Highways.**

Take notice that I shall apply to the District Council at its next meeting for compensation for the ground taken for the Road laid out by you over my land, being lot (or part of lot, as the case may be,) No. in the Concession of the township of and that I claim the sum of £ for the land taken for said Road, of which you are required to give notice to the Requisitionists and report this my claim to the said Council at its said meeting.

Dated this day of 184

C. D.

NOTICE TO REQUISITIONISTS OF CLAIM FOR COMPENSATION HAVING BEEN MADE.

To Take notice that Mr. has this day given me notice that he intends to apply at the next meeting of the District Council for compensation for the ground taken for the Road laid out by me on your requisition over his land, being lot, (or part of lot, as the case may be,) No. in the Concession of the township of a copy of which notice is hereunto annexed.

Dated this day of 184

A. B.

Surveyor of Highways, Bathurst District.

REPORT TO THE COUNCIL OF CLAIM FOR COMPENSATION.

To the **Municipal Council of the District of Bathurst, in Council assembled.**
I, one of the Surveyors of Highways in and for the District of Bathurst, beg leave to Report, that M. claims the sum of £ as compensation for the land taken for the Road surveyed by me on his lot, (or part of lot, as the case may be,) which I have reported at this Session of the Council, and which Road has been established by you: copies of the notices of compensation claimed, giv-

(7.)

en to me by the said Mr.
unto annexed.

, and of mine to the Requisitionists, are here.

Dated this day of

184

A. B.

Surveyor of Highways, District of Bathurst.

**FORM OF NOTICE TO PERSONS THROUGH WHOSE LAND A ROAD
MAY PASS.**

To C. D. Take notice that I have surveyed and laid out a line of Road to which Road passes through the (front or rear, as the case may be,) of your land in a (N.E. or S. W., as the case may be) direction, which I intend to lay before the District Council at its next sitting, so that the said line of Road may be established.

A. B.

Road Surveyor, Bathurst District.

21st. And be it enacted by the authority aforesaid, that every Surveyor of Highways for the time being shall be allowed the sum of seven shillings and six pence for every day in which he shall be necessarily employed, which sum shall be paid as as is herein before provided for by this By-law.

R. BELL,

Warden, Bathurst District.

