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No. 122

2D SESSION, 3D PARLIAMENT, 12 VICTORIA, 1849

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 Upper Canada.

Received and read first time,

Second reading,

[250 Copies.]

Honble Mr. PRICE

S Derbshire and G. Desbarats, Queen's Printer

B I L L.

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 Upper Canada.

WHEREAS the Act of the Legislature of the late Province of Upper Canada, passed in the fifty-ninth year of the Reign of His 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 of His Majesty's Reign, intituled, 'An Ordinance concerning Land Surveyors and the admeasurement of Lands,' and also to 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 boundary lines of the different Townships of this Province,' and further to regulate the manner in which Lands are hereafter to be surveyed,*" is in many cases, owing to the changes which have taken place in the method of surveying Lands, found to be inapplicable, and whereas it is expedient to consolidate and amend the permanent Acts now in force in Upper Canada respecting Land Surveyors, and the survey and admeasurement of Lands: Be it therefore enacted, &c.

Preamble.

U C 59 Geo.
3 cap. 14
cited.

And it is hereby enacted by the authority of the same, That the said Act cited in the preamble to this Act, and the Act of the said Legislature of the late Province of Upper Canada, passed in the thirty-eighth 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 the said Legislature passed in the second

The said Act
and the Acts
of U C 38
Geo 3 cap 1
2 Vic cap 17
and the Act of
Canada 4 & 5
Vic cap 9.
cited and
repealed,

year of Her Majesty's Reign, and intituled, 'An Act to extend the provisions of an Act 2
 passed in the fifty-ninth year of the Reign of 4
 His late Majesty King George the Third, 4
 intituled, 'An Act to repeal an Ordinance of 6
 the Province of Québec, passed in the 6
 twenty-fifth year of His late Majesty's Reign, 8
 intituled, 'An Ordinance concerning Land 8
 Surveyors, and the admeasurement of Lands' 8
 and also to extend the provisions of an Act 10
 passed in the thirty-eighth year of His late 10
 Majesty's Reign, intituled, 'An Act to ascer- 12
 tain and establish on a permanent footing 14
 the boundary lines of the different Townships 14
 of the Province, and further to regulate the 16
 manner in which Lands are hereafter to be 16
 surveyed, and the Act of the Legislature of 18
 this Province, passed in the Session held in 18
 the fourth and fifth years of Her Majesty's 20
 Reign, and intituled, "An Act to grant autho- 20
 rity to licensed Surveyors, in that part of this 22
 Province called Upper Canada, to administer 22
 an Oath in certain cases, and to protect them 24
 while in the discharge of their duty in Sur- 24
 veying Lands," shall be and the said Acts 26
 are hereby repealed: Provided always, 26
 that the Acts or provisions of laws repealed 28
 by those hereby repealed, or by any of them, 28
 shall not revive, but shall be and remain 30
 repealed; and provided also, that all boun- 30
 dary or division lines, legally established 32
 and ascertained, under the authority of the 32
 said Acts, or any of them, shall remain 34
 good, and all other Acts and things legally 34
 done and performed under the authority of 36
 the Acts hereby repealed, or any of them, 36
 and in conformity to the provisions thereof, 38
 shall remain good and valid notwithstand- 38
 ing such repeal; and all prosecutions and 40
 all actions or suits, at law or in equity, 40
 actually commenced before the passing of 42
 this Act, under the provisions of the said 42
 Acts or any of them, may be continued, 44
 tried and determined as if this Act had not 44
 been passed.

No person not
 duly admitted
 to practice as

II. And be it enacted, That no person 46
 shall after the passing of this Act survey

Lands for hire or profit within Upper
 2 Canada, or act in any way as a Land
 3 Surveyor within that portion of the Pro-
 4 vince, for hire or profit, unless he shall be
 5 duly authorized to practise as a Land Sur-
 6 veyor according to the provisions of this
 7 Act, or shall have been so authorized
 8 before the passing thereof according to the
 9 laws then in force, under a penalty of
 10 pounds currency, for each
 11 offence, to be recovered by any person who
 12 shall sue for the same in any Court having
 13 civil jurisdiction to the amount of such
 14 penalty, one moiety whereof shall belong
 15 to Her Majesty and make part of the conso-
 16 lidated Revenue fund of this Province, and
 17 the other moiety shall belong to the person
 18 suing for the penalty

a Surveyor in
 Upper
 Canada.

III. And be it enacted, That from and
 20 after the passing of this Act, no person shall
 21 be admitted to practise as a Land Surveyor
 22 in and for Upper Canada, until he shall
 23 have attained the full age of twenty-one
 24 years, nor unless he shall have gone through
 25 a course of Geometry, including at least
 26 the first six books of Euclid, and of plain
 27 Trigonometry, Mensuration of Superficies
 28 Plotting and Map Drawing and be well
 29 versed therein, and shall also be sufficiently
 30 conversant with Spherical Trigonometry and
 31 Astronomy to enable him to ascertain the
 32 latitude and to draw a Meridian line, and
 33 shall have served regularly and faithfully,
 34 for and during the space of three successive
 35 years, under an instrument in writing duly
 36 executed before two witnesses, as Appren-
 37 tice to a Land Surveyor for Upper Canada,
 38 duly admitted and practising therein as
 39 such, nor until he shall have received from
 40 the said Land Surveyor a Certificate of his
 41 having so served during the said period:
 42 Provided nevertheless, that any person who
 43 shall have been admitted to practise as
 44 a Land Surveyor in Lower Canada or in
 45 any of Her Majesty's Dominions other than
 46 this Province, shall not be holden to serve
 under an instrument in writing during three

Qualification
 of persons ad-
 mitted as Land
 Surveyors.

Proviso as to
 persons admit-
 ted as Survey-
 ors in other
 parts of Her
 Majesty's Do-
 minions.

Proviso as to
having served
part of time
before passing
this Act.

Proviso as to
apprentices
of Surveyors
who shall die,
&c

Surveyors may
transfer
apprentices

years as aforesaid, but only during six successive months of actual practice, after 2 which he may undergo the examination by this Act prescribed, on conforming with all 4 the other requirements thereof. And provided also, that any person who shall, 6 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 8 Canada, and shall have served regularly and faithfully as such, shall be entitled to 12 reckon the time he shall have so served as part of the three years during which, under 14 this Act, he ought to serve before he can be admitted as a Land Surveyor, 16 provided such person shall, within three months after the passing of this Act, 18 become regularly articulated by an instrument in writing to some Land Surveyor, 20 duly admitted and practising in and for Upper Canada, and shall afterwards complete the remainder of the said period of three years, according to the requirements 24 of this Act; and provided also, that the fact of his having so served before the passing of this Act, shall be proved on oath, by himself, and by other evidence to the 28 satisfaction of the Board of Examiners, any one of whom is hereby required to put 30 the requisite questions, and to administer the requisite Oath or Affidavit, which shall 32 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 Province, or be suspended or 36 dismissed as hereinafter provided, his apprenticeship may complete his term of apprenticeship, under an instrument in writing as aforesaid, with any other Surveyor duly admitted: Provided also, that it shall be lawful for any Surveyor to transfer, by an 42 instrument in writing as aforesaid, his apprentice, with his consent, to any other 44 Surveyor duly admitted, with whom he shall serve the remainder of the term of his apprenticeship. 46

IV. And be it enacted, That before any
 2 person shall be admitted to practise as a
 Land Surveyor in Upper Canada, he shall
 4 be publicly examined with respect to his
 ability, and the sufficiency of his instruments,
 6 by a Board of Examiners composed of the
 Commissioner of Crown Lands, or such
 8 person as shall then by law perform the
 duties formerly assigned to the Surveyor
 10 General for Upper Canada, and six other
 competent persons to be appointed from
 12 time to time by the Governor, Lieutenant
 Governor, or person administering the Gov-
 14 ernment of this Province, for the time being,
 and who shall take an Oath of Office, and
 16 any three of such seven Examiners shall
 form a Quorum; and the said Examiners, if
 18 satisfied of his ability as herein before pro-
 vided, and of his having complied with all
 20 the requirements of this Act, and of the suffi-
 ciency of his surveying instruments, shall
 22 give him a Certificate thereof, and of his
 being admitted as a Land Surveyor, and
 24 such Certificate shall, on his complying
 with the other requirements of this Act,
 26 enable him to practise as a Land Surveyor
 in and for Upper Canada: Provided always,
 28 that it shall be the duty of the said Exami-
 ners to cause all persons applying for ad-
 30 mission to practise as such Land Surveyors,
 to produce satisfactory Certificates as to
 32 character for probity and sobriety, and to
 perform such practical operations in their
 34 presence as they shall require, previous to
 their giving him their Certificate, and to
 36 answer such questions on Oath, (which
 Oath any one of the Examiners may ad-
 38 minister) with regard to the actual practice
 of such applicant in the field and with re-
 40 gard to his instruments.

How appli-
cants for ad-
mission as
Surveyors
shall be exam-
ined.

Board of
Examiners.

Quorum.

Certificate.

Proviso
Examiners to
require proof
of applicant's
character, &c.

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

Board to ap-
point Secre-
tary.

Time of
Meeting.

VI. And be it enacted, That the said Board shall meet at the Office of the Commissioner of Crown Lands, or of such other Officer, as shall then perform the duties formerly assigned to the Surveyor General for Upper Canada, on the first Monday in each of the Months of January, April, July and October, in every year, unless such Monday be a *Fête d'Obligation*, (in which case they shall meet on the day next thereafter not being such *Fête, d'Obligation*,) and may adjourn such Meeting from time to time if they shall deem it necessary.

Applicants for
admission to
give notice and
pay fees.

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 to Examiners (not being Government officers) on the 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.

Bond to be entered into by applicant.

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 Five hundred pounds currency, to Her Majesty, Her Heirs and Successors, conditioned for the

due and faithful performance of the duties
 2 of his Office, and shall take and subscribe
 the Oaths of allegiance, and the following
 4 Oath, before the Board of Examiners who
 are hereby empowered to administer the
 6 same :

“ I, A. B. do solemnly swear or affirm, as
 8 “ the case may be, that I will well and
 “ faithfully discharge the duties of a Land
 10 “ Surveyor, agreeably to law, without favour,
 “ affection, or partiality, when and as often
 12 “ as I may be required thereto, by any per-
 “ son or persons, or by the rule or order of any
 14 “ Court of Justice, and will faithfully and
 “ without unnecessary delay, submit to the
 16 “ party requiring the same, or the Court
 “ under whose directions, I shall act, a full
 18 “ and correct report in writing of the opera-
 “ tions I may have been required to perform,
 20 “ and also a plan of the same, if required ;
 “ So help me God.”

The oath of
Office.

22 And the said Oaths shall be deposited
 in the Office of the Surveyor General of
 24 this Province, and the said Bond shall be
 deposited and kept in the manner by law
 26 prescribed with regard to the Bonds given
 for like purposes by other Public Officers.

28 X. And be it enacted, That it shall be
 lawful for the Board of Examiners to sus-
 30 pend or dismiss any Land Surveyor from
 the practice of his profession, as they shall
 32 in their discretion deem proper, whom
 they shall find guilty of gross negligence or
 34 corruption in the execution of the duties of
 his Office: Provided nevertheless, that the
 36 Board shall not suspend or dismiss such
 Land Surveyor, without having previously
 38 summoned him to appear in order to be
 heard on his defence, and having heard the
 40 evidence, which shall have been offered
 either in support of the complaint or in
 42 behalf of the Surveyor inculpated.

Board to
suspend or dis-
miss Land
Surveyors

Proviso

XI. And be it enacted, That each and
 44 every chainbearer shall, before he commence

Chain bearers
to be sworn
and to be re-

lated to the parties

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 chainbearer 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 chainbearer on any survey.

Commission of Crown Lands to procure from England standard measure of length

XII. And be it enacted, That the Commissioner of Crown Lands, or such person as shall then by law perform the duties formerly assigned to the Surveyor General for Upper Canada, shall procure from England a Standard of English Measure of length, which shall remain in his office and shall be the Standard Measure for all Surveys and Measurements of Lands in Upper Canada

Land Surveyor to procure from Commissioner of Crown Lands standard measure of length.

XIII. And be it enacted, That each and every Land Surveyor duly admitted, or who shall be hereafter admitted for Upper Canada, shall procure from the Commissioner of Crown Lands, or such person as shall then by law perform the duties formerly assigned to the Surveyor General for Upper Canada, 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.

Punishment for molesting Surveyors in performance of their duties.

XIV. And be it enacted, That from and after the passing of this Act, if any person or persons shall, without lawful Warrant 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, for a period not exceeding 8 months, nor a fine of more than 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 over, measure along and ascertain the bearings of any township line, concession line or other governing line previously surveyed in Upper Canada, 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.

Surveyor may pass over and examine certain lines.

XV. 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, 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 several concession lines of such Townships; and that lines drawn in the manner hereinafter prescribed from the monuments so erected, or to be erected, shall be taken and considered to be the permanent boundary lines of such Townships and Concessions, respectively.

Monuments may be placed to mark the boundary lines of Townships and concessions.

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

Same to be placed under the direction of Commissioner of Crown Lands.

Lines so
determined to
be deemed
correct.

XVII. 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, whether the same do or do not, on actual survey, coincide with the courses and lengths in any Letters Patent of Grant, or other Instrument, mentioned and expressed in respect of such boundary lines.

Penalty for
removing or
defacing bound-
aries or land
marks,

XVIII. 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, 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 land mark, post, or monument placed by any Land Surveyor, to mark any limit, boundary or angle of any Township, Concession, lot or parcel of land, 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 30

On what ap-
plication Com-
missioner of
Crown Lands
shall cause
monuments to
be placed.

XIX. And be it enacted, That it shall not be necessary for the Commissioneer of Crown Lands to proceed to carry the provisions of the fifteenth, sixteenth and seventeenth 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 which the Township or Townships interested may be situate, who shall cause the sum requisite to defray the expences to be incurred, or the proportion thereof payable by the inhabitants of any Township or Concession, to be levied on the said inhabitants, in the same manner as any sum required for any other local purpose authorized by law may be levied. 46

XX. And whereas in several of the
 2 Townships in Upper Canada, some of the
 Concession lines, or parts of the Concession
 4 lines, have not been run in the original
 survey performed under competent authori-
 6 ty, and the surveys of some Concession
 lines or parts of Concession lines have been
 8 obliterated, and owing to the want of such
 lines the inhabitants of such Concessions
 10 are subject to serious inconvenience: Be
 it therefore enacted, That it shall be lawful
 12 for the District Council of the District in
 which any Township may be situate, on
 14 application of one half of the resident land-
 holders in any Concession, (or without such
 16 application if the said Council shall deem it
 necessary) to make application to the Gover-
 18 nor General, requesting him to cause any
 such line to be surveyed, and marked
 20 by permanent stone boundaries under the
 inspection and order of the Surveyor
 22 General, in the manner prescribed in this
 Act, at the cost of the proprietors of the
 24 lands in each Concession, or part of a Con-
 cession interested; and it shall be lawful
 26 for such District Council to cause an esti-
 mate of the sum requisite to defray the
 28 expenses to be incurred, to be laid before
 them, in order that the same may be levied
 30 on the said proprietors, in proportion to the
 quantity of land held by them respectively
 32 in such concession or part of a conces-
 sion, in the same manner as any sum
 34 required for any other purposes authorized
 by law may be levied; and the lines or
 36 parts of lines so surveyed and marked as
 aforesaid, shall thereafter be taken and
 38 considered to be the permanent boundary
 lines of such concessions or parts of con-
 40 cessions to all intents and purposes of law
 whatsoever; and all expenses incurred in
 42 performing any survey or placing any
 monument or boundary under the provi-
 44 sions of this section or of the next prece-
 ding section, shall be paid by the District
 46 Treasurer to the person or persons employed
 in such services, on the certificate and
 48 order of the Commissioner of Crown Lands.

How conces-
 sion lines or
 parts of conces-
 sion lines
 not run in the
 original survey
 are to be sur-
 veyed.

Such lines to
 be considered
 the permanent
 boundaries.

How expenses
 incurred under
 this and next
 section to be
 paid.

Mode in which governing lines and points in Townships shall be determined

XXI. 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 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 Upper Canada, or under the authority of 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, 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, 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, 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, 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 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,

Grants of aliquot parts how to be construed.

shall be construed to be a grant of such
 2 aliquot part of the quantity the same may
 contain, whether such quantity be more or
 4 less than that expressed in such patent,
 grant or instrument; any law, usage or
 6 custom to the contrary thereof in anywise
 notwithstanding.

8 XXII. And be it enacted, That in every
 City, Town or Village which has been
 10 surveyed by the authority aforesaid, all
 allowances for road or roads, street or
 12 streets, lane or lanes, common or commons,
 which have been laid out in the original
 14 survey of such City, Town or Village, shall
 be and the same are hereby declared to be
 16 public highways and commons; and all
 posts or monuments which have been placed
 18 or planted in the original survey of such
 City, Town or Village, to designate or define
 20 any allowance for road or roads, street or
 streets, lane or lanes, lot or lots, common or
 22 commons, shall be and the same are hereby
 declared to be the true and unalterable
 24 boundaries of all such roads, streets, lanes,
 lots and commons; and all Land Survey-
 26 ors, when employed to make surveys in such
 City, Town or Village, are hereby required
 28 to follow and pursue the same rules and
 regulations in respect of such surveys as is
 30 by law required of them when employed to
 make surveys in Townships.

In Cities, &c
 allowances for
 roads, &c.
 shall be
 deemed public
 highways, &c

Surveyors to
 be guided by
 such original
 survey

32 XXIII. And whereas many Townships, Recital.
 tracts or blocks of land were granted by
 34 the Crown to companies and individuals
 before any surveys were made therein, and
 36 such Townships, tracts, or blocks of land
 were afterwards surveyed by the owners
 38 thereof: Be it therefore enacted, That all
 such surveys of such Townships, tracts or
 40 blocks of land, shall be and the same are
 hereby declared to be original surveys there-
 42 of, and to have the same force and effect as
 though the said original surveys and plans
 44 thereof had been made by the authority
 aforesaid; and all allowances for roads or
 46 commons, which have been surveyed in such

Original sur-
 veys by pri-
 vate parties to
 have the effect
 of original sur-
 veys by autho-
 rity.

Allowances to
 be public pro-
 perty

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.

How the courses of the side lines in any concession shall be determined.

Proviso

F20V180.

XXIV. 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 or lettered, shall be, and the same is hereby declared to be, the course of the division or side lines through out 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 or lettered 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
 2 parallel to the said boundary ; Provided PROVISO.
 also, that when that end of a concession,
 4 from which the lots are numbered or let-
 tered, is bounded by a lake or river, or
 6 other natural boundary, or when it has not
 been run in the original survey performed
 8 under such competent authority as afore-
 said, or when the course of the division or
 10 side lines of the lots therein was not in-
 tended in the original survey performed as
 12 aforesaid, to run parallel to such boundary,
 the said division or side lines shall run
 14 parallel to the boundary line at the other
 extremity of such concession, provided their
 16 course was intended, in the original survey
 performed as aforesaid, to be parallel there-
 18 to, and that such boundary line was run in
 the original survey ; Provided further, that PROVISO.
 20 when in the original survey, performed un-
 der such competent authority as aforesaid,
 22 the course of the division or side lines in
 any concession was not intended to be
 24 parallel to the boundary line at either end
 of such concession, they shall be run at such
 26 angle with the course of the boundary line
 at that end of the said concession from
 28 which the lots are numbered or lettered, as
 is stated in the plan and field notes of the
 30 original survey, of record in the office of
 the Commissioner of Crown Lands of this
 32 Province, provided such line was run in the
 original survey as aforesaid, or with the
 34 course of the boundary line at the other
 extremity of the said concession, if the
 36 boundary at that end of the concession
 from which the lots are numbered or
 38 lettered was not run in the original sur-
 vey as aforesaid, or if neither of the
 40 aforesaid boundaries of the concession
 were run in the original survey, or if it be
 42 bounded at each end by a lake or river or
 other natural boundary, then at such angle
 44 with the course of the line in front of the
 said concession, as is stated in the plan and
 46 field notes as aforesaid ; Provided neverthe- PROVISO.
 less, that if any division or side line between
 48 lots, or proof line intended to be parallel

Proviso.

with 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 ; Provided 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 the same manner as the division or sides lines in townships originally surveyed before the said day are governed by the boundary lines of the concession in which the lots are situate.

Which shall be the front of a concession in certain Townships.

XXV. 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 or lettered ; Provided always, that when the line in front of any such concession has not been run in the original survey, nor in the manner hereinbefore provided, the division or side lines of the lots in such concession shall be run from the original posts or monuments placed or planted on the rear line thereof, parallel to the governing line, determined as aforesaid, to the depth of a concession, that is, to the centre of the space contained between the lines in front of the adjacent concessions, if the concessions were intended in the original survey to be of an equal depth, or if they were not so intended, then to the proportionate depth intended in the original survey as shewn on the plan and field notes thereof, of record in the

office of the Commissioner of Crown Lands of this Province, having due respect to any allowance for a road or roads made in the original survey; and that a straight line joining the extremities of the division or side lines of any lots in such concession, drawn as aforesaid, shall be the true boundary of that end of the lot which has not been run in the original survey.

Rear lines of lots

10 XXVI. And be it enacted, That in those Townships in Upper Canada, in which the 12 concessions have been surveyed with double fronts, that is, with posts or monuments 14 planted on both sides of the allowances for roads between the concessions, and the 16 lands shall have been described in half lots, the division or side lines shall be drawn 18 from the posts at both ends to the centre of the concession, and each end of such con- 20 cession shall be, and the same is hereby declared to be the front of its respective 22 half of such concession, and that a straight line joining the extremities of the division 24 or side lines of any half lot in such concession, drawn as aforesaid, shall be the true 26 boundary of that end of the half lot which has not been bounded in the original survey.

Concessions originally surveyed with double fronts.

28 XXVII. And be it enacted, That in those Townships in Upper Canada, in which 30 each alternate concession line only has been run in the original survey, but with 32 double fronts as aforesaid, the division or side lines shall be drawn from the posts or 34 monuments on each side of such alternate concession lines to the depth of a conces- 36 sion, that is, to the centre of the space contained between such alternate concession 38 lines, if the concessions were intended in the original survey, to be of an equal depth, 40 or, if they were not so intended, to the proportionate depth intended in the original 42 survey, as shewn on the plan and field notes thereof of record in the office of the Com- 44 missioner of Crown Lands of this Province; and each alternate concession line as afore- 46 said shall be, and the same is hereby de-

Townships in which the alternate concession lines only have been run

clared to be the front of each of the two concessions abutting thereon. 2

How such side lines shall be traced by the Surveyor on the proper course.

XXVIII. And be it enacted, That every Land Surveyor, when and as often as he is employed 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 angles 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. 4 6 8 10 12 14 16 18 20 22 24 26 28

How the Surveyor shall proceed when the original post or monument cannot be found.

XXIX. And be it enacted, That in all cases when any Land Surveyor shall be employed 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 pro- 30 32 34 36 38 40 42 44 46

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

24 XXX. And whereas many Towns and
 Villages in that part of this Province called
 26 Upper Canada, have been surveyed and
 laid out by companies and individuals, and
 28 by different owners of the lands compris-
 ing the same, and lands have been sold
 30 therein according to the surveys and plans
 thereof: Be it therefore enacted, That all
 32 allowances for road, street or streets, com-
 mon or commons, which have been sur-
 34 veyed in such Towns and Villages, and laid
 down on the plans thereof, and lots of land
 36 fronting or adjoining such allowances for
 road, street or streets, common or commons,
 38 have been sold to purchasers, shall be, and
 the same are hereby declared to be pu-
 40 blic highways, streets and commons, and all
 lines which have been run and the courses
 42 thereof given in the survey of such Towns
 and Villages, and laid down on the plans
 44 thereof, and all posts or monuments which
 have been placed or planted in the first sur-
 46 vey of such Towns and Villages to designate
 or define any such allowances for road,

Recitals as to
 Towns and
 Villages laid
 out by private
 parties.

Allowances in
 such surveys
 to be public
 property.

No private lot to interfere with any allowance for public use

Owner may alter plan until lots have been sold fronting any allowances where such alteration is to be made.

Original owners of Towns or Villages to furnish the Registry of the County with a correct plan thereof and within a certain time

street or streets, lot or lots, common or commons, shall be, and the same are hereby 2
 declared to be the true and unalterable lines 4
 and boundaries of all such allowances for 4
 such road, street or streets, lot or lots, com- 6
 mon or commons, in such Towns and Vil- 6
 lages, respectively: Provided always, that 8
 no lot or lots of land in such Towns and 8
 Villages shall be so laid out as to interfere 10
 with, obstruct, shut up, or compose any part 10
 of any allowance for road, common or com- 12
 mons, which was surveyed and reserved in 12
 the original survey of the Township or 14
 Townships wherein such Towns or Villages 14
 are or may be situate: Provided also, that 16
 any owner or owners of any such Towns 16
 and Villages, or the owner or owners of any 18
 original division thereof, shall have lawful 18
 right to amend or alter the first survey and 20
 plan of any such Town or Village, or any 20
 original particular division thereof, provided 22
 no lots of land have been sold fronting or 22
 adjoining any street or streets, common or 24
 commons, where such alteration is required 24
 to be made.

XXXI. And be it enacted, That the ori- 26
 ginal owner or owners of any Town or Vil- 28
 lage mentioned in the last preceding Section 28
 of this Act, or the agent or agents, heirs or 30
 other legal representatives of the original 30
 owner or owners of any such Town or Vil- 32
 lage, or any original division thereof, shall, 32
 within one year from and after the passing 34
 of this Act, make, or cause to be made and 34
 deposited in the Registry Office of the 36
 County wherein such Town or Village is 36
 situate, a fair and correct plan or map of 38
 such Town or Village, or original division 38
 thereof, and lay down thereon, or cause to be 40
 laid down thereon, all roads, streets, lots and 40
 commons within the same, with the courses 42
 and width of the roads, streets and com- 42
 mons, and the width and length of all lots, 44
 and the courses of all division lines between 44
 the respective lots within the same, together 46
 with such information as shall show the lot 46
 or lots, concession or concessions, tract or

tracts, block or blocks of land of the Town-
 2 ship wherein such Town or Village shall be
 situate, and every such plan or map of every
 4 such Town or Village or original division
 thereof shall be certified by some Land
 6 Surveyor, and also by the original owner or
 owners thereof, or the legal representative
 8 or representatives of such owner or owners,
 as being a correct plan or map of the same;
 10 and every copy of such plan or map, obtain-
 ed from such Registry Office under the Cer-
 12 tificate of the Registrar of such County,
 shall be taken as evidence of the original
 14 plan and survey of such Town or Village
 in all Courts of Record; and if any such
 16 owner or owners of any such Town or Vil-
 lage, or any original division thereof, or
 18 their agents, heirs, or other legal represent-
 atives, shall refuse or neglect to make, or
 20 cause to be made, any such plan or map of
 any such Town or Village, or original divi-
 22 sion thereof, and deposit the same in the
 Registry Office of the County wherein the
 24 same is situate, within one year from and af-
 ter the passing of this Act, he, she, or they
 26 shall forfeit and pay for such refusal or ne-
 glect, the sum of _____ and
 28 a like sum for every year thereafter until
 such plan or map shall be made and de-
 30 posited in the Registry Office of the County
 wherein the same is situate, and the pay-
 32 ment of any such penalty or penalties shall
 not be held to free or discharge such owner
 34 or owners, their agents, heirs or other legal
 representatives, from any such penalties
 36 which may not have been paid at the time
 of such payment; and all such penalties,
 38 fines and forfeitures, may and shall be col-
 lected in the same manner, and applied to
 40 the same purposes, as like penalties, fines
 and forfeitures, are required to be collected
 42 and applied under and by the authority of
 the sixth and seventh Sections of the Act
 44 passed in the eighth year of Her Majesty's
 Reign, and intituled, *An Act to declare cer-*
 46 *tain Lands in Upper Canada liable to as-*
essment, and to oblige the owners of such
 48 *lands to make Returns thereof to the Dis-*
trict Treasurer,

Plan to be cer-
tified.

Copy by
Registrar to be
evidence.

Penalty for not
furnishing
such copy.

Penalty to be
recovered and
applied under
8 Vic cap 58.
s 6 & 7.

Registrar to enter the date of the delivery of such plan to him. His fees.

Registrar shall keep a separate Book for such Towns and Villages.

Grants extending to several concessions how to be surveyed.

Surveyor to keep Journals and field notes,

XXXII. And be it enacted, That whenever any such plan or map of any such Town or Village, or original division thereof, shall be made and deposited in the Registry Office of the County wherein the same shall be situate, it shall be the duty of the Registrar 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 Office; and for such service the said Registrar shall be entitled to charge the same fees, and no more, that are by law established for making a record or any other document, which is by law required to be entered of record in such Office; and such Registrar shall thereupon keep a separate book for the registering of Title Deeds of Lands situate in such Town or Village, in the same manner as is by law required for registering of Title Deeds for Lands situate in Townships.

XXXIII. And for avoiding all doubt as to the application of the foregoing enactments in the cases hereinafter mentioned: Be it 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 concessions adjoining each other, the side lines 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 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.

XXXIV. And be it enacted, That each and every Land Surveyor in Upper Ca-

nada shall keep exact and regular journals
 2 and field-notes of all his surveys, and fyle
 them in the order of time in which the said
 4 surveys have been performed, and shall give
 copies thereof to the parties concerned
 6 when so required, for which he shall be Fees
 allowed the sum of

8 currency, for each copy, if the num-
 ber of words therein do not exceed four
 10 hundred words, but if the number of words
 therein exceed four hundred, he shall be
 12 allowed additional for every hun-
 dred words therein, over and above four
 14 hundred words.

XXXV. And be it enacted, That for
 16 better ascertaining the original limits of any
 lot, concession, township or tract of Land,
 18 every Land Surveyor for Upper Canada
 shall be and he is hereby authorized and re-
 20 quired to administer an Oath or Oaths to
 each and every person whom he may exa-
 22 mine at any time concerning any boundary,
 post, or monument, or any original land
 24 mark, line, limit, or angle of any Township,
 concession, lot or tract of land which
 26 such Surveyor may be employed to survey
 within Upper Canada

Surveyor em-
 powered to
 take evidence
 on oath con-
 cerning bound-
 aries, &c.

28 XXXVI. And be it enacted, That all evi-
 dence to be taken by any Surveyor as
 30 aforesaid, shall be reduced to writing, and
 shall be read over to the person giving
 32 the same and signed by such person;
 and such evidence shall, and any docu-
 34 ment or plan prepared and sworn to
 as correct, before a Justice of the Peace,
 36 by any Surveyor, with reference to any
 survey by him performed, may be fyled and
 38 kept in the Registry Office of the County
 in which the lands to which it relates shall
 40 be situate, subject to be produced thereafter
 in evidence in any Court of Law or Equity
 42 within Upper Canada; and for receiving
 and fyling the same, the Registrar shall be
 44 entitled to

Such evidence
 to be in writ-
 ing and regis-
 tered other
 documents
 may be regis-
 tered

currency; and the expense of fyling the
 46 same shall be borne by the parties in the

Fees

same manner as other expenses of the survey. 2

False swearing to be perjury

XXXVII. And be it enacted, That if any 4
person shall wilfully swear falsely concern- 6
ing any matter with regard to which an 6
oath may be required under this Act, such 8
person shall be deemed guilty of wilful and 8
corrupt perjury, and being thereof con- 10
victed before any competent Court shall 10
be liable to be punished accordingly.

Every neglect of the provision of this Act to be a misdemeanor, unless herein otherwise provided for

XXXVIII. And be it enacted, That every 12
contravention of, or wilful neglect to 14
comply with, the provisions of this Act, 14
for which no other penalty or punishment, 16
is hereby provided, shall be a misdemeanor, 16
and punished as such in the discretion of the 18
Court before whom the offender shall be 18
convicted, but such punishment shall not 20
affect the recourse of any party injured by 20
such contravention or neglect.

Improvements made on wrong lots through unskilful surveys, how to be allowed for in actions of ejectment

XXXIX. And be it enacted, That if any 22
action of ejectment shall be brought against 24
any person or persons, who after any line 24
or limit shall have been established accord- 26
ing to this Act, shall be found, in conse- 26
quence of unskilful survey, to have im- 28
proved on lands not his, her or their own, 28
it shall and may be lawful for the Judge of 30
Assize before whom such action shall have 30
been tried, to direct the Jury to assess such 32
damages for the defendant or defendants for 32
any loss he, she or they may sustain in con- 34
sequence of any improvement made before 34
the commencement of such action, and also 36
to assess the value of the land to be reco- 36
vered ; and if a verdict shall be found for 38
the plaintiff or plaintiffs, no writ of posses- 38
sion shall issue until such plaintiff or plain- 40
tiffs shall have tendered or paid the amount 40
of such damages as aforesaid, or shall have 42
offered to release the said land to the de- 42
fendant, provided the said defendant should 44
pay or tender to the plaintiff the value of 44
the land so assessed, before the fourth day 46
of the ensuing term.

Value of improvements to be paid for before writ of possession issues.

XL. And be it enacted, That from and
 2 after the passing of this Act, in all cases in
 which the Jury before whom any action of
 4 ejectment shall be tried, shall assess damages
 for the defendant as provided in the next
 6 preceeding section, for improvements made
 upon land not his own, in consequence of
 8 unskilful survey, and when it shall be sa-
 tisfactorily made to appear that the defend-
 10 ant does not contest the plaintiff's action
 for any other purpose than to obtain the
 12 value of the improvements made upon the
 land previous to the alteration and esta-
 14 blishing of the lines according to law; it
 shall and may be lawful for the Judge before
 16 whom such action shall be tried, to certify
 such fact upon the record, and thereupon
 18 the defendant shall be entitled to the costs
 of the defence, in the same manner as if the
 20 plaintiff had been non-suited on the trial,
 or a verdict rendered for the defendant ;
 22 Provided the defendant shall, at the time
 of entering into the consent rule, have
 24 given notice in writing to the lessor or
 lessors of the plaintiff in such ejectment,
 26 or to his Attorney named on the Writ or
 declaration of the amount claimed for such
 28 improvements on payment of which
 amount the defendant or person in posses-
 30 sion will surrender the possession to such
 lessor or lessors, and that the said defendant
 32 does not intend at the trial to contest the
 title of the lessor or lessors of the plaintiff ;
 34 and if such notice shall on the trial be found
 not to have been given as aforesaid, or if
 36 the jury shall assess for the defendant a
 less amount than that claimed in the notice,
 38 or shall find that the defendant has refused
 to surrender possession of the land claimed,
 40 after tender shall have been made of
 the amount claimed, then in any of such
 42 cases the Judge shall not certify, and the
 defendant shall not be entitled to the costs
 44 of the defence, but shall pay costs to the
 plaintiff; any thing herein contained to the
 46 contrary notwithstanding : Provided always,
 that upon the trial of any such cause no
 48 evidence shall be required to be produced

Defendant
 contesting any
 such action
 only to recover
 the value of
 his improve-
 ments, not to
 pay costs.

Proviso
 Notice of the
 purpose for
 which action is
 contested, must
 have been
 given to the
 plaintiff.

PROVISO.

in proof of the title of the lessor or lessors
of the plaintiff. 2

Interpretation
clause.

XLI. And be it enacted, That the words
“ Governor of this Province ” or “ Gover- 4
nor ” wherever they occur in this Act,
shall be understood to include the Lieu- 6
tenant Governor or person administering
the government of this Province; and 8
the words “ Upper Canada ” shall be under-
stood to mean all that part of the Province 10
which formerly constituted the Province
of Upper Canada; and the words importing 12
the singular number only shall be understood
to include several persons, matters or things 14
of the same kind, as well as one person
matter or thing, unless it be otherwise spe- 16
cially provided, or there be something in
the subject or context repugnant to, or 18
inconsistent with such construction.

Copy of this
Act to whom
to be sent.

XLII. And be it enacted, That a copy of 20
this Act shall be sent to every Land
Surveyor in Upper Canada, in the same 22
manner as the other Statutes are sent to the
parties entitled to receive the same. 24

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 26
in the District of hath
duly passed his examination before the 28
Board of Examiners, and hath been found
qualified to fill the Office, and perform the 30
duties of a Provincial Land Surveyor in
and for Upper Canada, he having complied 32
with all the requirements of the Law in
that behalf. Wherefore the said A. B. is 34
admitted to the said Office, and is by Law

authorized to practice as a Land Surveyor
in Upper Canada.

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

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