

No. 252.

1st Session, 4th Parliament, 16 Victoria, 1852.

BILL.

An Act to amend the Acts relating to Land Surveyors.

Received and read first time, Friday, 15th
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HON. MR. ROLPH.

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No. 354.

An Act to amend the Acts relating to Land Surveyors.

(See page 129 also)

WHEREAS it is expedient to amend the Act passed in the twelfth year of Her Majesty's reign, and intituled, *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*, and also the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, intituled, *An Act to amend the Act concerning Land Surveyors*, in the manner hereinafter mentioned : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the second section of the Act first cited in the preamble to this Act, and so much of the eighth section of the said Act as provides that so much of the sum therein required to be paid by each Applicant receiving a Certificate, as shall remain after paying the expenses (if any) attending the examination of such Applicant, shall be equally divided among those Members of the proper Board of Examiners who shall have attended the Examination, and shall not be salaried Officers of the Government, be and the same is hereby repealed; and that the remainder of any such sum, after paying the expenses (if any) attending the Examination, shall be paid over to the Commissioner of Crown Lands and accounted for by him in like manner with other moneys received by him, and it shall be lawful for the said Commissioner to pay to each Member of such Board attending any Examination and not being a salaried Officer of the Government, the sum of _____ for each day's attendance, and to charge the same in his account as part of the expenses of his Office.

Preamble.

12 V. c. 35.

14 & 15 V. c. 4.

Sect. 2 and part of s. 8, of 12 V. c. 35 repealed.

How the sum remaining after paying the expenses of the examination shall be dealt with, and how the Examiners shall be paid.

Penalty on persons not having licensed Surveyors who shall survey boundary lines.

II. And be it enacted, That no person shall, after the passing of this Act, survey the boundary lines of any lands for hire or profit within Upper Canada or Lower Canada, 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 before the passing thereof, according to the Laws then in force, under a penalty of *Ten pounds* currency for each offence, to be recovered by any person who shall sue for the same, in any Court having 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 for the penalty.

Surveyors, apprentices to pay a fee on transmitting their indentures to the Secretary.

III. And be it enacted, That each apprentice to a Licensed Surveyor shall pay a fee of _____ to the Secretary of the proper Board at the time of transmitting to him his Indenture or Articles, in conformity with the sixth section of this Act secondly cited in the Preamble of this Act, nor shall such instrument be deemed to have been transmitted to the Secretary until such fee shall have been paid.

Applicants to be examined before they can become apprentices to Surveyors.

IV. And be it enacted, That from and after the passing of this Act, no person shall be admitted as an apprentice with any Provincial Land Surveyor, unless he shall have previously 10 passed an examination before one of the Boards of Examiners, or before one of the Members of the said Board, or before some Surveyor deputed by the said Board for the purpose, as to his knowledge of Vulgar and Decimal Fractions, the extraction of the Square and Cube roots, of Geometry, Plane Trigonometry, 15 Mensuration of superficies, and the use of Logarithms, and shall have obtained a Certificate of such examination and of his proficiency from the Board, and that before he shall be so examined he shall pay into the Fee Fund the sum of _____ as the fee due by him on such examination, and a further sum 20 of _____ to the Secretary for the said Certificate ; and that applicants for such examination previous to apprenticeship, shall give one month's notice to the Secretary of the proper Board, of their intention to present themselves for examination, and pay to such Secretary a fee of _____ for receiving and 25 entering such notice.

Fees on examination and certificate of qualification.

Applicants for admission having served their apprenticeship before the passing of this Act, not to be rejected for mere informality, etc.

V. And be it enacted, That no applicant for admission as a Land Surveyor claiming to have served previous to the passing of this Act, during the period prescribed by the third section of the Act first cited in the preamble to this Act, shall be 30 rejected for mere informality in or technical objection to the "instrument in writing," under which he shall claim to have served, or to the date of the transmission or deposit thereof, with the Secretary of the proper Board of Examiners, if he shall prove to the satisfaction of the Board of Examiners, that 35 he has so served *bond fide*.

Allowance to Surveyors summoned as witnesses.

VI. And be it enacted, That any Surveyor who shall be summoned to attend any Court civil or criminal for the purpose of giving evidence in his professional capacity as a Surveyor, shall be allowed for each day he shall so attend, the 40 sum of _____ (in addition to his travelling expenses if any,) to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such Court.

Proceedings when a Surveyor shall require any information or document in the possession

VII. And be it enacted, That when any Surveyor shall be in doubt as to the true boundary or limit of any Township; Sei- 45 gnory, Concession, Range, Lot or Tract of Land which he may be employed to survey, and shall have reason to believe that any person is possessed of any important information touching such boundary or limit, or of any writing, plan or document tending

to establish the true position of such boundary or limit, then if such person shall not willingly appear before and be examined by such Surveyor, or shall not willingly produce to him such writing, plan or document, it shall be lawful for such Surveyor, 5 or the party employing him, to file in the office of the County Court if the Survey be in Upper Canada, or of the Circuit Court if the Survey be in Lower Canada, a *Præcipe* for a *Subpæna* or *Subpæna duces tecum*, as the case may require, accompanying such application by an affidavit or solemn declaration to be made 10 before a Justice of the Peace, of the facts on which the application is founded, and the Judge may order a *Subpæna* to issue accordingly, commanding such person to appear before the Surveyor, at a time and place to be mentioned in the said *Subpæna*, and to bring with him any writing, plan or document 15 mentioned or referred to therein, and such *Subpæna* shall be served on the person named therein, by delivering to him, or leaving for him with some grown person of his family at his residence, a copy thereof and exhibiting to him or to such grown person the original; and if the person commanded so 20 to appear by such *Subpæna*, shall, after being paid his reasonable expenses, or having the same tendered to him, refuse or neglect to appear before the Surveyor at the time and place appointed in the *Subpæna*, or to produce the writing, plan or document (if any,) therein mentioned or referred to, or to give such 25 evidence and information* as he may possess touching the boundary or limit in question, such person so summoned shall be deemed guilty of a contempt of the Court out of which the *Subpæna* shall have issued, and an Attachment may be issued against him by the Judge of the said Court, and he may 30 be punished accordingly, by fine or imprisonment, or both, in the discretion of such Judge.

VIII. And be it enacted, That whenever the Municipal Corporation of any Township, City, Town or Incorporated Village in Upper Canada shall adopt a resolution, that it is desirable to place stone or other durable monuments at the front 35 or at the rear, or at the front and rear angles of the lots in any Concession or Range or part of a Concession or Range in their Township, City, Town, or Incorporated Village, it shall and may be lawful for such Municipal Corporation to make application to the Governor, in the same manner as is provided in 40 the thirty-first section of the Act first cited in the preamble to this Act, praying him to cause a Survey of such Concession or Range or part of a Concession or Range to be made and such boundaries to be planted, under the authority of the 45 Commissioner of Crown Lands; and the person or persons making such Survey shall accordingly plant stone or other durable monuments at the front, or at the rear, or at the front and rear angles of each and every lot in the said Concession or Range or part of a Concession or Range, and the limits of each 50 lot so ascertained and marked shall be taken to be and are hereby declared to be the true limits thereof, any law or usage to the contrary notwithstanding; and the cost of the said Survey shall be defrayed in the manner prescribed by the thirty-first section of the Act first cited in the preamble to this Act

of a third party who will not voluntarily give or produce the same.

Township &c. Councils may cause the boundaries of lots in any concession, &c. to be ascertained and marked under s. 31, of 12 V. c. 35.

Expenses how paid.

Mode of drawing side lines in double front Concessions in U. C. which are not of the full depth.

IX. And whereas some of the double front Concessions in the Townships in Upper Canada, are not of the full depth, and doubts have arisen as to the manner in which the division or side lines in such Concessions should be established: Be it therefore enacted, That in such Concessions the division or 5 side lines shall be drawn from the posts at both ends thereof, to the centre of the Concession, as provided in the thirty-seventh section of the Act first cited in the preamble to this Act, without reference to the manner in which the lots or parts of lots in such Concession shall have been described for Patent. 10