

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

BILL.

An Act to establish the Boundary of
Lots in the West Gore in the Township
of Beverly.

Received and read a first time, Saturday 6th
November 1852.

Second reading, Thursday 15th February 1853.

Hon. Mr. ROLPH.

QUEBEC:

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(214)

B I L L .

An Act to establish the Boundary of Lots in the West Gore in the Township of Beverly.

WHEREAS instructions under date of 16th August, 1797, issued from the Surveyor General of the late Province of Upper Canada, to Deputy Surveyor John Stegman, directing him to make a Survey of the lines in front of the Sixth, Seventh, Eighth, Ninth and Tenth Concessions, of the Township of Beverly, and the said John Stegman did in due course make returns in the usual form by Field Notes and Maps, purporting to shew that the Survey had been fully performed, and that he had laid out the said Concessions into Lots, giving to each the intended breadth of twenty chains, and had also surveyed and marked off the West Gore of the said Township of Beverly ; And whereas from operations in Survey conducted by Deputy Surveyors Adrian Marlat, Andrew Miller, Lewis Burwell, James Kirkpatrick and Publius V. Elmore, there is reason for believing that Deputy Surveyor Stegman positively surveyed but a limited number of the Lots in those Concessions, and that the first sub-division of a large portion of those Concessions into Lots was actually effected by other Surveyors than the said John Stegman, and acting without authority from the Government ; and that their irregular and illegal Surveys, by an assumed and unauthorized power exercised by the boundary line Commissioners of the District of Gore, appointed under the Act of U. C. 1st Victoria, chap. 19, were fixed and determined as Boundary or division lines, notwithstanding that the first authorized Survey subsequently to that by Mr. Stegman was effected at a later period by Deputy Surveyor James Kirkpatrick, under instructions from the Surveyor General, dated 26th September, 1836 ; And whereas the settlers in the before named Concessions of the Township of Beverly have not entered into possession of their Lots, in accordance with the authorized public Surveys made by Deputy Surveyor James Kirkpatrick, but have been guided by the Surveys which they primarily upon their own responsibility procured to be performed, and the said Boundary Commissioners subsequently

Preamble.

1 Vic. cap 19.
Act of U. C.

recognized : And inasmuch as to disturb those Surveys, although irregularly instituted, would be productive of injurious consequences to the settlers at large ; Be it therefore enacted, &c.,

The surveyry made by James Kirkpatrick, D. S., set aside.

That the public Survey accomplished by Deputy Surveyor James Kirkpatrick, under instructions from the Surveyor General, bearing date 26th September, 1836, shall be and is by this Act set aside and declared to be null and void, except in so far as shall in this Act be otherwise provided for. 5

A Survey of lines in front of 6th and 7th Concessions by Louis Burwell so constituted the legal Survey thereof.

II. And be it enacted, That so much of the Survey of the lines in front of the Sixth and Seventh Concessions of the said Township of Beverly, as was left unfinished by Deputy Surveyor John Stegman, extending in the Sixth Concession from Lot number Five to the Western Boundary of the Square Township, and in the Seventh Concession, from number Three to the said Western Boundary, and which lines were completed under a Survey conducted by Deputy Surveyor Lewis Burwell, without the authority of Government but upon his own responsibility, in or about the year 1829, shall constitute the true and unalterable Survey of the lines of division between the various Lots in those Concessions ; and that the limit between the Lot number One in the said Sixth Concession, and the Lot F in the aforementioned West Gore, drawn between them by Deputy Surveyor Andrew Miller, in or about the year 1831, shall be the division line between that part of the Square Township and the said West Gore ; and that a point distant twenty-chains on a course south, seventy-seven degrees west, from the monument established by the Boundary line Commissioners as the south-east angle of Lot number One in the said Seventh Concession, shall constitute the Boundary between the said Lot number One and the West Gore of the said Township. 10 15 20 25

Survey of part of line in front of 8th Concession by James Kirkpatrick, D. S., to constitute a legal Survey thereof.

III. And be it enacted, That so much of the line in front of the Eighth Concession of the said Township as was left unfinished by Deputy Surveyor John Stegman, extending from Lot number Thirty-one to the western Boundary of the Square Township, and which line was completed by Deputy Surveyor James Kirkpatrick, up to number Twenty-two, under an Order in Council of 16th January, 1836, and from thence westward without instructions from the Surveyor General, but as employed by the Inhabitants, and upon his own and their responsibility, and which Survey was on the 9th March, 1839 identified and confirmed by the Boundary line Commissioners for the District of Gore, shall and shall constitute the legal Survey thereof, and of the lines of division between the various Lots in the said Eighth Concession, 30 35 40

and a point distant twenty chains south, seventy-seven degrees west from the monument established by the said Commissioners as the south-west angle of Lot number Two in the said Concession, shall be the Boundary between the Lot number One and the West Gore.

IV. And be it enacted, That so much of the line in front of the Ninth Concession of the said Township, as was left unfinished by Deputy Surveyor John Stegman, extending from Lot number Thirty-five to the western Boundary of the Square Township, and was completed in Survey by Deputy Surveyor James Kirkpatrick up to Lot number Twenty-six, under an Order in Council of 16th June, 1836, and from thence westward without instructions from the Surveyor General but while employed by the inhabitants and upon his and their responsibility, and was identified and confirmed by the Boundary line Commissioners on the 9th March, 1839, shall be and shall constitute the legal Survey thereof between the various Lots in the said Ninth Concession; and that a point twenty chains South seventy-seven degrees west from the monument established as the south-east angle of No. 1 in the said Concession, by the said Commissioners, shall be the Boundary between the Lot number One and the West Gore.

Survey of part of line in front of 9th Concession by James Kirkpatrick, to constitute the legal Survey thereof.

V. And be it enacted, That inasmuch as there is reason to believe that none of the Lots in the Tenth Concession of the said Township of Beverly, were surveyed and marked by the said John Stegman, that Surveys made by Deputy Surveyor James Kirkpatrick, the one from Lot number Thirty-six up to number Twenty-one, under an Order in Council of 16th June, 1836, and the remainder from number Twenty-two to the south easterly angle of Lot number One, at the instance of the inhabitants and upon his and their responsibility, and which were identified and confirmed by the Boundary line Commissioners on the 9th March, 1839,—the same shall be and constitute the legal Surveys of the various Lots embraced thereby; and that a point distant twenty chains on a course south seventy-three degrees west from the south-easterly angle of the said Lot number One, shall constitute the Boundary between the said Lot number One and the West Gore.

Survey of Lots from number 36 to number 21, and from No. 22 to No. 1 in tenth Concession by James Kirkpatrick, to constitute the legal Survey thereof.

VI. And be it enacted, That the general division line between the Square Township and the West Gore, shall extend in direct courses from where Deputy Surveyor Andrew Miller's line, surveyed by him in the year 1831, strikes the rear of the Sixth Concession, and from thence to the point established by this Act as the limit

Extent of general division line between Square Township and West Gore.

in front of the Seventh Concession, between Lot number One and the West Gore, and from thence to the point established by this Act as the limit in front of the Eighth Concession, between Lot number One and the West Gore; from thence to the point established by this Act as the limit in front of the Ninth Concession, between Lot number One and the West Gore, from thence to the point in front of the Tenth Concession, established by this Act as the limit between Lot number One and the West Gore, and from thence on a course north thirteen degrees west to the rear of the said Tenth Concession.

Division lines between lots in the 6th, 7th, 8th, 9th and 10th Concessions.

VII. And be it enacted, That the division or side lines between the various numbered Lots in the Sixth, Seventh, Eighth, Ninth and Tenth Concessions of the said Township of Beverly, shall be drawn and established parallel to the eastern Boundary lines of the said Concessions respectively.

VIII And whereas, in consequence of the provisions of this Act, intended to confirm the holders of land within the Square Township in the possession of the lands which they have long occupied, the proprietors of lands granted as in the West Gore of Beverly, will be deprived of lands granted or intended to be granted to certain individuals from whom they have derived the title and claims under which they hold; and whereas in the private Surveys referred to in this Act which were originated by the inhabitants of the said Township of Beverly, and performed by Surveyors employed by them, but which it is the intention of this Act to legalize, many Lots have been laid off with a wider frontage and have received a larger quantity of land than it was intended by the Patents under which they were granted that they should contain, inasmuch as had a correct subdivision been made there would have been an ample sufficiency of land to have given to all the grants, both in the Square Township and in the West Gore, their full complement of land, and it is consistent with equity that those who have benefited or may benefit by the decree of the Boundary line Commissioners hereinbefore referred to, or by grants made in the said Gore being circumscribed or reduced in extent in consequence of the excess in quantity which they have acquired, and whose titles will be confirmed by this Act, should contribute their due proportion towards compensating those who have suffered or may suffer loss in the premises; Be it therefore enacted that it shall be the duty of the Municipal Council of the Township of Beverly, within six months after the passing of this Act, to ascertain the losses over and above the amount both awarded and paid under the decree of the Boundary Commissioners, dated 9th March, 1839,

Municipal Council to ascertain losses over amount awarded by Commissioners in 1839

sustained by the proprietors of land and property situated within the limits of the West Gore, of the said Township, as originally described in the Patents granting the same, and also the surplus quantity of land which will be held under the provisions of this Act, by the various proprietors of land in the Sixth, Seventh, Eighth, Ninth and Tenth Concessions respectively of the said Township of Beverly.

IX. And be it enacted, That it shall be the duty of the said Municipal Council within twelve months after the passing of this Act, to establish a rate, to be levied upon the proprietors of such surplus lands proportionably with the surplus which they respectively hold, sufficient to compensate the several proprietors of property in the said West Gore for the losses which they shall have sustained, and to defray the expenses attendant on the arrangement of the difficulties in regard thereto which exist; and the said Council shall, within eighteen months from the passing of this Act, distribute and cause to be paid over to the proprietors of property in the said West Gore, the sums to which they shall have found the said parties to be fairly entitled.

Municipal Council to establish a rate to compensate proprietors in West Gore,

X. And be it enacted, That undisturbed possession, although it may have existed for a period of twenty years or upwards, shall not be held to prevail against the decree of the Boundary line Commissioners for the District of Gore, dated 20th September 1839, hereinbefore referred to, nor shall it enable individuals whose holdings were affected by such decree to avoid compliance therewith, provided that the conditions expressed therein having reference to property transferred thereby to parties not in possession previously to the date thereof, be fulfilled.

Twenty years undisturbed possession not to prevail against decree of Commissioners.

XI. And be it enacted, That nothing in this Act contained shall be construed to have the effect of conferring any title or perfecting any title now insufficient and imperfect, but its object mainly shall be held to be, to confirm and legalize generally such of the proceedings of the said Boundary line Commissioners as relate to the Square Township, and with respect to which they exceeded the powers conferred upon them by the Act of Upper Canada passed in the 1st year of Her Majesty's Reign, cap. 19, intituled, "*An Act to authorize the establishment of Boards for Boundary line Commissioners.*"

No title conferred or perfected by this Act.

XII. And be enacted, That this Act shall be a Public Act.

Public Act.