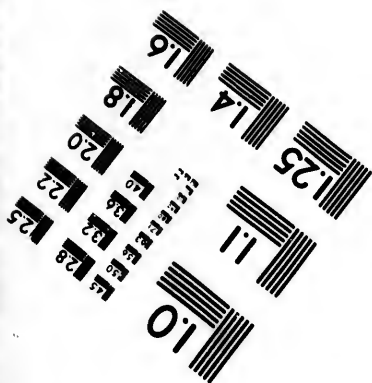
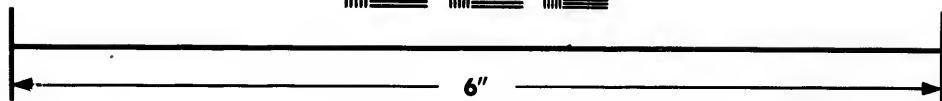
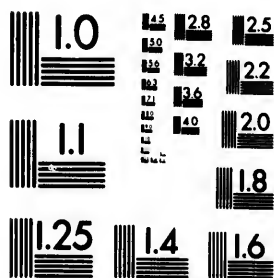


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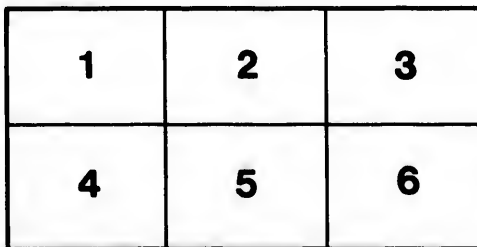
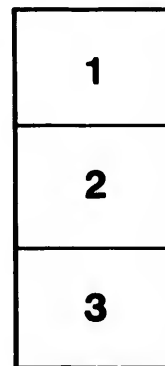
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AN ACT  
TO  
REPEAL CERTAIN ACTS THEREIN MENTIONED,  
AND TO MAKE BETTER PROVISION RESPECTING  
THE ADMISSION  
OF  
LAND SURVEYORS  
AND THE  
SURVEY OF LANDS IN THIS PROVINCE.

~~~~~  
12 Victoria, Chapter 35.  
~~~~~



QUEBEC :  
PRINTED BY AUGUSTIN CÔTÉ.  
—  
1855.

1855  
(16)

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ANNO DUODECIMO

VICTORIÆ REGINÆ.



CAP. XXXV.

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.

[30th May, 1849.]

**W**HEREAS the Laws now in force in this Province respecting Land Surveyors and the Survey and Admeasurement of Lands are 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 them : 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

Preamble.



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 Ordinance passed in the twenty-fifth year of the Reign of His late Majesty King George the Third, by the Lieutenant-Governor and Legislative Council of the late Province of Quebec, intituled, *An Ordinance concerning Land Surveyors and the Admeasurement of Lands*,—and the Act of the 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 of this Province*,—and the Act of the said Legislature, passed in the fifty-ninth year of the Reign of His said late Majesty King George the Third, and intituled, *An Act to repeal an Ordinance of the Province of Quebec, passed in the twenty-fifth year 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,'—and the Act of the said Legislature, passed in the second year of Her Majesty's Reign, and intituled,*

Certain Ord-  
nances and  
Acts repealed.

Quebec,  
25 G. 3. c. 3.

U. C.  
38 Geo. 3. c. 1.

U. C.  
59 G. 3. c. 14.

*An Act to extend the provisions of an Act passed in the fifty-ninth year of the Reign of His late Majesty King George the Third, intituled, ' An Act to repeal an Ordinance of the Province of Quebec, ' passed in the twenty-fifth year of His late 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 late " Majesty's Reign, intituled, " " An Act to ascertain " and establish on a permanent footing the bound- " ary lines of the different Townships in this " Province, ' " and further to regulate the manner in which Lands are hereafter to be surveyed, "*—and the Act of the Legislature of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to grant authority to licensed Surveyors, in that part of this Province called Upper-Canada, to administer an Oath in certain cases, and to protect them while in the discharge of their duty in Surveying Lands,*—shall be and the said Acts are hereby repealed : Provided always, that no Ordinance, Act or provision of law repealed by those hereby repealed, or by any of them, shall revive, but shall be and remain repealed ; And provided also, that all the boundary or division lines legally established, and ascertained under the authority of the Ordinance or Acts hereby repealed, or any of them, shall remain good, and all other acts, and things legally done and performed under the authority of the said Ordinance and Acts, or any of

U. C.  
2 Vic. c. 17.

Canada.  
4 & 5 Vic.  
c. 9.

Proviso.  
Repealed Acts  
not to revive.

Proviso.  
Things done to  
remain good.

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

Penalty on persons practising as Surveyors without being duly licensed.

- II. And be it enacted, That no person shall, after the passing of this Act, survey lands for hire or profit within Upper-Canada or Lower-Canada, or act in any way as a Land Surveyor within either portion of this Province, for hire or profit, unless he shall be duly authorized to practice 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.
- (1)

Qualification of persons applying to be licensed as Surveyors.

- III. And be it enacted, That from and after the passing of this Act, no person shall be admitted to practice as a Land Surveyor in and for Upper-Canada or Lower-Canada, until he shall have attained the full age of twenty-one years, nor unless he shall have gone through a course of Geometry,
- (2)

(1) Repealed by 18th Vic. Cap. 81, Sec. 2.  
(2) Amended by 18th Vic. Cap. 81.

including at least the first six books of Euclid, and of plain Trigonometry, Mensuration of Surfaces, Plotting and Map Drawing, and be well versed therein, and shall also be sufficiently conversant with Spherical Trigonometry and Astronomy to enable him to ascertain the latitude, and to draw a meridian line, and shall have served regularly and faithfully, for and during the space of three successive years, under an Instrument in writing duly executed before two witnesses, or in Lower-Canada under a Notarial Acte, as Apprentice to a Land Surveyor for Upper-Canada or Lower-Canada, duly admitted and practising therein as such, nor until he shall have received from the said Land Surveyor a certificate of his having so served during the said period: Provided nevertheless, that any person who shall have been admitted to practice as a Land Surveyor in Lower-Canada shall not, in order to be admitted to practice in Upper-Canada, be holden to serve under an Instrument in writing during three years as aforesaid in Upper-Canada, but only during six months of actual practice in the field with a Land Surveyor duly admitted and practising in Upper-Canada, after which he may undergo the examination by this Act prescribed, on complying with all the other requirements thereof, and the like rule shall apply to persons admitted to practice in Upper-Canada who shall wish to practice in Lower-Canada; Provided also, that any Land Surveyor duly admitted to practice in any of Her Majesty's Dominions other than this Pro-

Period of service or apprenticeship.

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

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

Proviso as to  
persons appren-  
ticed before the  
passing of this  
Act.

Proviso: proof  
of service re-  
quired.

vince, shall not be holden to serve under an Instrument in writing during three years as aforesaid, but only during twelve successive months of actual practice, after which he may undergo the examination by this Act prescribed, on conforming with all the other requirements thereof; And provided also, that any person who shall, before the passing of this Act, have been *bona fide* an Apprentice under some agreement in writing, to a Land Surveyor duly admitted and practising in and for Upper-Canada or Lower-Canada, and shall have served regularly and faithfully as such, shall be entitled to reckon the time he shall have so served as part of the three years during which, under this Act, he ought to serve before he can be admitted as a Land Surveyor, provided such person shall, within three months after the passing of this Act, become regularly articulated by an Instrument in writing as aforesaid to some Land Surveyor, duly admitted and practising in and for Upper-Canada, or Lower-Canada, and shall afterwards complete the remainder of the said period of three years, according to the requirements of this Act; And provided also, that the fact of his having so served before the passing of this Act, shall be proved on oath, by himself, and by other evidence to the satisfaction of the Board of Examiners, any one of whom is hereby empowered to put the requisite questions, and to administer the requisite Oath or Affidavit, which shall be signed by the person making the same, and shall remain with the said Board: Provided also, that if any Surveyor shall

die or leave the Province, or be suspended or dismissed as hereinafter provided, his Apprentice may complete his term of Apprenticeship, under an Instrument in writing as aforesaid, with any other Surveyor duly admitted: Provided also, that it shall be lawful for any Surveyor to transfer, by an Instrument in writing as aforesaid, his Apprentice, with his consent, to any other Surveyor duly admitted, with whom he shall serve the remainder of the term of his apprenticeship.

Proviso as to death of the Master, etc.

Proviso as to transfer of indentures.

IV. And be it enacted, That before any person shall be admitted to practise as a Land Surveyor in Upper-Canada or for Lower-Canada, he shall be publicly examined with respect to his ability, and the sufficiency of his instruments, by a Board of Examiners composed of the Commissioner of Crown Lands, and six other competent persons to be appointed from time to time by the Governor, Lieutenant-Governor, or Person administering the Government of this Province for the time being, and who shall take an Oath of Office, and any three of such seven Examiners shall form a *quorum*; and the said Examiners, if satisfied of his ability as hereinbefore provided, and of his having complied with all the requirements of this Act, and of the sufficiency of his surveying instruments, shall give him a Certificate thereof, and of his being admitted as a Land Surveyor, in the form of a Schedule A. to this Act; and such Certificate shall, on his complying with the other requirements of this Act, enable him to practise as a Land Surveyor in and for Upper-Canada or in and for Lower-Canada, as the case may be: Provided al-

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

Certificate to be given to qualified candidates.

Proviso ; Can-  
didates to pro-  
duce Certifi-  
cates of cha-  
racter. They  
may be ques-  
tioned upon  
oath.

- ways, that it shall be the duty of the said Exami-  
ners to cause all persons applying for admission to  
practise as such Land Surveyors, to produce satis-  
factory Certificates as to character for probity and  
sobriety, and to perform such practical operations  
in their presence as they shall require, previous  
(1) to their giving him their Certificate, and to answer  
such questions on oath, (which oath any one of  
the Examiners may administer) with regard to  
the actual practice of such applicant in the field  
and with regard to his instruments.

Board may ap-  
point a Secre-  
tary : his du-  
ties.

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

Meetings of the  
Board.

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

Power to ad-  
journ.

Candidates to  
give notice to  
the Secretary.

- VII. And be it enacted, That every person desi-  
ring to be examined by the Board as to his qua-  
lification to be admitted as a Land Surveyor, shall  
(4) 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 Se-

(1) Amended by 14th and 15th Vic. Cap. 4th and 18th Vic. Cap. 81.  
(2), (3) (4) Amended by 14th and 15th Vic. Cap. 4.

retary five shillings as his fee for receiving and entering such notice; and each applicant obtaining a Certificate, shall pay to the said Secretary ten shillings as his fee upon the Certificate.

Fee on receiving certificate.

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

Contribution towards the expenses of the Board.

(1)

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

Candidates admitted to give security.

And take the oath of allegiance and of office.

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

The oath of office.

(1) Amended by 14th and 5th Vic. Cap. 4.



Deposite of  
oaths. And of  
the certificate.

And the said oaths shall be deposited in the office of the Commissioner of Crown Lands, and the said bond shall be deposited and kept in the manner by law prescribed with regard to the bonds given for like purposes by other public officers, and shall enure to the benefit of any party sustaining damage by breach of the condition thereof, and the certificate shall be registered in the office of the Registrar of the Province.

Board may suspend or remove a Surveyor.

Proviso: the party accused to be summoned and heard.

Chain-bearers to be sworn.

X. And be it enacted, That it shall be lawful for the Board of Examiners to suspend or dismiss any Land Surveyor from the practice of his profession, as they shall in their discretion deem proper whom they shall find guilty of gross negligence or corruption in the execution of the duties of his office: Provided nevertheless, that the Board shall not suspend or dismiss such Land Surveyor, without having previously summoned him to appear in order to be heard on his defense, nor without having heard the evidence, which shall have been offered either in support of the complaint or in behalf of the Surveyor inculpated.

XI. And be it enacted, That each and every chain-bearer, whether acting in Upper or in Lower Canada, shall, before he commences his chaining or measuring, take an oath or affirm, to act as such justly and exactly according to the best of his judgment and abilities, and to render a true account of his chaining or measuring to the Surveyor by whom he may have been appointed to such duty, and that he is absolutely disinterested in the survey in question, and is not related or al-

(1) Amended by the 14th and 15th Vic. Cap. 4.

lied 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 Germain, which oath the Surveyor employing such chain-bearer is hereby authorized and required to administer; nor shall any person related or allied to any of the parties within the said degree, be employed as a chain-bearer on any survey.

Not to be related to the parties.

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

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

(1)

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

Surveyors to have a standard to check their measures by.

XIV. And be it enacted, That from and after the passing of this Act, if any person or persons

Punishment of persons molesting Surveyors on duty.

(1) Amended by 14th and 15th Vic. Cap. 4.

shall, in any part of this Province, interrupt, molest or hinder any Land Surveyor, while in the discharge of his duty as a Surveyor, such person or persons shall be deemed to have been guilty of a misdemeanor, and being thereof lawfully convicted in any Court of competent jurisdiction, may be punished either by fine or imprisonment, or both, in the discretion of such Court, such imprisonment being for a period not exceeding two months, and such fine not exceeding five pounds, 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 or range line or other governing line or side line, and for such purposes to pass over the lands of any person whomsoever, doing no actual damage to the property of such person; any law to the contrary notwithstanding.

Civil remedy not taken away.

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

Mode of bounding lands in Lower-Canada.

XV. And be it enacted, That every such Land Surveyor who shall survey or admeasure lands in Lower-Canada shall, when thereunto required by the parties, place one or more boundary marks of stone, either to mark the boundary of any property or to show the course of any line of division, of which boundary marks, the length above ground shall be six inches at least, between Seigniors or between Co-Seigniors, or between two Townships,

or between a Seignior and a Township, or between the Waste Lands of the Crown and a Seignior or Township, and at least three inches above the ground between persons holding grants in a Seignior or Township, and at least twelve inches in the ground in every case ; and under such boundary marks he shall place pieces of brick, or delf, or earthenware, slag of iron, or broken glass, and in the country parts and open ground, before every boundary mark, a post of squared timber.

Certain substances to be put under boundary marks.

XVI. And be it enacted, That each and every such Land Surveyor who shall hereafter be employed in any survey in Lower-Canada shall, as soon as his operations shall be finished, if he have placed any boundary mark, or if thereunto required by any party employing him, or by the Court under whose order he shall act, draw up a *Procès-Verbal*, in which he shall on pain of nullity and under the penalty imposed for any contravention of this Act, insert the date of the said *Procès-Verbal*, and shall mention by the order of what Court or at whose desire and at what time or times he shall have operated, the residence of the parties and their additions and his own name and residence : And in such *Procès-Verbal* the Surveyor shall, under the penalty last aforesaid faithfully detail what he shall have done, according to the nature of the survey required of him, stating whether any and what title deeds were produced to him, according to which he may have guided his operations,—what is the form and the area of

*Procès - Ver - baux* to be made by Surveyors in Lower-Canada and their form and contents.

Further particulars in such *Procès - Ver - baux*.

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

*Procès-Verbal*  
to be signed,  
&c.

ned; and he shall not enter any interlineations <sup>No erasure or interlineation allowed.</sup> nor make any erasure in his minutes, nor in the copies thereof, but shall mention the number of words struck out, and also the number of marginal references in each of his minutes, or copies of *Procès Verbaux*, which references shall, in the minute, be signed with the initials of the parties, witnesses and Land Surveyor, or of such of them as can sign, and in any copy by the initials of the Land Surveyor, otherwise they shall be null and void.

XVII. And whereas from various causes, and <sup>Recital of doubts as to certain Procès-Verbaux.</sup> more especially since the expiration of the Act of the Legislature of Lower Canada, passed in the second year of the Reign of His Majesty King, William the Fourth, and intituled, *An Act to repeal an Ordinance therein mentioned, and to provide more ample regulations respecting Land Surveyors, and the Admeasurement of Lands*, and the consequent revival of the Ordinance hereby and by the said Act repealed, many *Procès-Verbaux* of Survey have been drawn up in a manner substantially correct, but not in the precise form required by the said Ordinance, and doubts might arise as to the validity of such *Procès-Verbaux*, and law, suits and vexations proceedings might grow out of the same: For remedy thereof—Be it enacted, <sup>Act. of L. C. 2. W. 4. c. 21</sup> That all now existing *Procès-Verbaux* of Survey in Lower-Canada signed or assented to by the parties interested, or made under the order of any Court and accepted and confirmed by such Court, <sup>(1)</sup> <sup>Informal Procès-Verbaux confirmed in certain cases.</sup>

(1) See 14th and 15th Vic. Cap. 4.

and every other such *Procès-Verbal* of Survey made before or within three months after the passing of this Act, which shall substantially contain such particulars as may be requisite for the full understanding of the Survey or operation to which it relates, and of the doings of the Surveyor and the intention of the parties interested with regard to the same, shall be held to be authentic and valid and shall have effect according to the tenor thereof whatever be the form in which the same may have been drawn up.

Recital of doubts as to certain boundaries.

Boundaries confirmed in certain cases.

Proviso as to future cases.

XVIII. And whereas it hath also happened that boundary stones and other boundary marks have been placed by Surveyors, which have not the dimensions, or are not of the materials, or are not accompanied by the marks prescribed by the said Ordinance, and law-suits and difficulties might arise in consequence: For remedy thereof—Be it enacted, That every such boundary mark in Lower-Canada, placed by a Surveyor before or within three months after the passing of this Act, and referred to in his *Procès Verbal*, shall be held to be effective and valid, if its place can be ascertained from such *Procès Verbal*, whatever be the form, dimensions or material thereof: Provided always, that nothing contained in this Section or in that next preceding it, shall be construed to render valid or effective any *Procès Verbal*, or boundary made or placed more than three months after the passing of this Act, and with regard to which the absolute requirements of this Act, on pain of nullity, shall not have been complied with, but such *Pro-*

*cès Verbal* or boundary shall be null and void and of no effect, except only that in places where stones of the proper size cannot be procured, (which fact shall appear by the *Procès-Verbal*), boundary marks of wood or other material may be used, and they shall have the same effect as the boundary marks of stone mentioned in this Act.

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

Provision as to boundaries in Cities and Towns in L. C.

XX. And be it enacted, That the Surveyor employed to make any Survey in the Townships of Lower-Canada shall govern himself by the Surveys made under the plans and instructions issuing from the Surveyor-General's Office, or that of the Commissioner of Crown Lands, or other Officer performing the duties of Surveyor-General as aforesaid, and whenever it shall happen that the posts or boundary marks between any lots or ranges of lots shall be effaced, removed or lost, such Surveyor may examine witnesses on oath, (which he is hereby authorized to administer) for the

By what rules Surveyors shall be governed in making surveys in the Townships of Lower-Canada.

(1)

(1) See 18th, Vic. Cap. 61, Sec. 11.



purpose of ascertaining the former boundaries, but if the same cannot be ascertained, then the Surveyor shall measure the true distance between the nearest undisputed posts, limits or boundaries and divide such distance into such number of lots as the same contained in the original Survey, of a breadth proportionate to that intended in such original Survey, as shown on the plan and field-notes thereof of record in such Public Office as aforesaid, and when any part of any Concession or Range Line, intended in the original Survey to be straight, shall be obliterated or lost, then the Surveyor shall run a straight line between the two nearest points or places where such line can be clearly and satisfactorily ascertained, and shall plant all such intermediate posts or boundaries as he may be required to plant in the line so ascertained, and the limits of each lot so found shall be taken to be and are hereby declared to be the true limits thereof; any law or usage to the contrary thereof in any wise notwithstanding.

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

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

which the Land Surveyors, operating in such Districts, may verify their instruments when necessary.

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

Measures for land in Lower-Canada fixed.

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

Penalty for putting improper substances under boundaries in L. C.

XXIV. And be it enacted, That each Land Surveyor practising in Lower-Canada shall collect and place in regular and due order, all and every the minutes of *Procès-Verbaux* that may have been, or may be drawn up by him, in the order of time in which such *Procès-Verbaux* may have been drawn up; and shall collate and put up minutes of his *Procès-Verbaux* of every year in separate bundles, folded and covered with strong paper in the manner of a register, on the back of which shall be endorsed the general contents of each bundle, and he shall make a repertory and index thereto.

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

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

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

Share of the widow, &c., in the fees on such papers.

Recital.

XXVI. 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 and of the several Concession

Stone monuments may be placed at certain points in Townships in U. C.

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.

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

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

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

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

XXIX. And be it enacted, That if any person or persons shall knowingly and wilfully pull down, deface, alter or remove any such monument so erected as aforesaid, in Upper-Canada, such person or persons shall be adjudged guilty of felony : and if any person or persons shall knowingly and wilfully deface, alter or remove any other landmark, post, or monument placed by any Land Surveyor, to mark any limit, boundary or angle of any Township, Concession, range, lot or parcel of land, in Upper or in Lower-Canada, such per-

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

son 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 Twenty-five pounds, and such imprisonment not to be for a longer period than Three months, without any prejudice to any civil remedy which any party may have against such offender or offenders in damages, by reason of such offence; Provided that nothing herein contained shall extend to prevent Land Surveyors, in their operations, from taking up posts or other boundary marks when necessary, after which they shall carefully replace them as they were before.

Proviso as to Surveyors.

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

(1)

XXX. And be it enacted, That it shall not be necessary for the Commissioner of Crown Lands to proceed to carry the provisions of the Twenty-sixth, Twenty-seventh and Twenty-eighth Sections of this Act into execution, until an application for that purpose shall have been made to the Governor by the District Council of the District in Upper-Canada, in which the Township or Townships interested may be situate, who shall cause the sum requisite to defray the expenses to be incurred, or the proportion thereof payable by the inhabitants of any Township or Concession, to be levied on the said inhabitants, in the same manner as any sum required for any other local purpose authorized by law may be levied.

Recital.

XXXI. And whereas in several of the Town-

(1) See 12th, Vic. Cap. 81; sec. 30th and 13th and 14th Vic. Cap. 64. sec. 7.

ships in Upper-Canada, some of the Concession lines, or parts of the Concession lines, have not been run in the original survey performed under competent authority, and the surveys of some Concession lines or parts of Concession lines have been obliterated, and owing to the want of such lines the inhabitants of such Concessions are subject to serious inconvenience: Be it therefore enacted, That it shall be lawful for the District Council of the District in which any Township in Upper-Canada may be situate, on application of one half of the resident land-holders in any Concession, (or without such application if the said Council shall deem it necessary,) to make application to the Governor, requesting Him to cause any such line to be surveyed, and marked by permanent stone boundaries under the direction and order of the Commissioner of Crown Lands, in the manner prescribed in this Act, at the cost of the proprietors of the lands in each Concession or part of a Concession interested; and it shall be lawful for such District Council to cause an estimate of the sum requisite to defray the expenses to be incurred to be laid before them, in order that the same may be levied on the said proprietors, in proportion to the quantity of land held by them respectively in such Concession or part of a Concession, in the same manner as any sum required for any other purposes authorized by law may be levied; and the lines or parts of lines so surveyed and marked as aforesaid, shall thereafter be taken and consi-

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

(1)

Expenses to be estimated and provided for.

Legal effect of the operation.

(1) See 18th, Vic. Cap. 81, Sec. 8.

Expenses to the  
be paid to the  
Government.

Proviso as to  
adjacent con-  
cessions.

Recital.

Boundaries  
placed under  
the authority  
of the Govern-  
ment to be  
deemed the  
true ones, etc.  
U. C.

dered to be the permanent boundary lines of such Concessions or parts of Concessions to all intents and purposes of law whatsoever; and all expenses incurred in performing any survey or placing any monument or boundary under the provisions of this section or of the next proceeding section, shall be paid by the District Treasurer to the person or persons employed in such services, on the certificate and order of the Commissioner of Crown Lands; Provided always, that the said lines shall be so drawn as to leave each of the adjacent Concessions of a depth proportionate to that intended in the original survey.

XXXII. And whereas it is necessary to make more definite provision than is now made by law, as to the mode in which the proper courses of boundary lines shall be ascertained in certain cases in Upper-Canada: Be it enacted, That in Upper Canada all boundary lines of Townships, Cities, Towns, Villages, all Concession lines, governing points, and all boundary lines of Concessions, sections, blocks, gores, commons and all side-lines and limits of lots surveyed, and all posts or monuments, which have been placed or planted at the front angles of any lots or parcels of land, provided the same have been or shall be marked, placed or planted under the authority of the Executive Government of the late Province of Quebec or of Upper-Canada, or under the authority of 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, shall be construed to be a grant of such aliquot part of the quantity the same may contain, whether such quantity be more or less than that expressed in such patent, grant or instrument; any law, usage or custom to the contrary thereof in any wise notwithstanding.

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

As to aliquot parts of Township, etc.



Road allow-  
ances in Cities,  
etc. to be pub-  
lic highways.  
U. C.

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

Recital.

XXXIV. And whereas many Townships, tracts or blocks of land in Upper-Canada were granted by the Crown to companies and individuals before any surveys were made therein, and such Townships, tracts or blocks of land were afterwards surveyed by the owners thereof: Be it therefore enacted, That all such surveys of such Townships, tracts or blocks of land in Upper-Canada, shall be and the same are hereby declared to be original surveys thereof, and to have the same force and

As to lands  
granted in  
blocks and sub-  
sequently by  
the Grantees,  
U. C.

effect as though the said original surveys and plans thereof had been made by authority aforesaid ; and all allowances for roads or commons which have been surveyed in such Townships, tracts or blocks of land, and laid down on the plans thereof, shall be and the same are hereby declared to be public highways and commons ; and all lines which have been run or 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, 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.

XXXV. And be it enacted, That the course of the boundary line of each and every concession, on that side from which the lots are numbered, shall be and the same is hereby declared to be the course of the division or side-lines throughout the several townships or concessions in Upper-Canada, respectively, provided always, that such division or side-lines were intended, in the original survey

Governing  
lines declared,  
U. C.  
Proviso.

performed under such competent authority as aforesaid, to run parallel to the said boundary ; and all Surveyors shall and are hereby required to run all division or side-lines, which they may be called upon by the owner or owners of any lands to survey, so as to correspond with and be parallel to that boundary line of the concession in which such lands are situate, from whence the lots are numbered as aforesaid, provided always, as aforesaid, that such division or side-lines, were intended, in the original survey performed under such competent authority as aforesaid, to run parallel to the said boundary ; Provided also, that when that end of a concession, from which the lots are numbered, is bounded by a lake or river, or other natural boundary, or when it has not been run in the original survey performed under such competent authority as aforesaid, or when the course of the division or side-lines of the lots therein was not intended in the original survey performed as aforesaid, to run parallel to such Boundary, the said division or side-lines shall run parallel to the boundary line at the other extremity of such concession, provided their course was intended, in the original survey performed as aforesaid, to be parallel thereto, and that such boundary line was run in the original survey ; Provided further, that when in the original survey, performed under such competent authority as aforesaid, the course of the division or side-lines in any concession was not intended to be parallel to the boundary line at either end of such concession, they shall be run at such

Proviso.

Proviso.

Proviso.

angle with the course of the boundary line at that end of the said concession from which the lots are numbered, as is stated in the plan and field-notes of the original survey, of record in the office of the Commissioner of Crown Lands of this Province, provided such line was run in the original survey as aforesaid, or with the course of the boundary line at the other extremity of the said concession, if the boundary at that end of the concession from which the lots are numbered was not run in the original survey as aforesaid; or if neither of the aforesaid boundaries of the concession were run in the original survey, or if it be bounded at each end by a lake or river or other natural boundary, then at such angle with the course of the line in front of the said concession, as is stated in the plan and field-notes as aforesaid, <sup>Provido.</sup> Provided nevertheless, that if any division or side-line between lots, or proof-line intended to be parallel to the division or side-lines between lots, shall have been drawn in any such concession in the original survey thereof, the division or side-lines between the lots therein shall be drawn parallel to such division or side-line or proof-line; and when two or more such division or side-lines or proof-lines have been drawn in the original survey of such concession, that division or side-line or proof-line which is nearest to the boundary of the concession from which the lots are numbered, and shall govern the course of the division or side-lines of all the lots in such concession between the boundary of the concession from which the lots are numbered and the

Proviso

next division or side-line or proof-line drawn in the original survey, which shall govern the course of the division or side-lines of all the lots up to the next division or side-line or proof-line drawn in the original survey ; or to the boundary of the concession towards which the lots are numbered, as the case may be : 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 like manner as the division or side-lines in townships originally surveyed before the said day are governed by the boundary lines of the concession in which the lots are situate.

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

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

front of the lots in the broken front concessions, the division or side-lines of the lots in such broken front concessions shall be drawn from the posts or other boundaries on the concession line in rear thereof, parallel to the governing line determined as aforesaid to the river or lake in front: Provided also, that when the line in front of any such concession has not been run in the original survey, 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 the 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 and 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 lot 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.

Proviso: when the front line of any concession was not run in the original survey.

XXXVII. And be it enacted, That in those Townships in Upper-Canada in which the concessions, have been surveyed with double fronts, that is, with posts or monuments planted on both sides of the allowances for roads between the concessions,

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

and the lands shall have been described in half lots, the division or side-lines shall be drawn from the posts at both ends to the centre of the concession, and each end of such concession shall be and the same is hereby declared to be the front of its respective half of such concession, and that a straight line joining the extremities of the division or side-lines of any half lot in such concession, drawn as aforesaid, shall be the true boundary of that end of the half lot which has not been bounded in the original survey.

(1)

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

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

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

XXXIX. And be it enacted, That every Land Surveyor, when and as often, as he is employed in Upper-Canada to run any division-line or side-line

(1) See 18th Vic. Cap. 83. Sec. 9.

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

XL. And be it enacted, That in all cases when any Land Surveyor shall be employed in Upper-Canada to run any side-line or limit between lots, 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 satisfactorily ascertained, then the Surveyor shall measure the true distance between the nearest undisputed posts, limits or monuments, and

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

(1)

(1) Repealed by 18th Vic. Cap. 83, Sec. 10



divide such distance into such number of lots as the same contained in the original survey, assigning to each a breadth proportionate to that intended in such 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; and if any portion of the line in front of the concession in which such lots are situate, or boundary of the Township in which such concessions are situate, intended in the original survey to be straight, shall be obliterated or lost, then the Surveyor shall run a straight line between the two nearest points or places where such line can be clearly and satisfactorily ascertained, and shall plant all such intermediate posts or monuments as he may be required to plant in the line so ascertained, having due respect to any allowance for a road or roads, common or commons, set out in such original survey; and the limits of each lot so found shall be taken to be and are hereby declared, to be, the true limits thereof; any law or usage to the contrary thereof in any wise notwithstanding.

Recital.

XLI. And whereas many Towns and Villages in Upper-Canada have been surveyed and laid out by companies and individuals, and by different owners of the lands comprising the same, and lands have been sold therein according to the surveys and plans thereof: Be it therefore enacted That all allowances for road, street or streets, common or commons, which have been surveyed in such Towns and Villages in Upper-Canada, and laid down on the plans thereof, and upon

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

which lots of land fronting on or adjoining such allowances for road, street or streets, common or common have been sold to purchasers, shall be and the same are hereby declared to be public highways, streets and commons; and all lines which have been run, and the courses thereof given in the survey of such Towns and Villages, and laid down on the plans thereof, and all posts or monuments which have been placed or planted in the first survey of such Towns and Villages to designate or define any such allowances for road, street or streets lot or lots, common or commons, shall be and the same are hereby declared to be the true and unalterable lines and boundaries of all such allowances for such road, street or streets, lot or lots, common or commons, in such Towns and Villages, respectively: Provided always, that no lot or lots of land in such Towns and Villages shall be so laid out as to interfere with, obstruct, shut up, or compose any part of any allowance for road, common or commons, which was surveyed and reserved in the original survey of the Township or townships wherein such Towns or Villages are or may be situate. Provided also, that any owner or owners of any such Towns and Villages, or the owner or owners of any original division thereof, shall have lawful right to amend or alter the first survey and plan of any such Town or Village, or any original particular division thereof, provided no lots of land have been sold fronting on or adjoining any street or streets, common or commons where such alteration is required to be

Proviso.

made: Provided also, that from and after the passing of this Act, no such private survey shall be valid, unless performed by a duly authorized Surveyor.

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

XLII. And be it enacted, That the original owner or owners of the lands forming the site of any Town or Village in Upper-Canada, mentioned in the next preceding Section of this Act, or the agent or agents, heirs or other legal representatives of the original owner or owners of any such Town or Village, or any original division thereof, shall, within one year from and after the passing of this Act, make or cause to be made and deposited in the Registry Office of the County wherein such Town or Village is situate, a fair and correct plan or map of such Town or Village, or original division thereof, on a scale of not less than an inch to every four chains, and lay down thereon, or cause to be laid down thereon, all roads, streets, lots and commons within the same, with the courses and width of the roads, streets and commons, and the width and length of all lots, and the courses of all division-lines between the respective lots within the same, together with such information as shall show the lot or lots, concession or concessions, tract or tracts, block or blocks of land of the Township wherein such Town or Village shall be situate, and every such plan or map of every such Town or Village or original division thereof, shall be certified by some Land Surveyor, and also by the original owner or owners thereof, or the legal representative or

Plan to be certified.

representatives of such owner or owners, as being a correct plan or map of the same ; and every copy of such plan or map obtained from such Registry Office, and certified as correct by the Registrar of such County, shall be taken as evidence of the original plan and survey of such Town or Village in all Courts of Record ; and if any such owner or owners of any such Town or Village, or any original division thereof, or their agents, heirs, or other legal representatives, shall refuse or neglect to make or cause to be made, any such plan or map of any such Town or Village, or original division thereof, and deposit the same in a Registry Office of the County wherein the same is situate, within one year from and after the passing of this Act, he, she, or they shall forfeit and pay for such refusal or neglect, the sum of two pounds ten shillings, and a like sum for every year thereafter until such plan or map shall be made and deposited in the Registry Office of the County wherein the same is situate ; and the payment of any such penalty or penalties shall not be held to free or discharge such owner or owners, their agents, heirs or other legal representatives, from any such penalties which may not have been paid at the time of such payment ; and all such penalties, fines and forfeitures may and shall be collected in the same manner and applied to the same purposes as like penalties, fines and forfeitures are required to be collected and applied under and by authority of the sixth and seventh Sections of the Act passed in the eighth year of Her

Penalty for neglect.

Effect of payment of any penalty.

Recovery and application of penalties.

Majesty's Reign, and intituled, *An Act to declare certain Land in Upper-Canada liable to Assessment, and to oblige the owners of such Lands to make Returns thereof to the District Treasurer.*

8 Vic. c. 58.

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

XLIII. And be it enacted, That whenever any such plan or map of any such Town or Village, in Upper-Canada, or original division thereof, shall be made and deposited in the Registry Office of 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 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, than are by law established for making a record of 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.

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

XLIV. 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 Upper-Canada, 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 respec-

tively, 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.

XLV. And be it enacted, That each and every Land Surveyor in Upper-Canada shall keep exact and regular journals and field-notes of all his surveys, and file them in the order of time in which the said surveys have been performed, and shall give copies thereof to the parties concerned when so required, for which he shall be allowed the sum of five shillings currency, for each copy, if the number of words therein do not exceed four hundred words, but if the number of words therein exceed four hundred, he shall be allowed six pence additional for every hundred words therein, over and above four hundred words.

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

XLVI. And be it enacted, That for better ascertaining the original limits of any lot, concession, range, township or tract of land in Upper-Canada, every Land Surveyor acting in that portion of this Province, shall be and he is hereby authorized and required to administer an oath or oaths to each and every person whom he may examine at any time concerning any boundary, post

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

(1)

(1) See 18th Vic. Cap. 83, sec. 7.

or monument, or any original land mark, line, limit or angle of any township, concession, range, lot or tract of land which such Surveyor may be employed to survey.

Evidence taken by Surveyors in U. C. to be reduced to writing and signed; &c.

XVLII. And be it enacted, That all evidence to be taken by any Surveyor as aforesaid, in Upper-Canada, shall be reduced to writing, and shall be read over to the person giving the same and signed by such person, or if he cannot write, he shall acknowledge the same as correct before two witnesses, who shall sign the same with the Surveyor; and such evidence shall, and any document or plan prepared and sworn to as correct before a Justice of the Peace, by any Surveyor, with reference to any Survey by him performed, may be filed and kept in the Registry Office of the County in which the lands to which it relates shall be situate, subject to be produced thereafter in evidence in any Court of Law or Equity within Upper-Canada; and for receiving and filing the same, the Registrar shall be entitled to one shilling and three pence currency; and the expense of filing the same shall be borne by the parties in the same manner as other expenses of the survey.

Wilful false swearing under this Act to be perjury.

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

XLIX. And be it enacted, That if any action of ejectment shall be brought against any person or persons, who, after any line or limit shall have been established according to this Act, in Upper-Canada, shall be found, in consequence of unskilful survey, to have improved on lands not his, her or their own, it shall and may be lawful for the Judge of Assize, before whom such action shall have been tried, to direct the Jury to assess such damages for the defendant or defendants for any loss he, she or they may sustain in consequence of any improvement made before the commencement of such action, and also to assess the value of the land to be recovered; and if a verdict shall be found for the plaintiff or plaintiffs, no Writ of Possession shall issue until such plaintiff or plaintiffs shall have tendered or paid the amount of such damages as aforesaid, or shall have offered to release the said land to the defendant, provided the said defendant should pay or tender to the plaintiff the value of the land so assessed, before the fourth day of the ensuing term.

As to cases in U. C. where from unskilful survey a party may have improved lands afterwards found to belong to his neighbour.

L. And be it enacted, That from and after the passing of this Act, in all cases in which the Jury before whom any action of ejectment shall be tried in Upper-Canada, shall assess damages for the defendant as provided in the next preceding section, for improvements made upon land not his own, in consequence of unskilful survey, and when it shall be satisfactorily made to appear that the defendant does not contest the plaintiff's action for any other purpose than to obtain the value of

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



the improvements made upon the land previous to the alteration and establishing of the lines according to law, it shall and may be lawful for the Judge before whom such action shall be tried, to certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence, in the same manner as if the plaintiff had been non-suited on the trial, or a verdict rendered for the defendant ; provided the defendant shall, at the time of entering into the consent rule, have given notice in writing to the lessor or lessors of the plaintiff in such ejectment, or to his Attorney named on the Writ or declaration of the amount claimed for such improvements on payment of which amount the defendant or person in possession will surrender the possession to such lessor or lessors, and that the said defendant does not intend at the trial to contest the title of the lessor or lessors of the plaintiff ; and if such notice shall on the trial be found not to have been given as aforesaid, or if the jury shall assess for the defendant a less amount than that claimed in the notice, or shall find that the defendant has refused to surrender possession of the land claimed, after tender shall have been made of the amount claimed then in any of such cases the Judge shall not certify, and the defendant shall not be entitled to the costs of the defence, but shall pay costs to the plaintiff ; any thing herein contained to the contrary notwithstanding ; Provided always, that upon the trial of any such cause no evidence shall be required to be produced in proof of the title of the lessor or lessors of the plaintiff.

Unless the Jury shall assess the Improvements at less than the sum demanded.

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

LI. And be it enacted, That the words "Go-<sup>Interpretation</sup>vernor of this Province" or "Governor" wher-<sup>clause.</sup>ever they occur in this Act, shall be understood to include the Lieutenant Governor or person Administering the Government of this province ; and the words " Upper-Canada " shall be understood to mean all that part of the Province which formerly constituted the Province of Upper-Canada ; and the words " Lower-Canada " shall be understood to mean all that part of this Province which formerly constituted the Province of Lower-Canada ; and the words " Commissioner of Crown Lands " shall be understood to mean the person discharging the duties of that officer ; and words importing the singular number only shall be understood to include several persons, matters or things of the same kind, as well as one person, matter or thing, unless it be otherwise specially provided, or there be something in the subject or context, repugnant to or inconsistent with such construction.

LII. And be it enacted, That a copy of this <sup>Copy of this</sup> Act shall be sent to every Land Surveyor in this <sup>Act to be sent</sup> Province, in the same manner as the other Sta-<sup>to Surveyor .</sup>tutes are sent to the parties entitled to receive the same.

SCHEDULE A.

*Form of a Certificate of Admission as a Provincial  
Land Surveyor.*

This is to certify to all whom it may concern,  
that A. B., of \_\_\_\_\_ in the District  
of \_\_\_\_\_

hath duly passed his Examination before the  
Board of Examiners, and hath been found quali-  
fied to fill the office, and perform the duties of a  
Provincial Land Surveyor in and for Upper (*or*  
Lower) Canada, he having complied with all the  
requirements of the Law in that behalf. Where-  
fore the said A. B. is admitted to the said Office  
and is by Law authorized to practise as a Land  
Surveyor in Upper (*or* Lower) Canada.

In witness whereof, We have signed this Cer-  
tificate 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.*



ANNO DECIMO QUARTO & DECIMO QUINTO.

VICTORIÆ REGINÆ.

CAP. IV.

An Act to amend the Act concerning Land Surveyors.

[2nd August, 1851.]

**W**HEREAS it is expedient to amend the Preamble.

Act hereinafter mentioned in certain particulars: 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 so much of 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*, as may be inconsistent with this Act, shall be and is hereby repealed.

Inconsistent enactments of 12 Vict. c. 35, repealed.

II. And be it enacted, That for and notwithstanding anything in the said Act, there shall be two Boards of Examiners for the examination

Two Boards of Examiners appointed; of whom to consist.

of Candidates for admission to practise as Land Surveyors, one to consist of the Commissioner of Crown Lands, and eight other competent persons to be appointed from time to time by the Governor, and to meet at the City of Quebec for the examination of Candidates for admission to practise as Land Surveyors in Lower Canada, and the other to consist of the said Commissioner of Crown Lands, and eight other competent persons to be appointed from time to time by the Governor, and to meet at the City of Toronto for the examination of Candidates for admission to practise as Land Surveyors in Upper Canada: and the present Board of Examiners shall be dissolved; and any three of the Members of either of the said Boards shall form a quorum; and each of the said Boards or a majority thereof shall appoint a Secretary; and the said Boards shall meet at the places hereinbefore mentioned respectively, on the days appointed in and by the said Act for the meeting of the Board therein mentioned; and each of the said Boards and the Members and Secretary thereof shall, as regards the examination of Candidates for admission to practise in that section of the Province, in and for which such Board shall sit, and as regards Surveyors practising therein, have the same authority, powers and duties as are by the said Act vested in the Board therein mentioned and its Secretary, and shall be bound by the same rules in the exercise and performance thereof.

Present Board dissolved.

Quorum.

Secretary.

Meetings.

Powers and duties.

III. And be it enacted, That for and notwithstanding any thing in the said Act, every person desiring to be examined before either of the said Boards shall give due notice thereof in writing to the Secretary of such Board, at least one month previous to the meeting thereof, and shall then pay to the Secretary the fee of five shillings in the said Act mentioned; and each applicant obtaining a certificate shall pay to the Secretary the fee of Ten Shillings in the said Act mentioned.

Notice to be given by applicants for admission, &c.

(1)

IV. And be it enacted, That for and notwithstanding any thing in the said Act, the sum payable by each applicant receiving a certificate shall be Five Pounds Currency, and not Two Pounds Ten Shillings Currency, as in the said Act mentioned; and the said sum shall be applied and divided in the manner and to the purposes to which the said sum of Two Pounds Ten Shillings is by the said Act directed to be applied and divided.

Fee for receiving certificate

Application.

(2)

V. And be it enacted, That for and notwithstanding any thing in the said Act, the oath of allegiance and of office to be taken by persons admitted as Surveyors shall, if taken in Lower Canada, be deposited in the office of the Prothonotary of the Superior Court in the District of Quebec; and if taken in Upper Canada, in the Registry Office in the County of York.

Oath of allegiance where to be deposited.

VI. And be it enacted, That no instrument in writing under which any applicant for admission to practise as Surveyor shall claim to have served with some practising Surveyor the period of three

Indentures or articles of applicants must be filed with the Secretary within a certain time.

(1) See 18 Vic. Cap: 83.

(2) See 18th Vic. Cap: 83.

(1) years, one year, or six months mentioned in the third section of the said amended Act, shall avail to authorize the admission of such applicant, unless such instrument if executed before witnesses, or a notarial copy thereof, if it be a notarial instrument, shall have been transmitted to the Secretary of the Board before whom the applicant is to be examined, within two months next after the date thereof if it be executed after the passing of this Act, or before the first day of January now next if it shall have been executed before the passing of this Act; and the said Secretary is hereby required to acknowledge by post the receipt of all such instruments or copies thereof transmitted to him, and carefully to keep the same in his office.

Recital.

Certain *Procès-Verbaux* confirmed.

VII. And whereas, owing partly to certain delays which have occurred in the distribution of the Statutes and partly to other causes, many *Procès-Verbaux* of Survey in Lower Canada have been drawn up in a manner substantially correct, but not in the precise form required by the said Act, and law suits and vexatious proceedings might grow out of the same; For remedy thereof, Be it enacted, That any *Procès-Verbal* now existing in Lower Canada which shall substantially contain such particulars as may be requisite for the full understanding of the Survey or operation to which it relates, and of the doings of the Surveyor, and the intention of the parties interested with regard to the same, shall be held to be authentic and valid, and shall have effect according to the tenor thereof,

(1) Amended by 18th Vic : Cap : 83 sees : 3. 4 and 5.

whatever be the form in which the same may have been drawn up.

VIII. And be it enacted, That the Standard English Measures of Length imported under the requirements of the Act hereby amended, shall hereafter be deposited with the Secretary of the Board of Examiners at Toronto, and the Standard French Measures of Length imported under the said Act, and the copy of the said Standard English measures of Length now in the Office of the Commissioner of Crown Lands at Montreal, (which copy shall be hereafter used as a standard for the purposes of the said Act) shall be deposited with the Secretary of the Board of Examiners at the City of Quebec, and the said Secretaries respectively under such instructions as they shall receive from time to time from their respective Boards, shall and may examine, test and stamp Standard Measures of Length for the Surveyors bringing the same for examination, as the Commissioner of Crown Lands may do under the Act aforesaid and with the same effect, and for each measure so examined and stamped such Secretary may demand and receive Two Shillings and Six Pence Currency.





ANNO DECIMO-OCTAVO

VICTORIÆ REGINÆ.

CAP. LXXXIII.

An Act to amend the Acts relating to Land Surveyors.

Assented to 19th May 1855.

**W**HEREAS 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, as follows:

Preamble.

12 V., c. 35

13 & 14 V., c. 4.

I. The second and fortieth sections 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, shall be and is hereby repealed; and 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 or one pound five shillings for each day's attendance, and to charge the same in his account as part of the expenses of his Office.

Sections 2 and 40, and part of Section 8 of 12 V., c. 35 repealed.

How Examiners of Applicants for admission as Land Surveyors shall be paid.

II. No person shall, after the passing of this Act, act as a Surveyor of Lands within this Province, 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.

None but licensed persons to act as Surveyors.

III. Each apprentice to a Licensed Surveyor shall pay a fee of ten shillings 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 the Act secondly cited in the

Fee on transmission of Articles to Secretary.

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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. 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 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 root, of Geometry, Plane Trigonometry, 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 before he shall be so examined he shall pay into the Fee Fund the sum of ten dollars as the fee due by him on such examination, and a further sum of ten shillings to the Secretary for the said Certificate; and 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 five shillings for receiving and entering such notice.

Fees on examination and certificate of qualification.

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

V. 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 rejected for mere informality in or technical objection to the "instru-

ment 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 he has so served *bonâ fide*.

VI. 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 sum of twenty shillings (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.

Allowance to Surveyors summoned as witnesses.

VII. When any Surveyor shall be in doubt as to the true boundary or limit of any Township, Seigniori, 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 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 *Subpœna* or *Subpœna duces tecum*, as the case may require, accompanying such application by an affidavit or solemn declaration to

Proceedings when a Surveyors shall require any information or document in the possession of a third party who will not voluntarily give or produce the same.

be made before a Justice of the Peace, of the facts on which the application is founded, and the Judge may order a *Subpœna* to issue accordingly, commanding such person to appear before the Surveyor, at a time and place to be mentioned in the said *Subpœna*, and to bring with him any writing, plan or document mentioned or referred to therein; and such *Subpœna* 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 to appear by such *Subpœna*, 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 *Subpœna*, or to produce the writing, plan or document (if any) therein mentioned or referred to, or to give such 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 *Subpœna* shall have issued, and an Attachment may be issued against him by the Judge of the said Court, and he may be punished accordingly, by fine or imprisonment, or both, in the discretion of such Judge.

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

VIII. Whenever the Municipal Corporation of any Township, City, Town or Incorporated Village in Upper Canada shall adopt a resolution on application of one half the resident Land-holders to be affected thereby, that it is desirable to place stone or other durable monuments at the front 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 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 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 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.

Expenses, how paid.

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 side lines shall be drawn from the posts at both ends thereof, to the centre of the Con-

Mode of drawing lines in double fronted concessions.

cession, 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.

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

X. In all cases when any Land Surveyor shall be employed in Upper Canada to run any side-line or limits between lots, 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 satisfactorily 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 as the same contained in the original survey, assigning to each a breadth proportionate to that intended in such 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 ; and if any portion of the line in front of the concession in which such lots are situate, or boundry of the township in which such concession is situate, shall be obliterated or lost, then the Surveyor shall run a line between the two nearest points or places where such line can be clearly and satisfactorily ascertained, in the manner provided in this Act and in the Act first cited in the preamble to this Act, and shall plant all such intermediate posts or monuments as he may be required to plant, in the line

so ascertained, having due respect to any allowance for a road or roads, common or commons, set out in such original survey; and the limits of each lot so found shall be taken to be and are hereby declared to be the true limits thereof; any law or usage to the contrary thereof in any wise notwithstanding.

XI. The provisions contained in the thirty-first section of the Act first cited in the preamble to the Act, as well as those contained in the eighth section of this Act, shall extend to, and apply as well to the lands held in free and common socage in the Townships of Lower Canada as to lands in Upper Canada, and the powers in said sections conferred upon District, Township, City, Town and Village Councils for carrying out the purposes of said sections in Upper Canada, shall be vested in, and exercised by Township, Parish, Town and Village Councils in Lower Canada, as the case may be, within which the lands, to which such provisions apply, may be situated; And the expenses of any survey made under the provisions of said sections shall be paid by the Secretary-Treasurer of the Township, Parish, Town or Village Council within which such Survey, is made, upon the certificate and order of the Commissioner of Crown Lands.

Section 31 of  
12th V., C. 35  
and section 8  
of this Act ex-  
tended to lands  
in the town-  
ships of L. C.

Cost how paid.

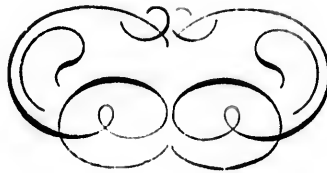


## LIST OF LOCAL ACTS

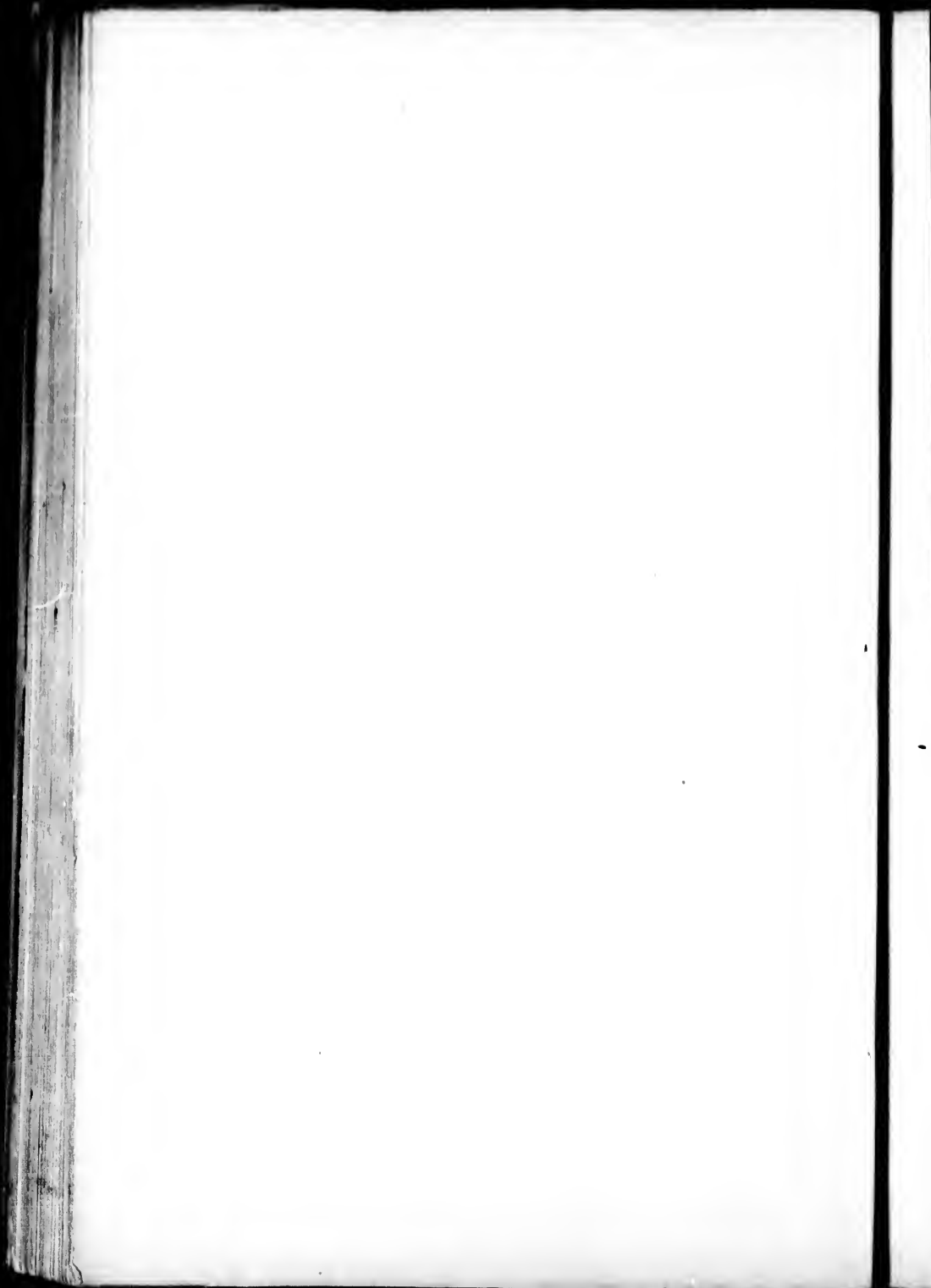
### RELATING TO SURVEYS IN UPPER CANADA.

	A. D.	A. B.	CAP.
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