

The Provincial Statutes of Lower-Canada, Being the fourth session of the eleventh Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1824.

4 George IV – Chapter 20

An Act to repeal an Ordinance therein-mentioned, and to provide more ample Regulations respecting Surveyors and the admeasurement of Lands. (9th March, 1824.)

Whereas an Ordinance was made and passed in the twenty-fifth year of the Reign of His late Majesty 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 whereas it hath been deemed necessary to make more ample and effectual Regulations on that subject;—Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great-Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North-America,' and to make further provision for the Government of the said Province;"—And it is hereby enacted by the authority of the same, that from and after the expiration of thirty-one days next after the passing of this Act, the said Ordinance made and passed in the twenty-fifth year of the Reign of His late Majesty, intituled, "An Ordinance concerning Land Surveyors and the admeasurement of Lands," shall be, and the same and every part thereof, is hereby repealed for and during the continuance of this Act.

II. And be it further enacted by the authority aforesaid, that from and after the expiration of the said thirty-one days next after the passing of this Act, no person shall be admitted to practise as a Land Surveyor, until he be duly appointed as such by Commission under the hand and seal of the Governor, Lieutenant-Governor, or person administering the Government of this Province, unless he have attained the full age of twenty-one years, or until he shall have gone through, at least, one regular course of Geometry and Trigonometry, and also of Astronomy, sufficient to enable him to draw a Meridian, and shall have served, regularly and faithfully, for and during the space of three successive years, under an Instrument, in writing, for the purpose, duly executed before a Notary, as apprentice to a Land Surveyor, duly admitted and practising as such in this Province, and until he shall have received from the said Land Surveyor, a Certificate of his having served during the said period. Provided nevertheless, that whoever shall have been admitted to practise as a Land Surveyor in any of His Majesty's Dominions other than in this Province, shall not be holden to serve under an Instrument, in writing, during the three years aforesaid, but only during twelve successive months of practice; after which he may undergo the examination by this Act prescribed, on conforming with all the other rules and regulations.

III. And be it further enacted by the authority aforesaid, that before any person shall be permitted to practise as a Land Surveyor, he shall be examined with respect to his capacity and the sufficiency of his Instruments, by a Board of Examiners composed of the Surveyor-General of this Province, and two other competent persons to be appointed by the Governor, Lieutenant-Governor or person

administering the Government of this Province for the time being, and shall further obtain a Certificate of their approbation, and of his capacity and of the goodness and accuracy of his Instruments. Provided always, that it shall be the duty of the above-mentioned Examiners to cause all persons applying, for admission to practise as Land Surveyors, to produce satisfactory Certificates as to character for probity and sobriety, and to perform such practical operations in their presence as they shall require, previous to giving them their Certificate.

IV. And be it further enacted by the authority aforesaid, that every person who after having undergone the examination prescribed by this Act, shall receive a Commission as Land Surveyor, shall, before exercising any of the functions of his profession, give good and sufficient security to His Majesty, in the sum of fifty pounds, currency, for the faithful discharge of his duty, and take the following Oath before one of the Justices of the King's Bench, of which a, good and sufficient Certificate shall be given him:

OATH.

"I, A.B. do solemnly swear that I will faithfully and duly perform my duties as a Land Surveyor according to Law, without favor, affection, or partiality—and that I will faithfully execute my duty towards the parties—So help me God;" which Oath shall be entered in a Register kept for the purpose.

V. And be it further enacted by the authority aforesaid, that every person who shall receive a Commission as a Land Surveyor, shall be holden, within one month after the time at which he shall have received the same, and under a penalty of the sum of two pounds, current money of this Province, to produce the same at the Office of the Court of King's Bench for the District in which he shall reside; and, at the same time, there to declare the place in the District where he resides and practises his profession; and that declaration, signed by him, shall be entered in a Register which shall be kept for the purpose, by the respective Clerks or Prothonotaries of the said Courts, in which the said Commission shall also be registered; and the said Clerks or Prothonotaries shall be entitled to an allowance of six-pence, currency, for every hundred words for the said entry.

VI. And be it further enacted by the authority aforesaid, that every Land Surveyor changing his Domicile in the said District, shall be held, within one month after the time of such change, to make, in like manner, a new declaration of the place of his new residence, and in the manner prescribed by the preceding Section of this Act.

VII. And be it further enacted by the authority aforesaid, that every Land Surveyor, leaving the District in which he shall have resided, to remove into and reside in another, shall be held, in the course of one month after he shall have begun to establish his residence in such District, to produce his Commission, and cause the same to be enrolled in the Office the Court of King's Bench for the District in which he shall have established his new residence; and there also to declare the place of his residence, each time, and in the manner and form prescribed in the two preceding Sections of this Act.

VIII. And be it further enacted by the authority aforesaid, that every Land Surveyor, leaving a District to remove into and reside in another, or who shall leave this Province for a period exceeding twelve

successive months, shall be held under the penalty mentioned in the Sixth Section of this Act, previous to his change of domicile, to transmit to and deposit in the Office of the Court of King's Bench for the District which he shall leave, the minutes, plans and papers respecting his Profession, drawn up and prepared by him during the time of his residence in such District, in any operation of Survey performed at the desire of any person or persons, on Lands within the limits of such District.

IX. And be it further enacted by the authority aforesaid, that every Land Surveyor, who shall so have deposited his original Instruments, plans, and other papers as aforesaid, shall be entitled, during his life-time, to an exact moiety of the emoluments which the Clerks shall receive as the price of the Copies which they shall have to deliver of the original Instruments, and other papers of such Land Surveyor, to be computed from the day on which such deposit shall have been made.

X. And be it further enacted by the authority aforesaid, that after the death of such Land Surveyor, his widow or heirs shall have the same rights with respect to the emoluments on copies of the original Instruments, plans and other papers respecting his profession, so deposited in his life-time, as with respect to those which are deposited after the death of the Land Surveyors, according to the nineteenth clause of this Act.

XI. And be it further enacted by the authority aforesaid, that every Land Surveyor, duly commissioned, is hereby authorised to appoint two persons of probity to admeasure and chain upon such Land on which the said Land Surveyor may be employed; which persons, before they shall be so employed as Chain-bearers, shall make oath to admeasure faithfully and exactly, and to make a true and faithful return of their operation to the Surveyor, who shall so have appointed and employed them; and further, that they are absolutely disinterested in the Survey in question, and are not related to any of the parties within the degree prohibited by Law, with respect to witnesses; which oath, the Surveyor is hereby authorised and required to administer to the said Chain-bearers.

XII. And be it further enacted by the authority aforesaid, that every Land Surveyor, who shall survey or admeasure Lands, shall, when thereunto required by the parties, place Boundary marks of Stone, of which the length above ground shall be one foot at least, between Seigniors or Co-Seigniors [seigneurs], or between two Townships, or between a Seigniorie [seigneurie] and a Township, or between the Waste Lands of the Crown and a Seigniorie or Township; and at least one half foot Above; ground between persons holding Grants in a Seigniorie or Township, and at least one foot in the ground in every case; under which boundary marks he shall place pieces of brick or delf or earthenware, or of slag of iron or of bottles, and before every boundary mark, a post of squared timber.

XIII. And be it further enacted by the authority aforesaid, that each and every Land Surveyor, who shall hereafter be employed in any Survey, shall, as soon as his operation shall be finished, draw up a Procès-Verbal, in which he shall (the whole under a penalty of the sum of two pounds, current money of this Province, if he neglect so to do,) insert first the date thereof; he shall mention by the order of what Court, or at whose desire he shall have operated, the residence of the parties and their addition, his own name and residence; he shall then faithfully detail what he shall have done, according to the nature of the Survey required of him; whether any and what Title Deeds were produced to him, according to which he may have guided His operations; if thereunto required he shall state what is the

form and the area of ground which he has surveyed; what chainings he has performed, and what lines he has drawn, gone over, or verified; what remarkable and stationary objects his lines may have intersected, proceeded along or crossed; he shall state the true and, also the magnetical course of his lines; if he have placed any boundary marks, he shall state what he has placed under them, their respective distance from each other when there are several, and their distance from some remarkable and stationary object, such as a river, a rivulet, a ravine, &c. which Procés Verbal, the said Surveyor shall read aloud to, and cause to be signed by the parties, and by the persons present at his operation, and especially by the Chain-bearers whom he shall have sworn as aforesaid, and shall preserve the same as a minute, of which he shall give copies to the parties concerned and the said Land Surveyor shall not enter any interlineation 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 Procés Verbaux; which references shall be signed with the initials of the said parties, witnesses, and Land Surveyor.

XIV. And whereas, hitherto, the Law hath not bound Land Surveyors to cause their Proces Verbaux of Survey to be signed by the witnesses able to write, whereby ante-datings, changes and other alterations in the said Proces Verbaux are evidently facilitated;—Be it therefore enacted by the authority aforesaid, that every Land Surveyor shall, henceforth, under the penalty of the sum of two pounds, current money of this Province, be holden to cause his Procès Verbal to be signed, after the reading mentioned in the foregoing Section of this Act; and the signature of the persons above-mentioned, if they can write, shall be attested by, at least, one witness, who shall have been present at the said reading and signature, able to write and sign his name, and not interested nor related to the parties aforesaid.

XV. And be it further enacted by the authority aforesaid, that every Land Surveyor shall, before commencing operations, verify his Chain or other Instruments, which he shall use for admeasuring, upon a measure which he shall keep in his possession, and which he shall cause to be adjusted and stamped according to the directions of an Act passed in the thirty-ninth year of the Reign of His late Majesty, intituled, “An Act for the better regulating the Weights and of Measures of this Province,” and under the penalties mentioned in that Act.

XVI. And be it further enacted by the authority, aforesaid, that measure for Land 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.

XVII. And be it further enacted by the authority aforesaid, that from and after the expiration of thirty-one days next after the passing of this Act, every Land Surveyor who shall put or have put as evidence or indications of his boundary marks, any other matter than is ordered by the twelfth section of this Act, shall incur and pay a penalty of two pounds, current money of this Province, one moiety whereof shall be paid to His Majesty, his heirs and successors, and the other moiety to the informer, or the person who shall have instituted the prosecution before a Court of competent jurisdiction.

XVIII. And be it further enacted by the authority aforesaid, that whoever shall disturb or cause to be disturbed, or remove or cause to be removed any boundary mark without lawful authority for so

doing, shall incur and pay a penalty of twenty pounds, current money of this Province, which shall be recovered and paid as above-mentioned, and shall, moreover, be liable to an action of damages, which shall be brought by the person injured, who shall recover such damages as the nature of the case may require. Provided that nothing herein contained shall extend to prevent the Land Surveyors, in their operations, from taking up the boundary marks, with the consent of the persons whom they concern, or by the order of a Court of Justice, in order to ascertain whether they be true boundary marks, after which they shall carefully replace them as they were before.

XIX. And be it further enacted by the authority aforesaid, that when any Land Surveyor shall have been absent from this Province during twelve successive months or shall die, his Registers, Minutes, Plans, and other Papers relating to his profession, which shall have been prepared at the desire of any person or persons, shall be holden to be public records of the Court of King's Bench, within whose jurisdiction 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 interested therein, who may 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 heirs of such Land Surveyors 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. Provided always, that any Land Surveyor whose Register, Minutes, Plans, and other Papers shall have been deposited in consequence of his absence from the Province as aforesaid, in the office of the Court of King's Bench within whose jurisdiction he shall have operated as a Land Surveyor, shall be entitled, during his life time, to an exact moiety of the fees which the Clerks shall receive on the Copies which they shall have occasion to deliver of the Register, Minutes, Plans and other Papers of such Land Surveyor, to be computed from the day on which such deposit shall have been made.

XX. And be it further enacted by the authority aforesaid, that it shall and may be lawful for the Judges of the Court of King's Bench in the Superior Terms for Civil Causes, upon complaint and proof made before them on oath by two or more persons of good credit, that any Land Surveyor hath acted with gross negligence or corruption in the execution of his duty, or is addicted to habitual drunkenness, so as to render himself unable to execute the duties of his office, to make an order suspending and interdicting such Land Surveyor from the practice and exercise of his profession for such time as the said Judges shall, in their discretion deem proper and sufficient.

XXI. Provided nevertheless, and it is further enacted by the authority aforesaid, that the Judges aforesaid shall not render any such order nor any condemnation nor judgement whatsoever against such Land Surveyor, without having previously summoned such Land Surveyor to be heard on his defence, and having heard the evidence which shall have been offered either in support of the plaint or on the behalf of the Land Surveyor accused.

XXII. And be it further enacted by the authority aforesaid, that the penalties inflicted by this Act, shall be recovered and sued for in the Court of King's Bench for the District wherein the offence shall have been committed, one-half of which penalties respectively, when levied and recovered, shall belong to His Majesty, for the public uses of this Province, and the other half to the person suing for the same.

XXIII. And be it further enacted by the authority aforesaid, that the due application of the monies levied under this Act, shall be accounted for to His Majesty, His Heirs and Successors, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct.

XXIV. And be it further enacted by the authority aforesaid, that this Act shall continue to be and remain in force until the first day of May, one thousand eight hundred and twenty-eight, and no longer.