

The Provincial Statutes of Lower-Canada, Being the second session of the fourteenth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1832.

2 William IV – Chapter 21

An Act to repeal an Ordinance therein mentioned, and to provide more ample regulations respecting Land Surveyors and the admeasurement of Lands. (25th February, 1832.)

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 Québec, 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 Québec, 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 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concerning Land Surveyor and the admeasurement of Lands," shall be and the same and every part thereof, is hereby repealed.

II. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, no person shall be admitted to practice as a Land Surveyor, until he shall have attained the full age of twenty one years, nor till he shall have gone through at least one regular course of Geometry and Trigonometry, as 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 two Notaries, or a Notary and two Witnesses, 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 practice 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 practice as a Land Surveyor, he shall be publicly examined with respect to his capacity and the sufficiency of his instruments, in the presence of a Judge, by a Board of Examiners composed of the Surveyor General of this Province or his Deputy, and four other

competent persons to be appointed by the Governor, Lieutenant Governor or person administering the Government of this Province for the time being, who shall take an oath of office—any three of the five Examiners to form a quorum, and the said Examiners shall give him a certificate of their approbation, and of his capacity, and of the goodness and accuracy of his instruments, which certificate shall be sufficient to authorise him to practise as a Land Surveyor: 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 their giving him their certificate.

IV. And be it further enacted by the authority aforesaid, that every person who having undergone the examination prescribed by this Act shall receive a certificate as aforesaid, 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 Court of King's Bench, or of any other Court of Civil Jurisdiction, of which a good and sufficient certificate shall be given him by the Prothonotary or Clerk of such Court who shall be entitled to demand the sum of two shillings and six pence currency, and no more, for such certificate.

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 certificate as aforesaid, 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 forty shillings current money of this Province, to produce the same at the Office of the Court of King's Bench or Civil Court of original jurisdiction 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 practices 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 Register the said certificate shall also be registered; and the said Clerks or Prothonotaries shall be entitled to an allowance of sixpence currency, for every hundred words, for the said entry.

VI. And be it further enacted by the authority aforesaid, that every Land Surveyor, duly qualified as aforesaid, is hereby authorized 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 measure faithfully and exactly and to make a true and faithful return of their operation to the Land Surveyor, who shall 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 Land Surveyor is hereby authorized and required to administer to the said chain bearers.

VII. 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, one of which shall be the front boundary and the other shall shew the course of the line of division, of which the length above ground shall be six inches at least, between Seigniors and Co-Seigniors [co-seigneurs], or between two Townships, or between a Seignior [seigneurie] and a Township, or between the waste lands of the Crown and a Seignior or Township; and at least three inches above ground between persons holding grants in a Seignior or Township, and at least nine inches in the ground in every case; under which boundary marks he shall place pieces of brick or delf, or earthenware, slag of iron or of bottles, and before every boundary mark a post of squared timber, and similar boundaries at certain distances on the lines and also at their termination if the parties require it.

VIII. 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 operations shall be finished, if he have placed any boundary mark, draw up a Procès Verbal, in which he shall (the whole under a penalty of the sum of forty shillings current money of this Province, if he neglect so to do) insert the date of said Procès Verbal and shall mention by the order of what Court, or at whose desire he shall have operated, the residence of the parties and their additions, and his own name and residence he shall then faithfully detail what he shall have done, according 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 fixed objects his lines may have intersected or run close to; he shall state the true and also the magnetical course of his lines; he shall state what he has placed under the boundary marks, their respective distances from each other (when there are several) and their distance from some remarkable and fixed object, which Procès Verbal, the said Land Surveyor shall read aloud to, and cause to be signed by the parties, if they be present and able to sign and if no person present be able to sign then by three persons who shall make their marks of which fact mention shall be made in the Procès Verbal and he 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 Procès Verbal, which references shall be signed with the initials of the said parties, witnesses and Land Surveyor.

IX. And be it further enacted by the authority aforesaid, that every Land Surveyor shall, before commencing operations, verify his chains 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 direction 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 measures of this Province," and under the penalties in the said Act mentioned.

X. And be it further enacted by the authority aforesaid, that a meridian line shall be properly drawn and marked, in or near the Cities of Québec and Montreal, and the Town of Three Rivers [Trois-Rivières], by the Surveyor General of the Province, or any other Land Surveyor whom the Governor, Lieutenant Governor or person administering the Government of the Province, shall judge fit to appoint, and by which the Land Surveyors shall be held to verify their instruments once at least every year.

XI. And be it further enacted by the authority aforesaid, that the 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 [seigneuries], and in the Concessions which have, therein been made up to the present time.

XII. And be it further enacted by the authority aforesaid, that from and 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 seventh section of this Act, shall incur and pay a penalty of ten pounds current money of this Province; to be recovered on the oath of one credible witness other than the prosecutor in any Court of competent jurisdiction and levied by execution against the goods and chattels of the offender.

XIII. And be it further enacted by the authority aforesaid, that whoever shall maliciously 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 may concern, or even without their consent, by 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.

XIV. And be it further enacted by the authority aforesaid, that the said Surveyors shall collect and place in regular and due order, all and every the minutes of Proces Verbaux, that may have been or may be drawn up by them, in the order of time in which such Proces Verbaux may have been drawn up; and shall collate and put up the minutes of their Proces 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 indorsed the general contents of each bundle; and shall make an exact index thereto.

XV. And be it further enacted by the authority aforesaid, that when any Land Surveyor shall die, his registers, minutes, plans, and other papers relative 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 or of the Civil Court of Original Jurisdiction, within 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 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.

XVI. 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 or of the Civil Court of Original Jurisdiction, in the superior terms for civil causes, upon complaint and proof made before them, on oath, by two or more credible persons, that any Land Surveyor hath acted with gross negligence or corruption in the execution of his duty, or hath rendered 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 a time as the said Judges shall, in their discretion, deem proper and sufficient.

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

XVIII. 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 or before the Civil Court of Original Jurisdiction for the District wherein the offence shall have been committed, or in which the offender shall reside, one half of which penalties respectively, when levied: and recovered, shall belong to His Majesty, and shall remain at the disposal of the Provincial Legislature, for the public uses of this Province, and the other half to the person sueing for the same.

XIX. 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, in such manner and form as His Majesty, His Heirs and Successors shall direct.

XX. 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 forty, and no longer.