

Laws of His Majesty's Province of Upper Canada, passed in the year 1831. York: Robert Stanton, 1831.

1 William IV – Chapter 9

An Act to provide for Settling and Determining by Arbitration certain difficulties that have arisen or may arise between persons owning Land in the Eighth Concession of Saltfleet and persons owning or claiming to own Lands in the First Concession of Binbrook, who through mistake may have made improvements on the rear part of the said Eighth Concession of Saltfleet. Passed 16th March, 1831.

Whereas the Inhabitants residing on the front Concession of the Township of Binbrook in the County of Wentworth, in the District of Gore, having commenced their Improvements and erected their Buildings on the front of the said First Concession, and in accordance with a line run by Samuel Street Wilmot a Deputy Surveyor sent by order of the Government to ascertain and mark out the said line, and which line has since been discovered to be erroneous, as encroaching on the Eighth Concession or rear Boundary Line of the Township of Saltfleet, and by which the parties interested are liable to be exposed to great difficulty and loss: And whereas, the Inhabitants living on the First Concession of the Township of Binbrook aforesaid, and whose Improvements and Buildings are found to be on the Eighth Concession of Saltfleet, not having made such encroachments knowingly or with evil intention, it is therefore expedient that provision be made by Law to enable the parties to settle the difficulties that may have arisen or are liable to arise on account of the said error: 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 Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign entitled, '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 by the authority of the same, That it shall and may be lawful for any person or persons owning Land in the Eighth Concession of Saltfleet and which may have been improved by any person or persons owning or claiming to own Lands in the First Concession of the Township of Binbrook and who shall not mutually agree to settle the matter in dispute between themselves, to submit the same to be determined by Arbitration, in the manner hereinafter set forth.

II. And be it further enacted by the authority aforesaid, That it shall not be lawful for any person or persons owning any Lot or parcel of Land in the Eighth Concession of Saltfleet aforesaid, and which may have been improved before the passing of this Act by any person or persons owning or claiming to own Land in the First Concession of Binbrook, to eject such person or persons from any such Improvement or take possession of such improved part of a Lot or Parcel of Land without the consent of the occupant thereof, unless the same shall have been submitted to the determination and award of Arbitrators indifferently chosen by the parties, for settling and determining the same.

III. And be it further enacted by the authority aforesaid, That in all cases where the owner of any such improved part of a Lot or Parcel of Land, or the person having improved the same, or who may be otherwise interested therein, shall not agree as to the value of the Land so improved or the improvement thereon, it shall and may be lawful to and for each of the Parties so interested, to choose one fit and proper Person as an Arbitrator, and the two Arbitrators thus chosen may choose a third Arbitrator, and the three Arbitrators so chosen shall have full Power and Authority to award and determine the whole matter of difference between the Parties.

IV. And be it further enacted by the authority aforesaid, That before any Arbitrator shall enter upon the duties assigned him by this Act, he shall take the following Oath:—"I A. B. do solemnly swear that I will faithfully inquire into the matter in dispute between C. D. and E. F. and will make a just and true award thereon according to the best of my knowledge and belief—So help me God;" and which Oath it shall and may be lawful for any Justice of the Peace in the District of Gore to administer.

V. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said Arbitrators, and they are hereby required to fix and determine the value of such Improvements, as also the value of the Land on which such Improvements may have been made, considered only in its uncultivated state.

VI. And be it further enacted by the authority aforesaid, That in all cases where an Award shall be made under this Act, determining the value of any such Improvement, it shall be optional with the owner of the Land, whether he will pay the amount at which such Improvement may be valued, or receive the sum awarded to be paid by the Person having made such Improvement as the value of the Land on which the same may have been made.

VII. And be it further enacted by the authority aforesaid, That no Person owning Land in the Eighth Concession of the Township of Saltfleet, nor any Person who may claim remuneration for any such Improvement as aforesaid shall be eligible to be chosen or appointed an Arbitrator for the purposes of this Act.

VIII. And be it further enacted by the authority aforesaid, That if upon application to the Court of Quarter Sessions for the Gore District being made in the manner pointed out by Law, the aforesaid Line run by the said Samuel Street Wilmot, shall be confirmed as a Common Public Highway, it shall and may be lawful for the owners of the Land in the first Concession of the Township of Binbrook, to take, hold, occupy and enjoy the Road Allowance in front of the said first Concession in lieu thereof, any law, usage or custom to the contrary notwithstanding; Provided always, that the value of said Allowance be paid for by such occupant to the owners of Land in the eighth Concession of Saltfleet next adjoining.

IX. And be it further enacted by the authority aforesaid, That every award that shall be made as hereinbefore directed, shall be made a rule of His Majesty's Court of King's Bench, and as such may be specially pleaded by the Party or Parties having complied with the same.