

Laws of His Majesty's Province of Upper Canada, passed in the year 1832. York: Robert Stanton, 1832.

2 William IV – Chapter 19

An Act to provide for the appointment of Commissioners to ascertain the North Boundary Line of the Township of Niagara, and to establish a Public Highway contiguous to the same. Passed 28th January, 1832.

Whereas the Inhabitants of the Township of Niagara in possession of Land in the Boundary of said Township to the North, have been involved in numerous, expensive, and perplexing Law Suits, arising out of doubtful and inaccurate Surveys made at different times at an early period of the settlement thereof, and His Majesty's Justices of the Peace in the execution of their duty relative to Highways, from conflicting evidence, are unable to determine correctly in what manner to proceed in determining whether upon such original Surveys of the Township an allowance was made of one Chain to or upon the Northern Boundary thereof, as usual in similar Surveys of Townships, as an Highway to and for the use of the Public, and if so, whether the original Grantees of the Crown along said Boundary Line have the full complement of their Lands expressed in their Deeds, exclusive of such allowance, on the said Northern Boundary, if otherwise, whether a Road of one Chain in width was intended to be taken from what has been called the Garrison Line to the North of the said Township, and on part or parcel of the Military Reservation, then so called, or whether any Road at all was intended to be made which should interfere with the Reserved Lands of the Crown; And whereas, no Boundary Line has ever been ascertained and established in the said Township on a permanent footing under the Provincial Act of the year one thousand seven hundred and ninety-eight; And whereas it would tend much to the allaying of disputes, and diminishing litigation, to provide for the appointment of three impartial, able, and discreet persons, not Inhabitants of the District in which the said Township is situated, to investigate the premises, and a final award and decree to make on all matters hereafter directed to be submitted to them, with the exception of a power of the Court of King's Bench as hereafter mentioned. 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 John Macaulay of Kingston, in the Midland District, Samuel Ridout of York, in the Home District, and John Willson of Saltfleet, in the District of Gore, Esquires, are hereby authorised and appointed as Commissioners to meet as such for the purposes of this Act, by proceeding some time in the months of June, July, or August next, to the Land and Boundaries in question, and then and there to employ one or more Provincial Licensed Surveyors, with necessary Chain Bearers and other assistants, under the direction and order of the said Commissioners, to view and Survey all such pieces or parcels of Land lying and being in the Township of Niagara, lying either North or South of the Northern Boundary of said Township, or the disputed lines contiguous thereto.

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said Commissioners, or any two of them, for the purposes aforesaid, with their Surveyor or Surveyors and for those persons employed by them, to make entry on any or all the farms or Lands of any of His Majesty's Subjects lying and being contiguous or near to the Northern Boundary of said Township, where it may be necessary to Survey any Lines in dispute, and to place any posts or marks thereon for the purposes of this Act, without being considered as liable to any action at Law as trespassers.

III. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said Commissioners, and they are hereby required, well and truly to inquire into all matters of fact necessary for directing their judgment as to their award, and by all such lawful ways and means as are incident to a Court of Civil Jurisdiction to compel the attendance and appearance of Witnesses necessary in the investigation, and the production before them of all or any Deeds, Books, Maps, Diagrams, or other Documents or evidence in any way relating to the said matters hitherto in controversy, as well as to tender and administer to such Witnesses an Oath or Oaths pertinent to the subject matter; and in case of any false swearing by any Witness or Witnesses, such Witness or Witnesses on conviction thereof shall be liable to the pains and penalties of being guilty of wilful and corrupt perjury.

IV. And be it further enacted by the authority aforesaid, That the said Commissioners shall and are hereby authorised to take into their Consideration whether in the original Survey or Surveys of the said Township a Road, or an allowance for a Road, at the Northern Boundary thereof, was made in such Survey, and by what Surveyor; and also whether the original Grantees of the Crown have the full complement of Land expressed in their Deeds, exclusive of such allowance if made in such Survey, if on the contrary no such allowance was made, whether a Road of one Chain width was intended to be taken from the ground within the line usually called the Garrison line, or whether any Road at all was intended to be made from the River Westward which would interfere with the Reserved Lands of the Crown; and whether such Land, composing what has been called the Military Reserve, has since been Granted by the Crown to other persons up to the North Boundary of the Township; and whether any and what Reserves have been made in any Patents therefore; and further to inquire what difference there is, if any, between what is called the West Line and the Garrison Line.

V. And be it further enacted by the authority aforesaid, That after the said Commissioners, or the majority of them, shall have decided upon all or any of the points hereinbefore mentioned and referred to their judgment, it shall be the duty of the said Commissioners to cause a stone Monument to be placed at such a governing point on the Bank of the Niagara River as the said Commissioners may determine ought or should be the North Eastern Boundary of said Township of Niagara; and to determine whether a Road or a Chain in width shall be allowed to constitute hereafter a Public Highway, and whether to the South or North of such Monument as aforesaid, and whether exactly running a course West or with what deviation either to the North or South thereof, and to cause the same to be laid out and Surveyed, and to award to the owners of the soil such compensation as the said Commissioners, or the majority of them, in their discretion may

think just and reasonable, having a due regard to each particular claim, and diminishing the same as a consideration of the advantages of such a Road being opened will suggest to the Commissioners.

VI. And be it further enacted by the authority aforesaid, That if it shall appear to the said Commissioners expedient in carrying into effect the provisions of this Act, it shall and may be lawful for the said Commissioners to Survey the Land of any person occupying the same to the South West of the said Monument, when ascertained, in order to assist them in their judgment in awarding or not awarding compensation, and in tracing or Surveying the Road to be laid out from the aforesaid Monument Westward, and to plant posts and mark them wherever an allowance has been made of one Chain for a Highway and not included in any of the Grants from the Crown, and thenceforward the said Road shall become a Public Highway to all intents and purposes, and subject to the general Laws of the Province as such.

VII. And be it further enacted by the authority aforesaid, That if upon such Survey any Lands are enclosed which are not included in any of the said Patents from the Crown, or otherwise ungranted by reason of being reserved as Concession Roads or allowances for Highways, it shall be the duty of the Commissioners to report that matter as part of their award to the Chairman, for the time being, of the Quarter Sessions of the District of Niagara in General Quarter Sessions assembled, to enable the Justices of the Peace to carry into execution the powers given them by Law in respect to the Highways.

VIII. And be it further enacted by the authority aforesaid, That the said Commissioners in a reasonable time thereafter shall make their award of and concerning such matters and things hereby submitted to their impartial decision, by an instrument under their hands and seals in duplicate, one part thereof to be transmitted by them to the Court of King's Bench in this Province, and the other to the Chairman of the General Quarter Sessions of the Peace for the District of Niagara, there to be and remain as matter of Record, and to be pleadable and available in all Courts of this Province having competent jurisdiction of any matter in such award contained: Provided nevertheless, that such award, or any part thereof, shall not be set aside unless the said Court of King's Bench shall be moved by any of the parties interested to alter or set aside such award within twelve months from the execution of such award.

IX. And be it further enacted by the authority aforesaid, That this Act shall be deemed and taken to be a Public Act without being specially pleaded, and any award, decree or order, under the hands and seals of said Commissioners, shall extend to and be in force in the Province of Upper Canada, subject to the revision and controul of His Majesty's Court of King's Bench therein.

X. And be it further enacted by the authority aforesaid, That in case the said Commissioners or any one or more of them shall die, or should decline to act, or become incapable of acting, it shall be in the power of the Governor, Lieutenant Governor, or Person Administering the Government of this Province, to appoint under His sign Manual an other or others to act in the place and stead of such Commissioner or Commissioners.

XI. And be it further enacted by the authority aforesaid, That the said Commissioners are hereby authorised and required, upon any compensation being awarded to any person claiming such under the provisions of this Act, to certify the same in writing to the General Quarter Sessions of the Peace of the said District, who are hereby required to give an order on the Treasurer of the said District to pay and discharge the amount of the Certificate so granted out of the general funds of the District.

XII. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said Commissioners to receive for each and every day they may be so employed in carrying the provisions of this Act into execution the sum of Twenty Shillings Currency, to be paid to each of them out of the funds of the District, by an order under the hand of the Chairman of the Quarter Sessions for the time being.