

CAP. LXXXIII.

An Act to amend the Acts relating to Land Surveyors.

[Assented to 19th May, 1855.]

Preamble.

12 V. c. 35.

14 & 15 V. c. 4.

WHEREAS 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:

Sections 2 and 40, and part of Section 8 of 12 V. c. 35, repealed.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

None but licensed persons to act as Surveyors.

Fee on transmission of Articles to Secretary.

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who shall have attended the Examination, and shall not be salaried Officers of the Government, shall be and is hereby repealed; and the remainder of any such sum, after paying the expenses (if any) attending the Examination, shall be paid over to the Commissioner of Crown Lands and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 of 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.

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.

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 preamble of this Act, nor shall such instrument be deemed to have been transmitted to the Secretary until such fee shall have been paid.

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.

Applicants to be examined before they can become apprentices to Surveyors.

Fees on examination and certificate of qualification.

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 "instrument 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*.

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

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 *Subpæna* or *Subpæna duces tecum*, as the case may require, accompanying

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

accompanying such application by an affidavit or solemn declaration to 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 Sect. 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 Landholders 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.

Mode of drawing lines in double fronted concessions.

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

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 Concession, 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.

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 boundary 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.

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

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 soccage 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 the 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 12 V. c. 35, and section 8 of this Act, extended to lands in the townships of L. C.

Costs, how paid.