

Laws of Her Majesty's Province of United Canada, passed in the year 1852. Quebec: Stewart Derbyshire and George Desbarts, 1852.

16 Victoria – Chapter 230

An Act to establish the Boundary of Lots in the West Gore in the Township of Beverly. Assented to 14th June, 1853.

Whereas instructions under date of the tenth of August, one thousand seven hundred and ninety-seven, issued from the Surveyor General of the late Province of Upper Canada, to Deputy Surveyor John Stegman, directing him to make a Survey of the lines in front of the Sixth, Seventh, Eighth, Ninth and Tenth Concessions of the Township of Beverly; and the said John Stegman did in due course make returns in the usual form by Field Notes and Maps, purporting to shew that the Survey had been fully performed, and that he had laid out the said Concessions into Lots, giving to each the intended breadth of twenty chains, and had also surveyed and marked off the West Gore of the said Township of Beverly; And whereas from operations of Survey conducted by Deputy Surveyors Adrian Marlett, Andrew Miller, Lewis Burwell, James Kirkpatrick and Publius V. Elmore, there is reason for believing that Deputy Surveyor Stegman positively surveyed but a limited number of the Lots in those Concessions, and that the first subdivision of a large portion of those Concessions into Lots was actually effected by Surveyors other than the said John Stegman, and acting without authority from the Government, and that their irregular and illegal Surveys, by an assumed and unauthorized power exercised by the boundary line Commissioners of the District of Gore, appointed under the Act of Upper Canada, first Victoria, Chapter nineteen, were fixed and determined as Boundary or division lines, notwithstanding that the first authorized Survey subsequent to that by Mr. Stegman, was effected at a later period by Deputy Surveyor James Kirkpatrick, under instructions from the Surveyor General, dated twenty-sixth September, one thousand eight hundred and thirty-six; And whereas the settlers in the before named Concessions of the Township of Beverly have not entered into possession of their Lots, in accordance with the authorized public Surveys made by Deputy Surveyor James Kirkpatrick, but have been guided by the Surveys which they primarily upon their own responsibility procured to be performed, and the said Boundary Commissioners subsequently recognized; and inasmuch as to disturb those Surveys, although irregularly instituted, would be productive of injurious consequences to the settlers at large, 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, That the public Survey accomplished by Deputy Surveyor James Kirkpatrick, under instructions from the Surveyor General, bearing date the Twenty-sixth of September, one thousand eight hundred and thirty-six, shall be and is by this Act set aside and declared to be null and void, except in so far as shall in this Act be otherwise provided for.

II. And be it enacted, That so much of the lines in front of the Sixth and Seventh Concessions of the said Township of Beverly, as were left unfinished by Deputy Surveyor John Stegman, extending

in the Sixth Concession from the easterly limit of Lot number Five to the Western Boundary of the Square Township, and in the Seventh Concession from the westerly limit of Lot number Two to the said Western Boundary, and which were completed by Deputy Surveyor Lewis Burwell, without the authority of Government but upon his own responsibility, in or about the year one thousand eight hundred and twenty-nine, shall constitute the true and unalterable Boundary lines of the said Concessions respectively; and that the posts or monuments planted in the said lines by the said Lewis Burwell, or by the said Boundary Line Commissioners, to mark the limits of the Lots in the said Sixth and Seventh Concessions, shall be and the same are hereby declared to be the true and unalterable limits of the said Lots respectively; and that the limit between the Lot number One in the said Sixth Concession, and the Lot F in the aforementioned West Gore, drawn between them by Deputy Surveyor Andrew Miller, in or about the year one thousand eight hundred and thirty-one, shall be the division line between that part of the Square Township and the said West Gore; and that a point distant twenty chains, on a course south seventy-seven degrees west, from the monument established by the Boundary line Commissioners as the south-east angle of Lot number One in the said Seventh Concession, shall constitute the Boundary between the said Lot number One and the West Gore of the said Township.

III. And be it enacted, That so much of the line in front of the Eighth Concession of the said Township as was left unfinished by Deputy Surveyor John Stegman, extending from Lot number Thirty to the western Boundary of the Square Township, and which was completed by Deputy Surveyor James Kirkpatrick, from the said Lot number Thirty to number Twenty-two, under an Order in Council of Sixteenth of June, one thousand eight hundred and thirty-six, and from thence westward without instructions from the Surveyor General but as employed by the Inhabitants, and upon his own and their responsibility, and which Survey was on the Ninth of March, one thousand eight hundred and thirty-nine, identified and confirmed by the Boundary line Commissioners for the District of Gore, shall be and shall constitute the true and unalterable Boundary line thereof; and that the posts or monuments planted in the said line by the said James Kirkpatrick or by the said Boundary line Commissioners to mark the limits of the Lots in the said Eighth Concession, shall be, and the same are hereby declared to be, the true and unalterable limits of the said Lots respectively: and that a point distant twenty chains, south Seventy-seven degrees west, from the monument established by the said Commissioners as the south-west angle of Lot number Two in the said Concession, shall be the Boundary between the Lot number One and the West Gore.

IV. And be it enacted, That so much of the line in front of the Ninth Concession of the said Township, as was left unfinished by Deputy Surveyor John Stegman, extending from Lot number Thirty-five to the western Boundary of the Square Township, and was completed by Deputy Surveyor James Kirkpatrick from the said Lot number Thirty-five to Lot number Twenty-six, under an Order in Council of Sixteenth of June, one thousand eight hundred and thirty-six, and from thence westward, without instructions from the Surveyor General, but while employed by the inhabitants and upon his and their responsibility, and was identified and confirmed by the Boundary Line Commissioners on the Ninth of March, one thousand eight hundred and thirty-nine, shall be and shall constitute the true and unalterable Boundary Line thereof; and that the posts or monuments planted in the said line by the said James Kirkpatrick or by the said Boundary

Line Commissioners, to mark the limits of the Lots in the said Ninth Concession, shall be, and the same are hereby declared to be, the true and unalterable limits of the said Lots respectively; and that a point twenty chains, south seventy-seven degrees west, from the monument established as the south-east angle of Lot number One in the said Concession, by the said Commissioners, shall be the Boundary between the Lot number One and the West Gore.

V. And inasmuch as there is reason to believe that the Line in front of the Tenth Concession of the said Township of Beverly, was not surveyed and marked by the said John Stegman, Be it enacted, That the Line in front thereof surveyed by Deputy Surveyor James Kirkpatrick, from Lot number Thirty-six to number Twenty-one, under an Order in Council of Sixteenth of June, one thousand eight hundred and thirty-six, and the remainder from number Twenty-two to the south easterly angle of Lot number One, at the instance of the inhabitants and upon his and their responsibility, and which was identified and confirmed by the Boundary Line Commissioners on the Ninth of March, one thousand eight hundred and thirty-nine, shall be and constitute the true and unalterable Boundary Line thereof; and that the posts or monuments planted in the said line by the said James Kirkpatrick, or by the said Boundary Line Commissioners, to mark the limits of the Lots in the said Tenth Concession, shall be, and the same are hereby declared to be the true and unalterable limits of the said Lots

respectively; and that a point distant twenty chains, on a course south seventy-three degrees west, from the south-easterly angle of the said Lot number One, shall constitute the Boundary between the said Lot number One and the West Gore.

VI. And be it enacted, That the general division line between the Square Township and the West Gore, shall extend in direct courses from where Deputy Surveyor Andrew Miller's Line, surveyed by him in the year one thousand eight hundred and thirty-one, strikes the rear of the Sixth Concession, and from thence to the point established by this Act as the limit in front of the Seventh Concession between Lot number One and the West Gore, and from thence to the point established by this Act as the limit in front of the Eighth Concession between Lot number One and the West Gore, from thence to the point in front of the Tenth Concession established by this Act as the limit between Lot number One and the West Gore, and from thence on a course parallel to the Eastern Boundary Line of the said Tenth Concession to the rear thereof.

VII. And be it enacted, That the division or side lines between the various numbered Lots in the Sixth, Seventh, Eighth, Ninth and Tenth Concessions of the said Township of Beverly, shall be drawn and established parallel to the eastern Boundary Lines of the said Concessions respectively.

VIII. And whereas, in consequence of the provisions of this Act, intended to confirm the holders of land within the Square Township in the possession of the lands which they have long occupied, the proprietors of lands granted as in the West Gore of Beverly, will be deprived of lands granted or intended to be granted to certain individuals from whom they have derived the title and claims under which they hold; And whereas in the private Surveys referred to in this Act which were originated by the inhabitants of the said Township of Beverly, and performed by Surveyors employed by them, but which it is the intention of this Act to legalize, many Lots have been laid off

with a wider frontage and have received a larger quantity of land than it was intended by the Patents under which they were granted that they should contain; and inasmuch as had a correct subdivision been made, there would have been an ample sufficiency of land to have given to all the grants, both in the Square Township and in the West Gore, their full complement of land, and it is consistent with equity that those who have benefited or may benefit by the decree of the Boundary Line Commissioners hereinbefore referred to, or by grants made in the said Gore being circumscribed or reduced in extent in consequence of the excess in quantity which they have acquired, and whose titles will be confirmed by this Act, should contribute their due proportion towards compensating those who have suffered or may suffer loss in the premises; Be it therefore enacted, That the Commissioner of Crown Lands for the time being, and two other persons to be appointed, by the Governor, shall be Commissioners to ascertain within twelve months after the passing of this Act, the losses over and above the amount, if any, both awarded and paid under the decree of the Boundary Line Commissioners, dated the ninth day of March, one thousand eight hundred and thirty-nine, sustained by the proprietors of land and property situated within the limits of the West Gore of the said Township, as originally described in the Letters Patent granting the same, and also the surplus quantity of land which will be held under the provisions of this Act, by the various proprietors of land in the sixth, seventh, eighth, ninth and tenth concessions respectively, of the said Township of Beverly; and the said Commissioners, or a majority of them, shall report the result of their inquiries, shewing the loss sustained by each such proprietor of land and property in the said West Gore, who shall be found to have sustained loss from the operation of the provisions of this Act, specifying in each case, the quantity of land lost and the value of the improvements thereon made by such proprietors respectively; and shewing also in each case the quantity of land gained by each party holding land in the said sixth, seventh, eighth, ninth or tenth concessions, by the operation of the provisions of this Act, over the quantity mentioned in the original Letters Patent for his Lot, and the sum to be paid by each such party, for the surplus land gained by him, which sum shall be calculated at the rate of One Pound Ten Shillings per acre, (being the present average price of wild lands in the same Township,) and a copy of the said report, certified by the Commissioner of Crown Lands, shall be transmitted by him to the Town Reeve of the said Township of Beverly.

IX. And be it enacted, That the sum to be paid by any party under the provisions of the next preceding Section shall be payable to the Municipality of the said Township of Beverly, and may be collected by the Collector of the said Township in like manner as money due for rates or taxes in the said Township and may be recovered by the said Municipality as a debt due to it; and it shall be the duty of the Council of the said Municipality, and of the Reeve, Collector, Treasurer, or other Officer thereof, to collect and enforce payment of the said sums within eighteen months from the passing of this Act; And the said Council shall, within two years from the passing of this Act, distribute and cause to be paid over to the proprietors of lands in the said West Gore, the sums to which the said parties shall have been found to be fairly entitled, or such proportion thereof as the moneys collected will enable them to pay, after deducting the usual allowance to the Collector and Treasurer, and the balance, if any, of the sum awarded to each such party shall be allowed to him in payment of the price of such quantity of wild lands of the Crown as shall amount to the said balance, reckoning the price of such lands at the Government price thereof for the time being; and such party shall be entitled to select such quantity in any place where Crown Lands shall be offered

for sale, and the Governor may make a grant of such lands to such party without any conditions of settlement.

X. And be it enacted, That it shall and may be lawful for the said Commissioners, for the purposes aforesaid, to make entry on any or all of the farms or lands of any of Her Majesty's subjects lying and being in, or near to the said Township or Gore of Beverly, where it may be necessary to make any such examination and survey as aforesaid, and to place any posts or marks thereon for the purposes of this Act, without being liable to any action at law as trespassers.

XI. And be it enacted, 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 matters in controversy, as well as to tender and administer to such witnesses any oath or oaths pertinent to the subject matter.

XII. And be it enacted, That in case the said Commissioners, or any one or more of them shall die, or shall decline to act, or become incapable of acting, it shall be lawful for the Governor of this Province to appoint another or others to act in his or their stead.

XIII. And be it enacted, That it shall and may be lawful for the said Commissioners, except the Commissioner of Crown Lands, to receive for each and every day they may be employed in carrying out the provisions of this Act, the sum of Twenty Shillings currency, and also the expenses by them necessarily incurred for the purposes of this Act; to be paid to them by the Commissioner of Crown Lands, out of the moneys in his hands arising from the sale of Crown Lands.

XIV. And be it enacted, That any two of the Commissioners under this Act may exercise any or all of the powers hereby vested in the said Commissioners, and any award made or other thing done by any two of them, shall have the same force and effect as if made or done by the three Commissioners; any thing herein to the contrary notwithstanding.

XV. And be it enacted, That undisturbed possession, although it may have existed for a period of twenty years or upwards, shall not be held to prevail against the decree of the Boundary line Commissioners for the District of Gore hereinbefore referred to, nor shall it enable individuals whose holdings were affected by such decree to avoid compliance therewith, provided that the

conditions expressed therein having reference to property transferred thereby to parties not in possession previously to the date thereof, be fulfilled.

XVI. And be it enacted, That nothing in this Act contained shall be construed to have the effect of conferring tiny title or perfecting tiny title now insufficient or imperfect, except only in so far as may be effected by the confirmation and legalization generally of such of the proceedings of the said Boundary line Commissioners as relate to the Square Township, and with respect to which

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they exceeded the powers conferred upon them by the Act of Upper Canada, passed in the first year of Her Majesty's Reign, Chaptered Nineteen, intituled, *An Act to authorize the establishment of Boards of Boundary line Commissioners within the several Districts of this Province.*

XVII. And be it enacted, That this Act shall be a Public Act.