



1914

## c 166 Surveys Act

Ontario

© Queen's Printer for Ontario, 1914

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/rso>

---

### Bibliographic Citation

*Surveys Act*, RSO 1914, c 166

### Repository Citation

Ontario (1914) "c 166 Surveys Act," *Ontario: Revised Statutes*: Vol. 1914: Iss. 1, Article 169.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1914/iss1/169>

## CHAPTER 166.

## An Act respecting the Survey of Lands.

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- Short title.      **1.** This Act may be cited as *The Surveys Act*. 1 Geo. V. c. 42, s. 1.
- Interpretation.      **2.** In this Act,
- “Department.”      (a) “Department” shall mean Department of Lands, Forests and Mines.
- “Minister.”      (b) “Minister” shall mean Minister of Lands, Forests and Mines.
- “Original survey.”      (c) “Original survey” shall mean a survey made under the authority mentioned in section 16.
- “Surveyor.”      (d) “Surveyor” shall mean Ontario Land Surveyor. 1 Geo. V. c. 42, s. 2.

## CERTAIN BOUNDARY LINES DECLARED VALID.

- Confirmation of lines established or acts done under former enactments.      **3.** All boundary or division lines legally established, and ascertained under the authority of Ordinances or Acts heretofore in force, shall remain good, and all other acts or things legally done and performed under the authority of such Ordinances or Acts, or any of them, and in conformity to the provisions thereof, shall remain good and valid notwithstanding the repeal of any such Ordinance or Act. 1 Geo. V. c. 42, s. 3.

## STANDARD OF MEASURE.

- Test of the standard measure.      **4.**—(1) The Secretary-Treasurer of the Association of Ontario Land Surveyors shall, by the standard of measure of length deposited with the Department and under such instructions as he from time to time receives from the Council of the Association, examine, test and stamp each standard measure of length for the surveyors who bring the same for examination; and for each measure so examined, tested and stamped may demand and receive such sum, not less than fifty cents nor more than \$2, as the Council may by by-law determine.

(2) Every admitted and practising surveyor shall procure and shall cause to be examined, corrected, tested and stamped or otherwise certified by the Secretary-Treasurer, a standard measure of length, under the penalty of the forfeiture of his license or certificate, and shall previously to proceeding on any survey, verify by such standard the length of his chains and other instruments for measuring. 1 Geo. V. c. 42, s. 4.

Duty of surveyor to procure a certified measure.

And to verify.

#### CHAIN-BEARERS.

5. Every chain-bearer and rod man shall, before he commences his chaining or measuring, take an oath to act as such justly and exactly according to the best of his judgment and ability and to render a true account of his chaining or measuring to the surveyor by whom he has been appointed to such duty, and that he is absolutely disinterested in the survey in question, and is not related or allied to any of the parties interested in the survey within the fourth degree, according to the computation of the civil law—that is to say, within the degree of cousin-german, which oath the surveyor employing such chain-bearer is hereby authorized and required to administer; and no person related or allied to any of the parties within such degree shall be employed as a chain-bearer or rod man on any survey. 1 Geo. V. c. 42, s. 5; 3-4 Geo. V. c. 33, s. 1.

Oath of chain-bearers.

Disqualification for relationship to parties.

#### PASSING OVER OTHER LANDS.

6.—(1) A surveyor when engaged in the performance of the duties of his profession may pass over, measure along and ascertain the bearings of any line or limit whatsoever, and for such purposes may pass over the lands of any person whomsoever, doing no actual damage to the property of such person.

Power when on duty to pass over private lands.

(2) Any person who interferes with or obstructs a surveyor in the exercise of the powers conferred by subsection 1 shall incur a penalty not exceeding \$100 recoverable under *The Ontario Summary Convictions Act*. 1 Geo. V. c. 42, s. 6.

Penalty for obstructing surveyor.

Rev. Stat. c. 90.

#### DETERMINING BOUNDARY OR OTHER LINES.

7. Where a surveyor is in doubt as to the true boundary or limit of any township, concession, range, lot or tract of land which he is employed to survey, and has 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 does not willingly appear before and be examined by such surveyor, or does not willingly produce to him such writing, plan or document a Judge of a County or District Court, upon the application

Ascertaining boundary line in doubtful cases.

May  
subpœna  
witnesses.

of such surveyor or the person employing him accompanied by an affidavit or solemn declaration of the facts on which the application is founded, may order a subpœna to issue commanding such person to appear before the surveyor at a time and place to be mentioned in the subpœna and to bring with him any writing, plan or document mentioned or referred to therein. 1 Geo. V. c. 42, s. 7.

Service of  
subpœna.

8. The subpœna shall be served on the person named therein by delivering a copy thereof to him, or by leaving the same for him with some grown-up person at his residence, exhibiting to him or to such grown-up person the original. 1 Geo. V. c. 42, s. 8.

Penalty for  
disobeying.

9. If the person commanded to appear by the subpœna, after being paid his reasonable expenses or having the same tendered to him, refuses or neglects 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, the person so summoned shall be deemed guilty of a contempt of the Court out of which the subpœna issued, and an attachment may be issued against him by order of the Court, and he may be punished accordingly, by fine or imprisonment or both, in the discretion of the Court. 1 Geo. V. c. 42, s. 9.

Monuments  
at township  
corners, etc.,  
and concession  
lines.

10.—(1) Monuments of stone or other durable material shall be placed at the several corners, governing points or off-sets of every township heretofore or hereafter surveyed, and also at each end of the several concession lines of such townships; and lines drawn in the manner hereinafter prescribed from the monuments so erected shall be taken and considered to be the permanent boundary lines of such townships and concessions respectively.

Under direc-  
tion of  
Minister.

(2) Such monuments shall be so placed under the direction and order of the Minister. 1 Geo. V. c. 42, s. 10.

Confirmation  
of boundaries  
so ascertained.

11. The courses and lengths of such boundary lines, so ascertained and established, shall be the true courses and lengths of the boundary lines of the townships and concessions, whether the same do or do not, on actual survey, coincide with the courses and lengths mentioned and expressed in respect of such boundary lines in any letters patent, grant or other instrument. 1 Geo. V. c. 42, s. 11.

Application  
of the  
county  
council for  
placing of  
monuments.

12.—(1) It shall not be necessary for the Minister to carry the provisions of the next preceding two sections into execution until an application for that purpose has been made to the Lieutenant-Governor in Council by the council of the county in which the township interested is situate,

and such council shall cause the sum requisite to defray the expenses to be incurred, or the proportion thereof payable by the ratepayers of any township or concession, to be levied on them in the same manner as any sum required for any other local purpose authorized by law may be levied.

(2) A survey made under the next preceding two sections may be confirmed by the Minister in the manner provided by subsection 4 of the next following section. 1 Geo. V. c. 42, s. 12.

13.—(1) Whereas in several townships some of the concession lines and side road lines, or parts of the concession lines and side road lines, were not run in the original survey performed under competent authority, and the survey of some of the concession lines and side road lines, or parts of the concession lines and side road lines, have been obliterated, and owing to the want of such lines the inhabitants of such concessions are subject to serious inconvenience, therefore the municipal council of the township in which such lines are situate may, on application of one-half the resident land-holders in any concession or part of a concession, or upon its own motion without such application, apply to the Lieutenant-Governor in Council to cause any such line to be surveyed and to be marked by monuments of stone or other durable material under the direction and order of the Minister, in the manner prescribed in this Act, at the cost of the owners of the land in each concession or part of a concession interested.

(2) The concession lines, where not run or where they have been obliterated, shall be so drawn as to leave each of the adjacent concessions of a depth proportionate to that intended in the original survey.

(3) The survey of the parts of those concession lines intended to be straight, and which were not run or which have been obliterated, shall be established by drawing a straight line between the two nearest points or places where such line or lines can be clearly and satisfactorily ascertained, and for the purpose of establishing such two nearest points or places the surveyor who makes the survey may, if necessary, survey beyond the points mentioned in the council's application.

(4) On the return of such survey to the Minister he shall cause a notice thereof to be published once in each week for four consecutive weeks in a newspaper published in the county or district town of the county or district in which the lands lie, and shall specify in the notice a day, not less than ten days after the last publication, on which the report of the survey will be considered, and the parties affected thereby heard, and on the hearing the Minister may either confirm the survey or direct such amendments or corrections to be made as he shall deem just, and shall confirm the survey

so amended or corrected, and the lines or parts of the lines so surveyed and marked shall thereafter be the permanent boundary lines of such concession or side roads or parts of concessions or side roads to all intents and purposes, and the order of the Minister confirming the survey shall be final and conclusive upon all persons and shall not be questioned in any court.

Finality.

Expenses —  
How borne.

(5) The council shall cause to be laid before them an estimate of the sum requisite to defray the expenses to be incurred in order that the same may be levied on the owners in proportion to the quantity of land held by them respectively in such concession, or part of a concession, in the same manner as any sum required for any other purposes authorized by law may be levied, or the council may without a previous estimate levy on the owners in such proportions the amount of the expense when the same shall have been incurred and ascertained and the certificate of the Minister certifying the amount of such expense shall be conclusive.

Payment  
out of  
municipal  
funds.

(6) Where an application is made by a council upon its own motion, such council, if it deems the application to be in the public interest in assisting to determine the boundaries or limits of any public road or highway or the like, may pay out of the general funds of the township either the whole of the expense or such part thereof as the council may deem proper, and in the event of the council paying part only of the expense out of the general funds the council may order that the remainder of the expense be levied on the owners in such proportion and manner. 1 Geo. V. c. 42, s. 13.

Survey of  
block, etc.,  
on applica-  
tion of  
landholders.

14.—(1) Where the municipal council of any township, city, town or village adopts a resolution, on application of one-half the resident landholders to be affected thereby, or upon its own motion, 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 block or part of a concession, or range or block in their township, city, town or village, such council may apply to the Lieutenant-Governor in Council in the same manner as is provided by the next preceding section to cause a survey of such concession or range or block, or part thereof, to be made and such monuments to be placed under the authority of the Minister.

Marking  
boundaries.

(2) The surveyor making such survey shall accordingly place stone or other durable monuments at the front, or at the rear, or at the front and rear angles of every lot in such concession, range or block, or part thereof, and after confirmation of the survey in the manner provided by the next preceding section the limits of each lot so ascertained and marked shall be the true limits thereof.

Finality.

(3) The cost of such survey shall be defrayed in the manner prescribed by the next preceding section. 1 Geo. V. c. 42, s. 14. Expenses.

15. All expenses incurred in making any survey, or placing any monument under the provisions of section 10 and the following sections, shall be paid by the treasurer of the municipality which made the application for the survey to the person employed in such services on the certificate and order of the Minister. 1 Geo. V. c. 42, s. 15. Defraying expenses in first instance.

16. All boundary lines of townships, cities, towns and villages, all concession lines, governing points, and all boundary lines of concessions, sections, blocks, gores and commons, and all side lines and limits of lots surveyed, and all trees marked in lieu of posts, and all posts or monuments marked, placed or planted at the front or rear angles of any lots or parcels of land, under the authority of the Executive Government of the late Province of Quebec or of Upper Canada or of Canada, or under the authority of the Executive Government of Ontario, shall be the true and unalterable boundaries of all and every such townships, cities, towns, villages, concessions, sections, blocks, gores, commons, and lots or parcels of land, respectively, whether the same upon admeasurement be found to contain the exact width or more or less than the exact width mentioned or expressed in any letters patent, grant or other instrument in respect of such township, city, town, village, concession, section, block, gore, common, lot or parcel of land. 1 Geo. V. c. 42, s. 16. Confirmation of boundaries established by proper authority.

17. Every township, city, town, village, concession, section, block, gore, common, lot or parcel of land shall embrace the whole width contained between the front posts, monuments or boundaries, planted or placed at the front angles thereof respectively so marked, placed or planted, and no more or less, any quantity or measure expressed in the original grant or patent thereof notwithstanding. 1 Geo. V. c. 42, s. 17. Frontage of surveyed territory.

18.—(1) Except as hereinafter provided every patent, grant or instrument purporting to be for any aliquot part of any concession, section, block, gore, common, lot or parcel of land in any such township, city, town or village shall be construed to be a grant of such aliquot part of the quantity the same may contain, whether such quantity be more or less than that expressed in such patent, grant or instrument. 1 Geo. V. c. 42, s. 18. As to aliquot parts of townships, etc.

(2) Where, in any survey of Crown lands made under the authority of the Minister, any lot or other subdivision bordering upon a lake or river is given an acreage covering only the land area such lot or other subdivision shall include the land area only, and not any land covered by the water of such lake or river. When lakes excluded from area of lot.

Saving as to rights determined by Courts.

(3) Subsection 2 shall not affect the rights, if any, of any person where such rights have heretofore been determined by a Court of competent jurisdiction. 3-4 Geo. V. c. 33, s. 2.

Road allowances and commons in urban municipalities.

**19.** In every city, town or village, or any part thereof, which has been surveyed by the authority mentioned in section 16, all allowances for any road, street, lane or common laid out in the original survey of such city, town or village, or any part thereof, shall be public highways and commons; and all posts or monuments placed or planted in the original survey of such city, town or village, or any part thereof, to designate or define any allowance for a road, street, lane, lot or common shall be the true and unalterable boundaries of every such road, street, lane, lot and common; and every surveyor employed to make a survey in such city, town or village, or any part thereof, shall follow and pursue the same rules and regulations in respect of such survey as are by law required of him when employed to make a survey in a township. 1 Geo. V. c. 42, s. 19.

Duty of Surveyor.

Unsurveyed lands granted in blocks and subsequently surveyed by grantees.

**20.** Where a township, tract or block of land, the whole or any part of which has not been surveyed, has been or is granted by the Crown the first survey made by the owner of any unsurveyed part thereof shall have the same force and effect as and be deemed an original survey thereof; and all allowances for roads or commons surveyed in such township, tract or block of land, and laid down on the plans of such survey thereof, shall be public highways and commons; and all lines run and marked in such survey, and all posts or monuments planted or placed in such survey to designate and define any allowance for road, concession, common or lot of land shall be the true and unalterable lines and boundaries of such allowance for road, common, or lot of land; and every surveyor employed to make a survey in such township, tract or block of land shall follow and pursue the same rules and regulations in respect of such survey as are by law required in the case of an original survey of a township, tract or block of land. 1 Geo. V. c. 42, s. 20.

Duty of surveyor.

Governing lines declared.

**21.** The course of the boundary line of every concession, on that side from which the lots are numbered, shall be the course of the division or side lines throughout the township, provided that such division or side lines were intended, in the original survey, to run on the same course as such boundary line. 1 Geo. V. c. 42, s. 21.

Side lines to be run on the same course as governing lines.

**22.** Every surveyor shall run all division or side lines which he is called upon by the owner or owners of any lands to survey on the same course as that of the boundary line of the concession in which such lands are situate, from whence the lots are numbered, provided such division or side lines were intended, in the original survey, to run on the same course as such boundary line. 1 Geo. V. c. 42, s. 22.



**23.** Where that end of a concession from which the lots are numbered is wholly bounded by a lake or river or other natural boundary, or where it has not been run in the original survey, or where the course of the division or side lines of the lots therein was not intended in such original survey to be on the same course as such boundary, such division or side lines shall be run on the same course as the boundary line at the other extremity of such concession if their course was intended, in the original survey, to be the same and such boundary line was run in the original survey. 1 Geo. V. c. 42, s. 23.

When concession has a natural boundary.

**24.** Where in the original survey, the course of the division or side lines in any concession was not intended to be the same as that of the boundary line at either end of such concession they shall be run at such angle with the course of the boundary line at that end of the concession from which the lots are numbered, as is stated in the plan and field notes of the original survey of record in the Department, if such line was run in the original survey, or with the course of the boundary line at the other extremity of the concession, if the boundary at that end of the concession from which the lots are numbered was not run in the original survey; or if neither of the boundaries of the concession was run in the original survey, or if the concession is wholly bounded at each end by a lake or river or other natural boundary, then at such angle with the course of the line in front of the concession as is stated in such plan and field notes, or if parts of the concession line have been run on different courses, as shown on such plan and field notes, then at such angle with the course of each of those parts, as is stated in the plan and field notes. 1 Geo. V. c. 42, s. 24.

When division or side line not intended to run on same course as boundaries.

**25.** If any division or side line between lots, or proof line intended to be on the same course as the division or side lines between lots, was drawn in any such concession, bounded as mentioned in the next succeeding section, in the original survey thereof the division or side lines between the lots therein shall be on the same course as such division or side line or proof line. 1 Geo. V. c. 42, s. 25.

Where division or proof line has been run between lots.

**26.** Where two or more such division or side lines or proof lines were drawn in the original survey of such concession, so bounded, that division or side line or proof line which is nearest to the boundary of the concession from which the lots are numbered shall govern the course of the division or side lines of all the lots in such concession between the boundary of the concession from which the lots are numbered and the next division or side line or proof line drawn in the original survey; and such last mentioned line or proof line shall govern the course of the division or side lines of all the lots up to the next division or side line or

When more than one such line drawn in original survey.

proof line drawn in the original survey, or to the boundary of the concession towards which the lots are numbered, as the case may be. 1 Geo. V. c. 42, s. 26.

How lines to be governed in townships laid out in sections or blocks.

27.—(1) Except as provided in subsection 2 in all those townships which in the original survey were divided into sections, agreeably to an Order in Council bearing date the 27th day of March, 1829, or which have since been or shall be divided into sections or blocks of one thousand eight hundred acres or thereabouts, or of one thousand acres or thereabouts, or of six hundred and forty acres or thereabouts, under instructions from the Minister, the division or side lines in all concessions, in any section or block, shall be governed by the boundary lines of such section or block in like manner as the division or side lines in townships originally surveyed before that day are governed by the boundary lines of the concession in which the lots are situate: Provided that in those sections or blocks, the governing boundaries of which are broken by lakes or rivers in such a way that the course thereof cannot accurately be determined, a surveyor, when called upon to run any side line in any concession in such section or block, shall run such side line on the astronomical course of the side lines of the lots in the township, as shown on the original plan and field notes thereof of record in the Department.

Broken boundaries.

Lots in certain localities.

(2) The lines between all lots in all townships in the Districts of Muskoka and Parry Sound; all townships in the District of Nipissing which lie south of the Mattawan River and Trout Lake and the Township of Mattawan in that district; all townships in the Provisional County of Haliburton; the Townships of Dalton, Digby, and Longford in the County of Victoria; the Townships of Galway, Cavendish, Anstruther and Chandos in the County of Peterborough; the Townships of Tudor, Grimsthorp, Wollaston, Limerick, Cashel, Faraday, Dungannon, Mayo, Herschell, Monteagle, Carlow, McClure, Wicklow and Bangor in the County of Hastings; the Townships of Anglesea, Effingham, Abinger and Denbigh in the County of Lennox and Addington; the Townships of Barrie, South Canonto and North Canonto in the County of Frontenac, and the Townships of Brougham, Grattan, Wilberforce, Alice, Mattawachan, Griffith, Sebastopol, South Algona, North Algona, Fraser, Richards, Hagarty, Brudenell, Lyndoch, Raglan, Radcliffe, Sherwood, Burns and Jones in the County of Renfrew, shall be run on the astronomical course stated in the plan and field notes of the original survey of record in the Department: but nothing in this subsection shall affect the lines in any concession in any section or block in any of such townships in which any line was run before the 1st day of July, 1897. 1 Geo. V. c. 42, s. 27; 3-4 Geo. V. c. 33, s. 3.

Saving.

28. Every surveyor shall on the 31st day of December in each year make to the clerk of the township a return, Form 1, of all lines run by him in such township under the provisions of subsection 2 of section 27. 1 Geo. V. c. 42, s. 28.

Surveyor's return to township clerk.

29.—(1) Where the concession line in front of two adjacent sections or blocks heretofore or hereafter laid out under authority of an Order in Council is shown on the plan and field notes to be on the same astronomical course, and the boundaries between the sections or blocks are shown on the plan and field notes to be on the same astronomical course, the surveyor, when called upon to re-establish the angle of either section or block, shall connect the two nearest undisputed points on the concession line in front of such sections or blocks by a straight line and join the nearest undisputed points on the side line between the sections or blocks, and the intersection of these two lines shall be the angle of the adjacent sections or blocks; Provided that the undisputed points to be connected are not more than 20 chains apart, and that one of them is on either side of the line.

How surveyor is to re-establish the angle of adjacent sections or blocks.

(2) If such undisputed points on the side line are more than twenty chains apart the surveyor shall then establish the angle of the sections or blocks by dividing proportionately, as intended in the original survey, the distance between the two nearest undisputed angles of lots on the concession line in front of such sections or blocks, and the point so ascertained shall be the angle of the sections or blocks.

Where undisputed points more than 20 chains apart.

(3) Where the concession line in front of the two adjacent sections or blocks is not on the same astronomical course as shown on the plan and field notes, and has become obliterated, the angle of the section shall be established by dividing proportionately, as intended in the original survey, the distance between the front and rear angles of the lots on the side lines of the adjacent sections or blocks, and the point so ascertained shall be the angle of the adjacent sections or blocks.

Where front line obliterated.

(4) If the angle of the section or block cannot be ascertained in the mode provided for by the three next preceding subsections the surveyor shall report the circumstances of the case to the Minister who shall determine how the surveyor shall proceed, and the angle ascertained in accordance with the directions of the Minister shall be the true angle of the sections or blocks. 1 Geo. V. c. 42, s. 29.

Report to Minister when angle cannot be ascertained.

30.—(1) Except as in this section is provided the surveys made, under instructions from the Department of the Interior of Canada, of certain townships in the Rainy River District the lots immediately upon the bank of Rainy River having a width of ten chains fronting the river and a varying depth, and the remaining lands so surveyed being sub-

Former surveys in the Rainy River District adopted.

divided into sections of one mile square, and quarter sections of one hundred and sixty acres, with road allowances around each section are hereby adopted and legalized.

Width of road allowances in Rainy River.

(2) The road allowances in the townships in the District of Rainy River shall be and are hereby declared to be one chain in width, such chain allowance to be that lying immediately north and east respectively of the lines of survey run upon the ground in the original survey.

Lands detached to form part of adjoining quarter-sections or lots.

(3) The strips of land formerly forming part of the road allowances shall be detached therefrom and attached to and form part of the quarter sections or lots, as the case may be, immediately adjoining the strips of land on the east and north thereof.

Present quarter-section posts or lot posts to remain.

(4) The quarter section posts or lot posts intended to define on the ground the limits of the quarter sections or lots in such townships shall continue to be the governing points notwithstanding the addition hereby made to the respective quarter sections or lots. 1 Geo. V. c. 42, s. 30.

Governing line in sections or blocks of 2,400, 1,800, 1,000 or 640 acres.

**31.**—(1) In a section or block of 1,800 acres or thereabouts the governing line of the side lines shall also be the governing line between the aliquot parts of the lots where they are divided north and south if not otherwise intended in the original survey.

Division lines between the respective halves.

(2) The division line between the north and south halves of any unbroken lot in such section or block shall be a line joining the midway points between the front and rear angles of the lot, and the division line between the east and west halves of such lot shall be a line drawn on the same astronomical course as the side lines in such section or block from a point on the front of such line midway between the front angles thereof.

Application of section.

(3) The provisions of this section shall apply to a section or block of 2,400 acres, 1,000 acres or 640 acres or thereabouts, and in dividing the lots into quarters, or other aliquot parts, the same method shall be adopted. 1 Geo. V. c. 42, s. 31.

Proceedings where monuments or posts cannot be found in certain townships.

**32.** Where a surveyor is employed to run any boundary line of, or any dividing line or limit between any sections, quarter-sections, or other aliquot parts of any section in any township in the Rainy River District subdivided into sections, in accordance with the Dominion Lands system of survey, or in any of the following townships and parts of townships in the Districts of Algoma, Sudbury, Manitoulin and Thunder Bay, namely, Rutherford, Salter, Victoria, all that portion of Shedden south of the fourth concession, the Townships of Spragge, Esten, Thompson, all that portion of Patton south of the third concession, the Townships of Thes-

salon River, Lefroy, Rose, Laird, Meredith, Macdonald, Tarentorus, Aweres, Vankoughnet, Awenge, Korah, Pennefather, Fenwick, sections 31 to 36, both inclusive, of the Township of Haviland, the Townships of Tilley, Parke, Prince, Dennis, Kars, Fisher, Palmer, Herrick, Ryan, Blake, Crooks, Pardee, McIntyre, Macgregor, McTavish, Homer, and Byron, and the post or monument planted, erected or marked in the original survey to define the corner of any such section, quarter-section or other aliquot part cannot be found, the surveyor shall obtain the best evidence that the nature of the case admits of respecting such post or monument; but, if the position of the same cannot be satisfactorily so ascertained, he shall proceed as follows:

- (a) If the lost post or monument is that of a township corner he shall report the circumstances to the Minister who shall instruct him how to proceed;
- (b) If the lost post or monument is that of a section or quarter-section corner on the boundary line of a township he shall renew the same by joining the nearest original blazes, quarter-section or section corners on such boundary by a straight line, and shall give to each section or quarter-section a breadth proportionate to that shown on the original plan and field notes thereof, of record in the Department, having first taken into account and made due allowance for any roads shown on the plan and field notes;
- (c) If the lost post or monument is that of a section corner in the interior of a township he shall renew the same by intersecting the straight lines adjoining the nearest original blazes, or original quarter-section or section corners, on the adjoining intersecting section boundaries; and where the nearest section corner on any side of the lost post or monument is on a township boundary, and that post or monument, and also the intervening quarter-section posts or monuments are lost, and there are no original blazes between such corners, the surveyor shall first renew the posts or monuments on the section corner or corners on such township boundary in accordance with the provisions of the next preceding clause;
- (d) If the lost post or monument is that of a quarter-section corner in the interior of a township he shall renew the same by joining the nearest original blazes or adjacent section corners, determined, if necessary, as hereinbefore provided, and shall give to each of the adjacent quarter-

sections a breadth proportionate to that shown on the original plan and field notes;

- (e) In laying out interior boundaries of half-sections or of quarter-sections he shall connect the opposite quarter-section corners, determined, if necessary, as hereinbefore provided by straight lines;
- (f) In laying out interior boundaries of other aliquot parts of any section he shall give to each aliquot part its proportionate share of breadth and interior depth and connect the resulting terminal points by straight lines. 1 Geo. V. c. 42, s. 32.

Settling the front of a concession where only a single row of posts planted.

**33.** The front of each concession in any township, where only a single row of posts has been planted on the concession lines and the lands have been described in whole lots shall be that end or boundary of the concession which is nearest to the boundary of the township from which the concessions thereof are numbered; and where the line in front of any such concession was not run in the original survey the division or side lines of the lots in such concession shall be run from the original posts or monuments placed or planted on the front line of the concession in the rear thereof, on the same course as the governing line determined in the prescribed manner, to the depth of the concession—that is, to the centre of the space contained between the lines in front of the adjacent concessions, if the concessions were intended in the original survey to be of an equal depth, or, if they were not so intended, then to the proportionate depth intended in the original survey, as shown on the plan and field notes thereof of record in the Department, having due regard to any allowance for a road made in the original survey; and a straight line joining the extremities of the division or side lines of any lot in such concession so drawn shall be the true boundary of that end of the lot which was not run in the original survey. 1 Geo. V. c. 42, s. 33.

Side lines in such cases.

Boundary of end of lot.

In township fronting on a natural boundary how division lines to be drawn if no posts planted to mark the width of lots.

**34.**—(1) In those townships in which any concession is wholly bounded in front by a river or lake or other natural boundary, where no posts or other boundary marks were planted or made in the original survey on the bank of such river or lake or natural boundary to regulate the width in front of the lots in the broken front concessions the division or side lines of the lots in such broken front concessions shall be drawn from the posts or other boundary marks on the concession line in rear thereof, on the same course as the governing line, determined in the prescribed manner, to the river, lake or natural boundary in front.

Side lines where part of concession line broken.

(2) Where any concession is bounded in front at either end, in part though not wholly, by a river, lake or other natural boundary, and no posts or other boundary marks

were planted or made in the original survey on the bank of such river, lake or natural boundary to regulate the widths of the lots broken thereby, the division or side lines of such broken lots shall be drawn from points on the rear of the concession, determined by measuring off the widths proportionately as intended in the original survey, from the intersection of the division or side line of the last whole lot of the original survey with the rear line of the concession, on the same course as the governing line so determined, to the river, lake or natural boundary in front. 1 Geo. V. c. 42, s. 34.

**35.** In those townships in which the concessions have been surveyed with double fronts—that is, with posts or monuments placed or planted on both sides of the allowances for roads between the concessions, and the lands have been described in half lots, the division or side lines shall be drawn from the posts or monuments at both ends to the centre of the concession, and each end of such concession shall be the front of its respective half of such concession, and a straight line joining the extremities of the division or side lines of any half lot in such concession, so drawn, shall be the true boundary of that end of the half lot which has not been bounded in the original survey. 1 Geo. V. c. 42, s. 35.

Concessions with double fronts.

**36.** Where a double front concession is not of the full depth the division or side lines shall be drawn from the posts or monuments at both ends thereof to the centre of the concession, as provided in the next preceding section, without reference to the manner in which the lots or parts of lots in such concession were described for patent. 1 Geo. V. c. 42, s. 36.

Division or side lines in double front concessions not of full depth.

*(As to roads connecting side lines in double front concessions, see s. 477 of The Municipal Act, R.S.O. c. 192.)*

**37.** In those townships in which each alternate concession line only has been run in the original survey, but with double fronts, the division or side lines shall be drawn from the posts or monuments on each side of such alternate concession lines to the depth of a concession—that is, to the centre of the space contained between such alternate concession lines, if the concessions were intended in the original survey to be of an equal depth, or if they were not so intended, then to the proportionate depth intended in the original survey, as shown on the plan and field notes thereof of record in the Department; and each alternate concession line shall be the front of each of the two concessions abutting thereon. 1 Geo. V. c. 42, s. 37.

Side lines in concessions where alternate concession lines only have been run; and depth of each concession.

**38.** Where a Crown patent, grant, or other instrument has been issued for several lots or parcels of land in concessions adjoining each other the side lines or limits of the lots or parcels of land therein mentioned shall commence at the

As to lands in adjoining concessions included in the same grant.

front angles of such lots or parcels of land respectively and shall be run as hereinbefore provided, and shall not continue on in a straight line through several concessions—that is to say, each lot or parcel of land shall be surveyed and bounded according to the provisions of this Act independently of the other lots or parcels mentioned in the same patent, grant or instrument. 1 Geo. V. c. 42, s. 38.

#### METHOD OF RUNNING LINES.

How division lines to be run.

**39.** Every surveyor employed to run any division line between lots, or any line required to run on the same astronomical course as any division line or side line in the concession in which the land to be surveyed lies, shall run such division line or side line on the same astronomical course, which he shall determine by astronomical observation or by other satisfactory method, as the straight line joining the front and rear ends of the governing boundary line of the concession or section, if so intended in the original survey, or at such angle therewith as is stated in the plan and field notes, and the same shall be deemed to be the true course of such governing or boundary line for all the purposes of this Act, although such governing or boundary line as marked on the ground is curved or otherwise deviates from a straight course, and if a line is to be run at any angle with a front line or other line which is not straight the ends of such front or other line shall be joined as above provided. 1 Geo. V. c. 42, s. 39.

How lines run where the original post or monument cannot be found.

**40.—(1)** Where a surveyor is employed to run any side line or line between lots, and the original post or monument from which such line should commence cannot be found, he shall obtain the best evidence that the nature of the case admits of respecting such side line, post, monument or line between lots; 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 the original survey, as shown in the plan and field notes thereof of record in the Department; and if any part 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, has been 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 shall plant all such intermediate posts or monuments as he may be required to plant in the lines so ascertained, having due regard to any allowance for a road or commons set out in the original survey, and the limits of each lot so found shall be the true limits thereof.



(2) In double front or alternate concessions, where an original post or monument cannot be found, any original post or monument still standing, or the position of which is satisfactorily established on the opposite side of the concession road allowance or on the centre line thereof, shall constitute the best evidence within the meaning of subsection 1 for the purpose of establishing the position of such missing post or monument. 1 Geo. V. c. 42, s. 40.

Evidence for establishing location of missing monument.

41. In a township in which the side lines of the lots were drawn in the original survey a surveyor, when called upon to determine any disputed boundary, shall ascertain and establish the division or side lines of the lots by running them as they were run in the original survey, whether the same were in the original survey run from the front of the concession to the rear or from the rear of the concession to the front, and shall adhere to all posts, limits or monuments planted or marked on the division or side lines in the original survey as being or designating corners of lots under such original survey. 1 Geo. V. c. 42, s. 41.

Side lines in original survey to be adhered to.

42. A blind concession line, or a line not run in the original survey, shall be established by dividing proportionately, as intended in the original survey, the distance between the front angles of the respective lots in such concessions, and lines joining the points so ascertained shall be the boundary between the concessions. 1 Geo. V. c. 42, s. 42.

Blind concession lines or lines not run in original survey.

43. Where the front of a concession is wholly or in part broken by a lake, river or other natural boundary the rear boundary of the adjacent concession or part of the concession shall be established by giving to such adjacent concession or part of concession the depth shown on the original plan and field notes. 1 Geo. V. c. 42, s. 43.

Broken front concessions.

#### ROAD ALLOWANCES.

44.—(1) Subject to the provisions of *The Registry Act*, as to the amendment or alteration of plans, all allowances for roads, streets or commons surveyed in a city, town, village or township, or any part thereof, which have been or may be surveyed and laid out by companies or individuals and laid down on the plans thereof, and upon which lots fronting on or adjoining such allowances for roads, streets, or commons have been or may be hereafter sold to purchasers, shall be public highways, streets and commons.

Allowances for roads laid out by private owners.

Rev. Stat. c. 124.

(2) All lines which have been or may be run, and the courses thereof given in the survey of such city, town, village or township, or part thereof, and laid down on the plans thereof, and all posts or monuments which have been or may be placed or planted in the first survey of such city, town, village or township, or part thereof, to designate or define any allowances for roads, streets, lots or commons, shall be the true and unalterable lines and boundaries thereof respectively.

Confirmation of boundaries as settled in first survey.

Methods of original survey to be followed.

(3) A surveyor employed in establishing or re-establishing the boundaries of any road, street, common or lot shown on such plan, or on any registered plan in such city, town, village or township, or part thereof, shall follow the method adopted in making the original survey of the same, as shown by such plan, and shall give to each lot the exact or proportionate dimensions as shown thereon.

Allowances for roads and commons.

(4) No such lot shall be so laid out as to interfere with, obstruct, shut up, or be composed of any part of any allowance for road or common which was surveyed and reserved in the original survey.

Validity of private survey.

(5) No such survey shall be valid unless performed by a surveyor. 1 Geo. V. c. 42, s. 44 (1-5).

Ownership of part of street closed.

(6) Where a street which has been laid down upon the plan but has not been established by by-law of the municipal corporation, or otherwise assumed by it for public use, is closed in whole or in part by an alteration of the plan under *The Registry Act, The Land Titles Act* or other provision in that behalf, the part so closed shall belong to the owners of the land included in the plan and abutting thereon.

Rev. Stat. c. c 124, 126.

How owners of abutting lands to take.

(7) Where several parcels of land included in the plan having different owners, abut on the street, or part thereof, so closed, the owner of each parcel shall be entitled to that part of the street so closed on which his land abuts to the middle line of the street, and where there are several owners of an abutting parcel each shall be entitled to the like estate or interest in such part as he has in the parcel of land abutting thereon.

Where allowance abuts on one side of stream, etc.

(8) Where any part of the street so closed is abutted on one side by another road or street, or by a stream, river or other body of water over which the public have rights of navigation or of floating logs, the whole width of such part shall belong to the owners whose lands abut thereon opposite such street, stream, river or water.

Division line between adjoining parcels.

(9) The division line between two adjoining parcels produced to the middle line of the closed street or across such street, in cases coming within subsection 8, shall be the division line between the parts of the closed street to which the owners of such parcels are respectively entitled.

Where incumbrances to be deemed owners.

(10) Where there is an encumbrance on a parcel of land abutting on the street, or part thereof, closed it shall extend to and include the part thereof to which the owner of such parcel becomes entitled under this section.

Street, definition of.

(11) The word "street," in subsections 6 to 10, shall include a lane, an alley and an allowance for road. 2 Geo. V. c. 17, s. 32.

(As to repairs of roads, etc., see s. 460 (6) of *The Municipal Act, R.S.O. c. 192.*)

## JOURNALS AND FIELD NOTES.

45. Every surveyor shall keep exact and regular journals and field notes of all his surveys, and shall file them in the order of time in which the surveys have been performed, and shall give copies thereof to any person concerned, when so required, on payment of \$1 for each copy, if the number of words therein does not exceed four hundred words, and ten cents for every additional hundred words. 1 Geo. V. c. 42, s. 45.

Surveyor's  
journals and  
field-notes.

## EVIDENCE.

46.—(1) For better ascertaining the original limits of any township, concession, range, lot or tract of land, every surveyor shall administer an oath to any person whom he examines concerning any boundary, post or monument, or any original landmark, line, limit or angle of any township, concession, range, lot or tract of land which such surveyor is employed to survey.

Administra-  
tion of  
oaths by  
surveyor.

(2) The evidence taken by the surveyor shall be reduced to writing and shall be read over to and be signed by the person giving the same, or, if he cannot write, such person shall acknowledge it as correct before two witnesses who, as well as the surveyor, shall sign the same.

Evidence—  
How to be  
taken down.

(3) The evidence shall, and any document or plan prepared and sworn to by a surveyor as correct with reference to any survey by him performed may be filed and kept in the registry office of the registry division or in the land registry of the county or district in which the land to which the same relates is situate, subject to be produced thereafter in evidence in any Court.

Filing  
evidence,  
documents,  
etc., in reg-  
istry office.

(4) The fee for receiving and filing the same shall be twenty-five cents, and the expense of filing shall be borne by the parties in the same manner as the other expenses of the survey. 1 Geo. V. c. 42, s. 46.

Fees.

(Sections 531 and 532 of *The Criminal Code* are as follows:

531. Every one is guilty of an indictable offence and liable to seven years imprisonment who wilfully pulls down, defaces, alters or removes any mound, land mark, post or monument lawfully erected, planted or placed to mark or determine the boundaries of any province, county, city, town, township, parish or other municipal division.

532. Every one is guilty of an indictable offence and liable to five years imprisonment, who wilfully defaces, alters or removes any mound, land mark, post or monument lawfully placed by any land surveyor to mark any limit, boundary or angle of any concession, range, lot or parcel of land.

2. It is not an offence for any land surveyor in his operations to take up such posts or other boundary marks when necessary, if he carefully replaces them as they were before.

## FORM 1.

(Section 28.)

## SURVEYOR'S RETURN.

Township of.....

County of.....

I hereby certify that the following lot lines in the above township were run by me during the year ending December 31st, 19 , under the provisions of *The Surveys Act*.

Line between.	Concession.	Date.
Lot      and Lot Etc., etc. ....		

Dated at      , this      day of      , 19 .

A. B.,  
Ontario Land Surveyor.

1 Geo. V. c. 42, Form 1.