

Anniversary Of First Survey Ordinance



By S. D. Medley, O.L.S., City of Scarborough

This photograph is a recreation of an 1864 photograph of Provincial Land Surveyor, F. F. Passmore's survey party during their resurvey of the Township of Scarborough, showing the present personnel and equipment of the City's land survey staff.

It also commemorates the 200th anniversary of the first Canadian ordinance regulating survey activities proclaimed in 1785. This statute provided for the examination of a surveyor before his appointment as such, the testing of survey instruments before use, the obligation of the qualifying surveyor to take the oath of allegiance, and that all surveyors must keep field notes. This 1785 law constituted the legal foundation upon which all succeeding statutes regulating land surveying were built.

PROVINCIAL LAND surveyor, F. F. Passmore, was engaged to re-establish and monument the front and rear of all the road allowances in Scarborough under the authority of the Statutes of Victoria, in two separate Acts, 24 Victoria Cap 64, and 25 Victoria Cap 38. The Scarborough Historical Society has kindly provided our department with a photo of the Passmore Survey Party taken in 1864 and we have decided to commemorate this by re-enacting the photo with the present land survey staff.

During our research, we also discovered that 1985 is the 200th Anniversary of the First Canadian Ordinance governing the conduct and qualifications of surveyors. This ordinance, passed during the reign of King George III marks the inauguration of the Survey profession in Canada, and is the foundation upon which all future statutes were built.

AN ORDINANCE CONCERNING LAND SURVEYORS AND THE ADMEASUREMENT OF LAND

Whereas it is highly necessary, in order to secure to his majesty's subjects the peaceable possession of their landed property; by preventing frequent and vexatious suits; that such persons only should be appointed surveyors of land, as are properly qualified. And that all and every survey to be made, should be done and performed in a manner, the best to secure the rights of his majesty's subjects,

Be it therefore ordained and enacted, by his honour the lieutenant-governor and commander-in-chief of this province, by and with the advice and consent of the legislative council thereof, and by the authority of the same, it is hereby ordained and enacted,

ARTICLE I

That a meridian line shall be properly drawn and marked, at the most convenient place, in or near the towns of Quebec, Three Rivers, and Montreal, by the surveyor, or deputy surveyor-general of this province; and by which all surveyors shall regulate and rectify their several surveying instruments, once in

every year at least, and in the presence of the surveyor or deputy surveyor-general, or other person by them or either of them duly authorized for that purpose. And all and every surveyor of lands, is hereby required to demand and obtain, from the said surveyor or deputy surveyor-general, or person authorized as above-said, a certificate, that their several instruments, to be used and employed in surveying are good and sufficient. And in the certificate so to be granted, shall be set down and expressed, the variation found at the period of making such certificate as aforesaid.

ARTICLE II

That from and after the publication of this ordinance, no person shall act as a public surveyor of lands, nor be appointed to act as such, until he shall have been duly examined by the surveyor or deputy surveyor-general, as to his fitness and capacity, his character and the sufficiency of his instruments as above-said, and have obtained the certificate above-mentioned.

ARTICLE III

That all and every person to be commissioned and appointed to act as a land surveyor, for the districts of Quebec and Montreal, shall, before he enters upon the duties of his majesty, give good and sufficient security to his majesty, in the sum of fifty pounds, for the faithful discharge of his duty; and shall take the following oath, in his majesty's court of common pleas for the district wherein he may be appointed to act as above-said.

OATH

"I,....., do solemnly swear, that I will well and truly discharge my duty as a surveyor of lands, agreeable to law, without favour, affection, or partiality, when, and as often as thereto I may be required by any person or persons; or by the rule and order of any court of justice, and that, without delay, unless from some lawful impediment whereby I may be prevented and which I will faithfully and immediately submit to the party requiring, or the court directing my duty and a survey as above-said."

ARTICLE IV

That all and every chain carrier shall take an oath, and be sworn on the holy Evangelists, to administer justly and exactly, according to the best of his knowledge, and to deliver a true account thereof to the surveyor, by whom he may be appointed to the performance of such duty. And which oath the surveyor, so nominating, is hereby authorized and required to tender and administer.

ARTICLE V

That the land measure shall be the same as before the year of our Lord 1760, in all grants and seigneuries and concessions therein, to that period.

ARTICLE VI

That all and every surveyor, who shall survey or measure lands, shall plainly mark and bound the lands so measured; that the boundary mark to be made on lands surveyed, between seignior and seignior, and the property of co-seignior and co-seignior, in any seignior, shall be of stone, of the length of one foot and an half at least, above the surface of the earth. And the boundary mark on lands, the property of persons holding under a seigneur, by title of concession, shall also be of stone, of one foot at least above the surface of the earth. And that, under every boundary mark, shall be placed, pieces of brick, or dross of iron, or pieces of earthen ware, conformable to the custom of the country in like cases.

ARTICLE VII

That all and every surveyor shall keep a book of registry of his several surveys and also of the plot or land admeasured and surveyed. And in which registry shall be entered a minute detail of the proceedings of such surveyor, in the performance of his duty, upon every survey by him made, and from which registry copies shall be granted to persons therein concerned, in the manner following:

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FORM OF REGISTRY OF SURVEY AND CERTIFICATE OF SAME

On this day of in the year of our Lord one thousand seven hundred and at the request of the of the parish of in the district of (addition) (or in the obedience to an order of his majesty's court of bearing date the day of A.D. 17.....). I, surveyor of lands in the district of having been on the fief and seignior of situate and lying in the parish of in the district of on at the concession of the said fief and seignior, and then and there, after having read and examined the title-deeds and papers of the parties before me, that is to say, those of bearing date the granted and executed by (repeating the several title-deeds by dates, as above said) and also the title-deeds of bearing date the granted and executed by, etc. (as above) and by which said several title-deeds, I have considered, that there doth belong unto the said acres in front, by acres in depth. And in consequence of the said titles, and in conformity to the title of prior to that of I have admeasured acres in front, upon a line running degrees correction of the compass (or magnetical variation) between and bounded on the one side, on each extremity of the said lands which in consequence of the said titles ought to contain acres in front, I have planted and fixed a boundary mark of stone, of the length of from the surface of the earth, and laid and placed thereunder pieces of earthen ware (or brick, or dross of iron) from which boundaries so placed. I have raised perpendiculars, running in depth on the point of the compass declining which I have measured to be at the distance of from the said boundary marks so placed: And this I have so done and performed in order to allot and lay out to the said the full quantity of land mentioned and contained to be

granted and conceded by his titles making superficial acres Surveyed, done and executed in the presence of and of the parties interested; also in the presence of inhabitants of the said parish of witnesses, or chain carriers (or of by them named and chosen for this purpose, or, if one of the parties be absent) in the absence of no person appearing for him, altho' duly notified to attend the survey above-said.

In testimony whereof I have hereunto subscribed my name, have also caused the said witnesses to subscribe their names, the day and year above-mentioned (of who have their marks, after hearing these presents duly read unto them, and declaring they did not know how to write). And I have delivered these presents unto the said for the purpose therein mentioned.

And if there should be found triangles in the surveying or measuring of any lands by their respective titles, the surveyor so surveying shall particularly make mention of the same, in the survey and form of registry above-said. As also of curvilinear or mistilinear figures and descriptions, and also of superficials, if it be necessary. Also if there be one or more rivers running across or through a seignior, every surveyor, surveying and measuring the same, shall make mention, in his survey, of such rivers and their course, and also of the side of the river on which he shall have begun his survey.

ARTICLE VIII

That whosoever shall remove a boundary or land mark as above-mentioned, without lawful authority so to do, shall be subject to an action of damages, to be instituted by the person injured, to recover such damages as the nature of the case may require, and also shall be liable to pay a fine of twenty pounds; to be recovered by bill, plaint, or information, in his majesty's court of common pleas in this district where the offence may be committed. One moiety of such fine shall be paid to the receiver general of the province, for his majesty's use, and the other moiety, to the person who shall inform and sue for the same.

ARTICLE IX

That all and every person who at present may act, or may be desirous to be lawfully appointed to act, as a public land surveyor, shall, within three months from the publication of this ordinance, transmit to the office of the surveyor

general of this province, his christian and surname, with the date of the commission or authority under which he hath acted, and by whom granted, that those only may be published in the gazette and authorized to act, as shall be approved of by the governor, lieutenant-governor or commander in chief upon the report of the surveyor general.

ARTICLE X

That on the death of any surveyor, his books of survey and other books and papers relating thereto, shall be taken and considered as public records, of the court of common pleas, of the district wherein he may have acted as a surveyor; and shall be thereafter deposited of record in the clerk's office of the said court of common pleas, for the benefit of all his majesty's subjects; and to which they may, from time to time, freely have recourse, and on demand, may have copies thereof granted by the respective clerks of such courts, on payment of the legal and accustomed fees. That in case of the decease of any surveyor, and of his books and papers so lodged as above-said, the widow or heirs of such surveyor shall annually be entitled to have a just account, and receive one half part of all fees for copies from the books and papers of such deceased surveyor, and for and during the space of five years from his decease.

Ordained and enacted by the authority aforesaid, and passed in council under the public seal of the province, at the council chamber, in the castle of St. Lewis, in the city of Quebec, the thirtieth day of April, in the twenty-fifth year of the reign of our sovereign lord George the third, by the grace of God, of Great-Britain, France and Ireland, king defender of the faith, and so forth, and in the year of our Lord one thousand seven hundred and eighty-five.

By the Lieutenant-Governor's Command

Alex Gray, A.C.L.C.

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