

C. H. A. P.
XXXIII.
Summonses
may issue, &c.

IV. AND BE IT ENACTED, That summonses for witnesses may issue out of the county court, or by the said commissioners, or a majority of them, and witnesses summoned shall attend, and be subject to punishment by the county court for not attending, in the same manner as on summonses issued by, and returnable to, county courts; and the commissioners may cause the land mentioned in such commission, as well as any other lands they may think proper, to be surveyed by the surveyor of the county, or such other skilful person as they may think fit to appoint, and may administer an oath (a) to the surveyor, and also to the chain-carriers, to execute their respective duty as surveyor or chain-carrier, as the case may be, faithfully and impartially, according to the best of their skill; and shall also administer an oath or affirmation to every witness, that the evidence which such witness shall give to the commissioners in the matter depending in question, shall be the truth, the whole truth, and nothing but the truth; and the said commissioners, or any two or more of them, may adjourn from time to time, as they may think necessary, and they, or the majority of them, or the major part of such majority met, concurring in opinion, may and shall cause the land mentioned in such commission to be marked in the lines where convenient, and shall mark or set up boundaries at the termination of the lines when course and distance only are given, according to their adjudication and adjustment of the location thereof, and shall return a certificate of such marked lines and boundaries to the court under their hands, which return shall be received and recorded in the records of land commissions and returns of such county, unless the court shall otherwise order, because of ill behaviour of the commissioners.

(a) By 1793, ch. 70, an affirmation made by any quaker, menonist or tinker, shall be as valid as an oath, in order to qualify him as a surveyor or chain-carrier.
By 1793, ch. 79, the commissioners may summon, (and compel the attendance of,) evidences to prove boundaries which are desired to be perpetuated, and may take depositions, and return them, with their proceedings, to be recorded, which shall be as good evidence as if a commission for that purpose had issued under the act of 1723, ch. 8.

V. AND BE IT ENACTED, That in case no suit or action shall be brought within five years next after the recording such return, to call in question the adjudication of the commissioners, the marking and bounding such land as aforesaid, and the record thereof, shall be conclusive evidence of the original location thereof, both as to the direction and termination of the lines; or if the adjudication of the commissioners shall be confirmed by verdict of a jury, in any suit as aforesaid, the adjudication of the commissioners in the point confirmed by the jury, and between the same parties and those claiming under them, shall conclude, to every intent and purpose; provided, that every infant, married woman, insane person, or person in prison, or beyond sea, and those claiming under either of them, shall have five years after the disability removed to commence such suit or action as aforesaid.

In case of no suit, marking to be conclusive, &c.

VI. PROVIDED ALWAYS, AND BE IT ENACTED, That if the parties interested have fairly agreed, or shall hereafter agree, to settle the line or lines of any land, and have fixed, or shall fix, boundaries at the termination of such line or lines, to mark and ascertain, as well the direction as extent of the line or lines, or where such line or lines have been settled and ascertained by arbitration, no commissioners shall have power or authority, between the same parties, or those claiming under them, or either of them, to vary from the line or lines so settled, agreed or ascertained; and if any persons shall hereafter agree to settle and ascertain the location of their lands, and fix boundaries to the same, such settlement and agreement, and a plot of the lands so settled, may, by consent of the parties interested, be recorded as aforesaid, and when recorded, shall have the same effect and consequences as if the location of such land had been settled by commissioners as aforesaid.

Provido.

VII. AND BE IT ENACTED, That each commissioner shall be entitled to seven shillings and sixpence for every day he shall attend in the execution of such commission; that any person acting as a surveyor shall receive such *per diem* allowance as shall be adjudged by the commissioners, not exceeding fifteen shillings for every day he shall necessarily be employed; that each chain-carrier shall be entitled to receive five shillings, and that each witness shall be entitled to three shillings and ninepence, for each day they shall respectively attend, to be paid by the person at whose request the service shall be performed, and if necessary, attachment of contempt shall be issued by the county court to compel such payment.

Allowance to commissioners, &c.

VIII. AND, whereas it may happen, that divers persons hold parts of one and the same tract of land, in the adjustment and fixing the out-lines of which they are severally interested, and persons holding younger surveys are frequently interested in the location of elder interfering or neighbouring surveys, BE IT ENACTED, That where divers persons hold separate parts of one and the same tract, they, or any of them, may have a commission as aforesaid, as well to fix, mark and bound, the whole tract, as their particular parts thereof, and where any person or persons hold a younger survey, and are thereby interested in the location of interfering or neighbouring elder surveys, they shall be entitled

Where several persons hold, either may have a commission, &c.