

mediately paid into the hands of His Majesty's Receiver General, and shall remain at the disposal of the Provincial Legislature for the public uses of the Province, and shall be accounted for to His Majesty, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty shall direct, and the other moiety to the person who shall sue for the same.

Limitation of  
actions.

**XIX.** And be it further enacted by the authority aforesaid, that if any action or suit be brought or commenced against any person or persons for any thing done in pursuance of this Act, such action or suit shall be commenced within six months next after the matter and thing done, and not afterwards.—And the defendant or defendants in such suit or action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereon, and if afterwards judgment shall be given for the defendant or defendants or the plaintiff or plaintiffs shall be non-suited or discontinued his, her or their action or actions after the defendant or defendants shall have appeared, then such defendant or defendants, shall have treble costs awarded against such plaintiffs, and have the like remedy for the same as any defendant or defendants hath or have in other cases to recover costs at law.

Special matter

Treble costs.

Continuance  
of this Act.

**XX.** And be it further enacted by the authority aforesaid, that this Act shall be and remain in force until the first day of May, one thousand eight hundred and thirty-two, and no longer.

### C A P. XXXVII.

AN ACT for the more speedy remedy of divers abuses, prejudicial to Agricultural Improvement in this Province.

(14th March, 1829.)

Preamble.

**W**HEREAS divers trespasses, wrongs and abuses, prejudicial to Agricultural Improvement, prevail in this Province, for the remedy of which the existing laws have not sufficiently provided; Be it therefore enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth

Penalty on Persons carrying away, breaking down or injuring any fence, &c. belonging to any other Person; or cutting down any Trees, &c. or going over sown Land without the permission of the Proprietor.

“ His Majesty’s Reign, intituled, “An Act for making more effectual provision for the Government of the Province of Quebec in North America,” and to make further provision for the Government of the said Province,” and it is hereby enacted by the authority of the same, that from and after the passing of this Act, no person or persons shall carry away, break down or injure any fence, or any part of a fence, on any land or ground belonging to any other person or persons, or on the boundary thereof, or cut down, bark, or otherwise destroy any tree or trees, bushes or shrubs of any kind or description whatsoever, or go over or upon any sown land, meadow, orchard, coppice, or other inclosed land, without the permission of the proprietor or his representative, duly authorised to grant such permission, on pain of a fine of not less than five shillings, currency, or more than thirty shillings, currency, for each and every offence, if such offence shall have been committed in the day time, and double the amount for each offence, if it shall have been committed in the night time, over and above all damages which the party injured may be entitled to, or obtain in a civil suit.

Justice of Peace may issue his Warrant for the apprehension of such Person or Persons.

Provided

II. And be it further enacted by the authority aforesaid, that it shall be lawful for any one of His Majesty’s Justices of the Peace, upon complaint made upon oath before him, to issue his Warrant for the apprehension of any person or persons offending as aforesaid, and forthwith summarily to hear and determine such complaint, and cause to be levied the fine or fines, to which such offender or offenders may be adjudged, or in default of payment to commit such offender to gaol till the fine is paid. Provided, that no person so committed shall be detained in prison for a period exceeding fifteen days.

Penalty on Persons destroying Maple Trees and other forest Timber, for the purpose of making Salts of Lye and Shingles, or carried away the same against whom, no compensation can be obtained in the ordinary course of law by reason of their poverty.

III. And whereas great injury is frequently sustained by the proprietors or occupants of Lands, by the destruction of maple trees and other forest timber, which is cut surreptitiously, and without the consent of such proprietors or occupants, for the purpose of making Salts of Lye, and Shingles therefrom, or is carried away for other purposes by persons from whom there is no means of obtaining compensation in the ordinary course of Law, by reason of their poverty; Be it therefore enacted by the authority aforesaid, that whenever any proprietor of land, or his legal representative, or any tenant, holding lands under lease, shall appear before a Magistrate and make complaint upon oath, that any person has surreptitiously and without his consent, cut down any maple, pine or other useful timber on the land owned or held under lease by him as aforesaid, or on the land belonging to any proprietor, for whom he is the lawful agent or representative

presentative, or that any person has taken any timber which has been felled from or upon such land, or asserted to have been felled by other persons, and has burnt the same for conversion into ashes, or that any person has cut up any trees or timber so felled, or asserted to have been felled by others for the purposes of making shingles, or has carried away from such land any trees, timber or wood whatever, without the leave of the party so complaining, and shall further make oath that, to the best of his belief, the person complained of is a stranger in this Province, or a person commonly called a Squatter, or that he is not a freeholder in this Province; it shall and may be lawful for the Justice of the Peace, before whom such complaint shall have been made, to issue his Warrant, directed to any Constable or Peace officer, for the apprehension of the person complained of, and if the facts alledged in such complaint shall have been proved before him by the oath of one credible witness, other than the complainant, to commit the offender to Gaol for a period not less than one week, or more than one month.

How Justice of the Peace is to proceed on a complaint against any Person having any Dog that has bitten any Person, or run upon any Horse with a Rider upon him, &c.

IV. And be it further enacted by the authority aforesaid, that it shall and may be lawful for any one Justice of the Peace, on complaint made before him, that any dog belonging to or kept by any person, or in or about the premises of such person, has bitten any person, horse, horned cattle or sheep, or is distempered, or has run at or upon any horse with a rider upon him, or any horse in a carriage upon the high road, after hearing such complaint in a summary way, to adjudge the person against whom such complaint shall have been made, to pay the Cost incurred in the prosecution of such complaint, according to this Act, to order, in writing, under his hand, the owner or harbourer of such dog, to confine or cause to be confined during forty days the dog so complained of, under a penalty on the owner or harbourer of such dog, for every day the said dog may afterwards be at large, before the expiration of the aforesaid forty days, not exceeding two shillings, *per diem*.

How Justice of the Peace is to proceed on a complaint against any Person having any vicious horse, &c.

V. And be it further enacted by the authority aforesaid, that it shall be lawful for any one Justice of the Peace, on complaint before him, that any person or persons has or have any vicious horse or horses, cattle or other live stock, to him, her, or them belonging, on his, her, or their premises, describing such horses, cattle, or live stock, as nearly as may be, which horse or horses, cattle or other live stock, have broken down or overleaped sufficient fences, have run at or injured any person or gored or injured any live stock on any farm, or on the highway,

highway, beaches or public places, or otherwise injured him after hearing such complaint in a summary manner, to order, that the person against whom the said complaint shall have been made, shall pay the cost incurred in the prosecution of such complaint, according to this Act, and that the horse or horses, cattle, or other live stock, so complained of and described, to be fettered, confined or shackled so as to be disabled thereafter to commit further damage, under a penalty on the owner or possessor thereof, of one shilling, currency, *per diem*, for every day during that season, that the horse or horses, cattle or live stock so complained of, may thereafter remain unfettered, unshackled or at large. Provided always, that if the complaint shall relate to any stallion above eighteen months old, or a ram left unfettered, unshackled or at large as aforesaid, the penalty shall not be less than two shillings and six pence, currency, nor more than five shillings, currency, *per diem*, as above prescribed.

Proviso.

Penalty on Persons allowing Stallions to run at large on the King's Highway.

VI. And be it further enacted by the authority aforesaid, that any person or persons owning or keeping one or more stallion or stallions, who shall allow such stallion or stallions to run at large on the King's highway, or in any field not belonging to, or in the occupation of any such person or persons, or in any Common in any of the Country Parishes, Seigniories, Townships or Settlements in this Province, or on any beach or public places, shall incur a penalty and forfeiture not exceeding the sum of five shillings, currency, nor less than two shillings and six pence, current money aforesaid, for every such offence.

Penalty on Persons allowing Rams to be at large.

VII. And be it further enacted by the authority aforesaid, that any person or persons owning or keeping one or more ram or rams, who shall suffer the same to be at large, or at pasture, otherwise than in a well fenced field or fields belonging to, or in the occupation of any such person or persons, among Ewes or other Sheep, in any of the country parishes, Seigniories, Townships or Settlements of this Province, at any time between the first day of June and the first day of December, of each and every year, shall incur a penalty and forfeiture not exceeding the sum of five shillings, current money of this Province, nor less than two shillings and six pence, like current money aforesaid, for every such offence.

Penalty on Persons allowing Swine, Geese and Ducks to commit damage on lands under cultivation.

VIII. And whereas great damages are often occasioned to proprietors or occupants of lands under cultivation by swine, geese and ducks, belonging to persons other than such proprietors and occupants; be it enacted by the authority aforesaid, that it shall and may be lawful to any person being proprietor or occupier of such lands, where any such damage is occasioned, to make complaint thereof before any one Justice of the Peace, and on proof thereof by one creditable

ditable witness other than the informer, the owner or possesor of such swine, geese and ducks, shall be condemned to pay a penalty not exceeding two shillings and six pence, currency, for each swine, and three pence for each goose or duck, having been found occasioning such damage.

The Inhabitants freeholders in every Parish &c. to elect a proper Person to be a Fence Viewer and Inspector of Drains-

IX. And whereas cattle often cause great damage in breaking into the enclosures of proprietors or occupiers of Land, by reason of the bad condition of the fences maintained by proprietors of the adjoining lands; and whereas also great inconveniences and losses result from the neglect to repair, clear, scour, and keep in order, division ditches or drains, water courses, discharges of water, rivulets or streams, and it is expedient to provide a summary remedy for difficulties arising therefrom; Be it therefore further enacted by the authority aforesaid, that it shall be the duty of the inhabitants, freeholders, in every parish, Seignior, Township or Settlement in this Province, to elect for the purposes of this Act, at the same time, for the same period, and with the same formalities, as are by the laws actually in force prescribed for the election of overseers of highways, a fit and proper person being a freeholder, to be a fence viewer and inspector of drains for every division in each and every parish, Seignior, Township or Settlement in this Province, wherein such overseers are, or by law ought to be elected; and the persons who shall have been so chosen and elected, shall serve as such until replaced by an election of others, in the like manner; and in case of death or removal of any fence viewer and inspector of drains, from the parish, Seignior, Township or Settlement for which he may have been elected, it shall be the duty of the senior Captain of Militia in such parish, Seignior, Township or Settlement, to cause an election of another fence viewer and inspector of drains, to be made at a meeting of the inhabitants being free holders in such parish, Seignior, Township or Settlement to be summoned by him for that purpose, with all convenient speed, and to be held in the like manner as is herein-before provided for the election of fence viewers and inspector of drains, and the person who shall be elected at such meeting, shall serve as such fence viewer and inspector of drains, until replaced in the manner herein-before provided.

Duty of the Fence Viewer and Inspector.

X. And be it further enacted by the authority aforesaid, that it shall be the duty of every fence viewer and inspector of drains, as often as he may thereunto be required in his division, by any proprietor or occupier of any land consisting of one quarter of an acre or more in superficies, to visit and examine the line fences dividing lands appertaining to different proprietors or occupiers, giving previous notice of the day and hour when such examination will take place, either in person or at the domicile of the party, against whom complaint shall have

have been made, and such fence viewer and inspector of drains, shall decide whether the fence complained of, is sufficient, and if the fence of the party against whom the complaint shall have been made, be declared insufficient, then the party found in default, shall repair the same within the time to be fixed by such fence viewer and inspector of drains, not exceeding four days thereafter, in such manner as the said fence viewer and inspector of drains shall direct, under a penalty of two shillings, currency, per day, for each and every day the same shall, after the expiration of the time fixed remain, unrepaired. *Provido.* Provided always, that no fence shall be judged insufficient when the same shall not be of a worse quality than any part of the fence made and maintained by the party complaining, on the same line or boundary and in a like situation, and on the same field or enclosure: and provided also, that the provisions of this clause shall not apply to any new fence, which shall be made where there existed none such previously, unless the party against whom the complaint shall have been brought, have been required to make such fence before the tenth day of December, preceding the complaint.

Fence viewers & inspectors of drains to lay out and inspect the line of ditches ordered to be laid out.

XI. And be it further enacted by the authority aforesaid, that it shall also be the duty of every fence viewer and inspector of drains, as often as he shall be thereunto required, to lay out the line of ditches, drains and water-courses necessary to be made between two or more proprietors or occupiers of land, and to inspect all such ditches, drains, water-courses, rivulets or streams through which the waters from ditches or other artificial drains are discharged as shall require to be repaired or scoured in his division, and also to determine the person or persons subject to make, repair, scour and keep in order such line, ditches, drains, water-courses, rivulets or streams, and also the manner in which the same shall be made, repaired, scoured or kept in order, as he may judge equitable and conformable to established usages and existing laws, and to order and see that they shall be so made, scoured, repaired and kept in order; and every proprietor or occupier, as aforesaid, refusing or neglecting to make, repair, scour or keep in order any ditch, drain, water-course, rivulet or stream, according to the directions of such fence viewer and inspector of drains, within four days after notice to that effect to him signified, in writing, shall incur a penalty of two shillings, currency, for each and every day thereafter, that such line ditch, drain, water-course, rivulet or stream, shall remain without being so made, repaired, scoured, or put in order as aforesaid. *Penalty.*

Fence Viewers and Inspectors to examine the Drains.

XII. And be it further enacted by the authority aforesaid, that it shall also be the duty of such fence viewer and inspector of drains, to visit and examine as often as he may be required in his division, every ditch, drain, water-course, rivulet,

rivulet or stream, through which the waters from ditches or other artificial drains are discharged, common to several or any number of proprietors or occupiers of land, the works whereof may have been regulated either by a *Procès Verbal* duly homologated, or by an agreement among the parties concerned, and to see if the same be done conformably to such *Procès Verbal* or agreement, and to order that they may be made, repaired, or put and kept in order pursuant to such *Procès Verbal* or agreement; and every person refusing or neglecting so to do, according to the directions of such fence viewer and inspector of drains, within four days after notice to that effect to him signified, in writing, shall incur a penalty of two shillings, currency, per day, for each and every day thereafter that such work shall remain, undone.

Penalty.

Duty of Fence Viewers and Inspectors in cases where it may be necessary to open & clear water-courses or discharge of water common to several Proprietors.

XIII. And be it further enacted by the authority aforesaid, that in cases where it may be necessary to open or clear any water-course, drain, discharge of water, rivulet or stream, as aforesaid, common to several lands, which if left uncleared or obstructed might occasion damage by the sudden or gradual accumulation of waters to the neighbouring proprietors, it shall be the duty of the fence viewer and inspector of drains, at the request of any person concerned, to give notice, either in person or at their domiciles, to the several proprietors or occupiers interested in the opening and clearing of such drain, water-course, discharge of water, rivulet or stream as aforesaid, of the day and hour when he will visit and examine the same, and thereupon to visit and examine the same, and to determine what ought to be done in and about the same, for the common benefit of the parties interested, and to apportion the share of labour, which each and every person therein interested ought to contribute thereto, and the time within which the same ought to be done by the several persons concerned and interested in the same; and to give notice to such persons severally, either in person or in writing at their domiciles, of such order and determination; and every person who, within a time not exceeding four days after notice, in writing to that effect, as above-mentioned, shall refuse or neglect to comply with the directions of such fence viewer and inspector of drains, shall incur a penalty of two shillings, currency, per day, for each and every day thereafter, that such work shall remain undone.

Penalty.

Persons neglecting to perform what may be required by the Fence Viewers and Inspectors, the work may be directed to be

XIV. And be it further enacted by the authority aforesaid, that if at the expiration of the periods of four days above-mentioned, the party complained of, and in default, shall not have done the work ordered to be done at such fence, drain, ditch, water-course or discharge of water or stream, within the ten days then next following, it shall in such case be lawful for the said fence viewer and inspector of drains, to cause the same to be done with all possible diligence, at the proper

done at the expence of the Parties complained of.

proper costs, charges and expense of the party complained of, and in default, which costs, charges and expenses as well as the penalty for neglect or refusal hereby imposed, shall be recoverable in a summary way, before any Justice of the Peace, and shall be levied by Warrant, under the hand and seal of the Justice of the Peace before whom the same shall have been sued for, and by seizure and sale of the goods and chattels of the party so complained of and in default; provided that the value of such works shall in no case exceed the sum of four pounds, currency.

P roviso.

Penalty on Fence Viewer and Inspector, refusing to enter upon the duties of their office.

XV. And be it further enacted by the authority aforesaid, that any fence viewer and inspector of drains who being chosen and elected as herein-above provided, shall neglect or refuse forthwith to enter upon and do the duties of his office, pursuant to this Act, shall incur a penalty of two pounds, ten shillings, currency.

Fence Viewers and Inspectors of Drains to take an oath for the faithful discharge of their duty.

XVI. And be it further enacted by the authority aforesaid, that it shall be the duty of each and every person chosen and elected to be a fence viewer and inspector of drains, previous to entering upon the duties of his office, to make oath before a Justice of the Peace, that he will well and truly, to the best of his knowledge, skill and understanding, and without fear, favor or affection for any person or persons whomsoever, execute the duties of the office of a fence viewer and inspector of drains, pursuant to an Act passed in the tenth year of His Majesty's Reign, intituled, "An Act for the more speedy remedy of divers abuses prejudicial to Agricultural Improvement and Industry in this Province, and for other purposes;" and that he will to the best of his judgement in all cases, impartially determine and decide, as to right and justice solely it may appertain, which oath any Justice of the Peace is hereby authorised to administer.

Penalty on Fence Viewers and Inspectors for neglect of duty

XVII. And be it further enacted by the authority aforesaid, that every fence viewer and inspector of drains, shall for every disobedience or neglect to attend to the duties by this Act upon him imposed when thereunto required, incur a forfeiture and penalty of ten shillings, currency, to be sued for and recovered as herein provided.

In case of relationship between the Fence Viewers and Inspectors of Drains, Duty to be performed by the nearest Fence Viewers and Inspector.

XVIII. And be it further enacted by the authority aforesaid, that in case of relationship or connexion within the degree of Cousin German, inclusively between the fence viewer and inspector of drains and either of the parties complaining or complained of, as aforesaid, or in case any fence viewer and inspector of drains shall himself be interested, his duties, under this Act, shall be performed by the nearest fence viewer and inspector of drains, not related to nor connected with either of the said parties in the degree aforesaid, and not interested.

XIX.



Fence View-  
ers and In-  
spector of  
Drains enti-  
tled to a cer-  
tain remunera-  
tion.

XIX. And be it further enacted by the authority aforesaid, that every fence viewer and inspector of drains, when employed in virtue of this Act, shall be allowed, and shall be entitled to have and recover at the rate of six pence per hour, for each and every hour he may be necessarily so employed from the person or persons found to be in the wrong, or in default, whether it be the party at whose instance he may be called or the adverse party, to be sued for and recovered in a summary way before any Justice of the Peace.

How diffi-  
culties res-  
pecting new  
water courses  
or discharges  
of water &c.  
are to be de-  
termined.

XX. And whereas it is expedient to make provision with respect to the opening of new water courses or discharges of water, and for widening old water courses, discharges of water, rivulets or streams; Be it therefore further enacted by the authority aforesaid, that in all cases where difficulties may arise among those intended in the opening of any new water course, or discharge of water, or widening any old water course, or discharge of water, rivulet or stream, the matter in dispute shall, on the requisition of any person interested therein, be adjusted by any two fence viewers and inspector of drains, proper for the purpose, (*idoines*) and in no wise interested, of the parish, Seigniorly or Township, or any of the neighbouring parishes, Seigniorly or Townships, who, having visited the ground and sufficiently informed themselves of the matter in dispute, shall make their determination, award and *Procès Verbal* of their operations, mentioning what ought to be done in and about such water course or discharge of water, rivulet or stream, for the common benefit of all concerned, and apportioning the share of labour which each and every person therein interested ought to contribute thereto, and the time wherein the same ought to be done by the several persons concerned in the same, and such other particulars as they shall deem necessary or expedient concerning the matter in dispute, including the costs and charges incurred in examining the premises and for the *Procès Verbal*; which *Procès Verbal* shall be deposited and remain of record in the office of one of the nearest Notaries, or in the hands of the nearest Justice of the Peace if such *Procès Verbal* shall be made in a Township, and every person concerned who within a time not exceeding four days after notice given by public advertisement read and posted up at the Church door of the parish, Seigniorly or Township; or when there is no church, then at the most public place in such parish, Seigniorly or Township, shall refuse or neglect to comply with the requirements of such award and *Procès Verbal*; shall be under the same liabilities and incur the same penalties as are in the like cases specified in the eleventh and twelfth clauses of this Act, subject always to appeal, as is hereinafter provided.

XXI.

Parties dissatisfied with the decision of fence viewers & inspectors; an appeal from such decision allowed.

XXI. And be it further enacted by the authority aforesaid, that if any party or parties interested in or in any manner whatsoever affected by the decisions or orders made by fence viewers and inspectors of drains under the preceding clause of this Act, or any of them shall be dissatisfied therewith, an appeal shall forthwith lie to the nearest Justice of the Peace not being interested therein, whose decision or order shall be final, unless the party or parties thinking himself or themselves aggrieved, shall within eight days after such decision or order shall be made therein, give notice to the Justice of the Peace who shall have made the same, that he or they intends or intend to appeal therefrom to the next ensuing term of the Court of King's Bench for the District, but if such appeal be not then effectually prosecuted, the decision or order so appealed from shall forthwith thereafter be executed as if no such notice had been given.

Appeals how to be instituted

XXII. And be it further enacted by the authority aforesaid, that the appeal hereby granted to the Court of King's Bench, shall be instituted by petition in the Superior Term of the said Court holding pleas for the District in which the ditch, drain, water course, discharge of water, rivulet or stream in question, or the greater part thereof may be situate, and on such appeal, the said Court may hear, adjudge and determine the whole issue whether as to form, pleas in Bar, *fin de non recevoir*, or on the merits after legal trial.

Before appeal granted, security to be given.

XXIII. Provided always, and be it further enacted by the authority aforesaid, that before such Appeal to the Court of King's Bench, shall be granted, the Appellant or Appellants shall, within eight days after the rendering of such Judgment or order as aforesaid, give security in a sum not exceeding Fifty Pounds currency, before the Justices of the Peace or either of them, by whom such Judgment shall have been made and rendered, that he or they will effectually prosecute such Appeal, or that in default of so doing he or they will pay to the person or persons in whose favor such Judgment or order shall have been made, and render all such Costs as he or they shall have incurred and as shall be awarded by the said Court.

Public notice to be given of the day on which such fence viewers intend to visit the premises and proceed, &c.

XXIV. Provided always, and be it further enacted by the authority aforesaid, that before such fence viewers and inspector of drains shall proceed to the duties herein last before assigned to them, public notice shall be given by them verbally, or by an advertisement in writing read and affixed to the church door of the parish, immediately after Divine Service in the forenoon of the Sunday immediately preceding the day when they intend to visit the premises, and proceed to the duties which they are to perform, requiring all persons whom it may concern, to take notice thereof and to attend, if they see fit, at the time and place

place appointed, and where there is no church, then such notice shall be given at the most public place in the settlement.

When the inhabitants of two or more parishes are concerned, the matter in dispute shall be adjusted by fence viewers and inspectors of each of the said parishes.

XXV. And be it further enacted by the authority aforesaid, that in cases where the inhabitants of two or more parishes, seigniories or townships are concerned in the opening of any such new water course or discharge of water, or widening any old water course, or discharge of water, rivulet or stream, the matter in dispute shall, on the requisition of any person therein interested in each of such parishes, seigniories or townships, be adjusted by two fit proper and disinterested fence viewers and inspectors of drains from each parish, seignior, or township, who shall meet and proceed upon the matter in dispute in manner as herein above provided, and whose proceedings, award or *Proces Verbal* shall have the same force and effect, and be attended in case of disobedience, with the like penalties and liable to the same appeal, as is and are herein before provided.

In case of difference of opinion between such Fence viewers and Inspectors, an umpire shall decide.

XXVI. Provided always and be it further enacted by the authority aforesaid, that in all cases of difference of opinion and equality of votes between such fence viewer and inspector of drains, on any point or matter to them hereby committed, as last aforesaid, one of the nearest fence viewers and inspectors of drains, disinterested in the point or matter in difference, shall be referred to as umpires and shall have a casting vote.

Fence viewers and Inspectors to whom such adjustment is committed, how named.

XXVII. Provided also and be it further enacted by the authority aforesaid, that the fence-viewers and Inspectors of Drains to whom such adjustment as last aforesaid is committed, shall be named in each of the Parishes, Seigniories or Townships, interested by the fence-viewer and Inspector of Drains nearest to the Place where the opening such new water course or widening any old water course or discharge of water, rivulet or stream is projected, if he be disinterested and in case he be interested therein, then such fence-viewers and Inspectors of Drains shall be named by the nearest disinterested Serjeant of Militia, he being thereunto required, and whose duty it shall be to notify the fence-viewers and Inspector of Drains of such their nomination, to the end that they may proceed to the performance of the duty hereby imposed upon them.

Manner of proceeding for the destroying of noxious weeds.

XXVIII. And whereas the seeds of noxious weeds growing on the land or ground of one proprietor, or upon a common, are frequently driven by the winds, and otherwise conveyed upon the lands and grounds of the adjoining proprietors, where they germinate and grow, to the great damage of such adjoining proprietors, and to the discouragement of improvements in agriculture; Be it further enacted by the authority aforesaid, that it shall be lawful for any proprietor

prietor or occupier of land, at any time between the twentieth day of June and tenth day of August in each year, by verbal notice, in the presence of one witness, or by notice in writing, left at the domicile of the person to whom it may be addressed, or in case of a Common in which several persons have shares or are interested by notice published at the church door of the parish within which such Common shall be situated, on a Sunday or church holiday, (*Fête d'obligation*) immediately after Divine Service in the forenoon, to require any proprietor or occupier of any adjoining land or piece of ground, not then in crop, or meadows in crop, or the persons having shares, or being interested in a Common as aforesaid, to destroy or cut down all such noxious weeds, to wit: those commonly called *Marguerites*, also ranuncules, commonly called, *Marguerites Jaunes* and thistles, wild endive, (*chicorée*,) and *cotonniers*, as may be then growing on such adjoining land or piece of ground, the proprietor or occupier of land giving such notice, having himself first destroyed or cut down all such weeds on his own fields or grounds adjoining; and if the weeds so required to be destroyed or cut down, are not entirely destroyed or cut down at the expiration of six days, from the date of such notice, then it shall be lawful for any Justice of the Peace, upon complaint duly made before him, and the oath of one credible witness other than the complainant, or on the confession of the party or parties complained of, to order in writing, the proprietor or occupier, or other persons having shares or being interested in a Common, as aforesaid, against whom such complaint shall be made, to destroy or cut down such weeds within a period to be assigned by such Justice of the Peace, under a penalty on such proprietor or occupier, or other person as aforesaid, of two shillings and six pence, for every day that such weeds shall remain standing or growing, from and after the expiration of the time assigned for so doing, together with the expenses incurred in obtaining such order, according to this Act.

Duty of surveyors and overseers of highways to cause to be cut down noxious weeds.

**XXIX.** And be it further enacted by the authority aforesaid, that it shall be the duty of the Surveyors and Overseers of Highways, within the time limited in the foregoing clause, to cause to be destroyed or cut down, by the persons bound to make and keep in repair the highways and roads in their respective divisions, all weeds growing on highways or roads, in their whole width to the fences inclosing such highways or roads, under the same penalties on the said Surveyors and Overseers, and persons bound to make and keep in repair the said highways and roads, as are provided in the Acts now in force, for neglect or default in keeping such highways and roads in repair, and recoverable in the same manner.

Justices of the Peace to hear

**XXX.** And be it further enacted by the authority aforesaid, that any two Justices

and determine in a summary manner all complaints against any rule provided by any law in force to that effect concerning apprentices, &c. as enacted by statute 57 Geo. 3, cap. 15.

tices of the Peace in any of the country parishes, Seigniories, Townships or Settlements in this Province, are hereby authorised and empowered, to take cognizance of, hear, try and determine all causes and complaints against any of the rules, orders or regulations made under and in virtue of any law in force to that effect concerning Apprentices, Domestic, hired Servants or Journey-men, or their Masters or Mistresses, in a summary manner, as enacted by a Statute of the fifty-seventh year of the Reign of His Majesty George the Third, intituled, "An Act more effectually to provide for the Regulation of the Police in the Cities of Quebec and Montreal and the Town of Three-Rivers, and for other purposes therein-mentioned."

Establishment of pounds for confining stray horses and other cattle.

XXXI. And whereas the establishment of Pounds for receiving and confining stray horses, neat cattle, sheep, goats and hogs, until claimed by the owners, would be of essential service in the Cities, Towns, Villages and country parishes and Townships in this Province; Be it therefore enacted by the authority aforesaid, that it shall be lawful for the Justices of the Peace, at any of their weekly sittings, in either of the Cities of Quebec or Montreal, to authorise the erection and establishment, in some convenient place in or near those Cities respectively, of a Pound for impounding or confining all horses, neat cattle, sheep, goats, and hogs, found trespassing on the property of individuals or straying in the public roads, beaches or public places; and such Pound to place under the care and direction of some fit and proper person, who shall be accountable for his conduct in the care and direction of such Pound to the Justices of the Peace in their weekly sittings, and be liable to be by them removed and replaced by another, from time to time, as occasion may require.

Mode appointed previous to the establishment of such pounds.

XXXII. And be it further enacted by the authority aforesaid, that any three inhabitants, being freeholders, in the town of Three-Rivers or in the Borough of William Henry, or of any village in this Province, consisting of not less than thirty inhabited houses within the space of at least fifteen acres in superficies, may require any Justice of the Peace, or Captain of Militia, to call a meeting of the inhabitants being house-holders, in such town, borough or village, for the purpose of considering and determining whether it be expedient to erect and establish therein a Pound for the purpose aforesaid; and if at such meeting, (which shall not be held sooner than six days after public notice to that effect,) it shall be determined by a majority of persons present at the meeting, that such Pound shall be erected and established, the same may be erected and kept by the

overseer of highways residing within such town, borough or village, or in case of his refusal so to do, by any other person willing and offering to erect at his own proper costs and charges such Pound, and to keep the same.

When pound is erected, overseers of highways to keep the same.

XXXIII. And be it further enacted by the authority aforesaid, that any three inhabitants being free holders in any division of any parish, Seignior, or Township, may require the overseers of highways in their respective divisions, to call a meeting of the inhabitants, householders therein, after notice as aforesaid, to consider and determine whether it be expedient to erect and establish a Pound for such division for the aforesaid purposes, and if at such meeting it shall be determined by a majority of persons present at the meeting, that such Pound shall be erected and established, the same may be erected and kept by the overseer of highways for such division, or in case of his refusal, by any other person willing and offering to erect the same at his own proper costs and charges, and such person shall keep the same, when erected, for the purposes hereof.

And all stray cattle to be impounded.

Penalty.

Provisions contained in act or ordinance of 30. Geo. 3, cap. 4. extended to horses and hogs.

XXXIV. And be it further enacted by the authority aforesaid, that when and as soon as any Pound shall be erected and established as aforesaid pursuant to this Act, all Horses, Horned Cattle, Sheep, Goats or Hogs, taken trespassing on the premises of Individuals or straying on the public Highways, Beaches or public places in the City, Town, Borough, Village, Parish, Seignior or Township for which such Pound is erected and established, shall, by the person or persons having taken the same trespassing or straying as aforesaid, within twenty four hours after his taking the same, under the penalty of five shillings, currency, in case of contravention, be conducted to and confined in such Pound and there remain until the owner or owners thereof shall claim the same, and pay and deposit the fine by Law incurred with the reasonable charges of maintaining such Horses, Horned Cattle, Sheep, Goats or Hogs during the time they shall have been detained in such Pound, one half of which fine together with the full expense of maintaining as aforesaid, shall go to the keeper as an indemnity for erecting, keeping and maintaining such Pound, and the other half to the person or persons impounding or causing such Horses, Horned Cattle, Sheep, Goats or Hogs as aforesaid to be impounded, any Law, Statute or Ordinance to the contrary thereof in any wise notwithstanding. Provided always, that all and every the provisions of a certain Act or Ordinance passed in the thirtieth year of the Reign of his late Majesty George the Third, intituled, "An Act or Ordinance for preventing Cattle from going at large, or *l'abandon des Animaux*," with respect to Cattle, shall also be extended to Horses and Hogs.

XXXV.

Horses, &c. impounded to be restored to the lawful owner, on paying the fine and sum expended for the keeping of the same.

**XXXV.** And be it further enacted by the authority aforesaid, that any person having crected or keeping a Pound as aforesaid, who on tender or deposit of the fine incurred as aforesaid, with a sum sufficient to defray the reasonable expenses of maintenance of the Horses, horned Cattle, Sheep, Goats or Hogs, impounded during the time that they may have been impounded, shall refuse to deliver the same to the lawful owner thereof, or to any person demanding the same on his behalf, shall, for such refusal, incur a penalty not exceeding ten shillings, currency, and five shillings currency, per day, for every day, thereafter he shall wrongfully detain such Horse, Horned Cattle, Sheep, Goats or Hogs.

Horses and cattle impounded, keeper of the pound to have the same cried at the church door of the place where taken.

**XXXVI.** Provided always, and be it further enacted by the authority aforesaid, that it shall be the duty of every keeper of a Pound, in which any Horses, Horned Cattle, Sheep, Goats or Hogs shall be impounded or confined, to cause the same to be cried and proclaimed at the Church door of the place where taken, in the manner provided and required by the said Act or Ordinance above recited.

Owners liable to be prosecuted for damages done by their horses, &c. straying at large.

**XXXVII.** Provided always and be it further enacted by the authority aforesaid, that nothing in this Act contained, shall, in any wise, be construed to prevent any person from recovering, in due course of Law, such damages from the owner as he shall have sustained by any Horses, Horned Cattle, Sheep, Goats, Hogs, Geese or Ducks allowed to stray or go at large by such owner or owners thereof.

Manner of proceeding against rogues and vagabonds

**XXXVIII.** And whereas the public are often imposed upon by rogues and vagabonds, who sometimes obtain Certificates by craft and surprise from persons charitably disposed, of illness, infirmity and misfortunes, and who under false pretences, go about seeking alms, being at the same time able to work for a livelihood; and whereas also, children are frequently found begging publicly, whereby they acquire and grow up in incorrigible habits of idleness, vice and immorality, to the great detriment of Agriculture and of Industry, to the scandal of the public authorities, and to the diminution of alms-giving and charity to objects really worthy of the same;—For remedy whereof, be it therefore further enacted by the authority aforesaid, that any grown person or persons hereafter found publicly begging in any of the Country parts of this Province, with or without a pass or certificate, and apparently able to work, or any child or young person of either sex over five years of age, in like manner found publicly begging, shall be liable to be apprehended by any person or persons, and to be forthwith conducted before any one of the nearest Justices of the Peace for

for examination, and if upon examination of such person, child or young person, and upon inquiring into the complaint or matter against him or her alleged by the oath of any two credible witnesses (which oath any Justice of the Peace is hereby authorized to administer) it shall appear proper and expedient, such Justice of the Peace may, with the advice and consent of any two officers of Militia and of any other four respectable Freeholders of the vicinity, hire out the services of such grown person being of lawful age as aforesaid, for any time that may be agreed upon and on the most favorable terms that can be obtained for him or her to any person in the neighbourhood of such Justice of the Peace who may be willing to engage or hire such grown person agreed upon, and also with the like advice and consent, such Justice of the Peace may bind out as an apprentice, any child or young person above five years of age found begging as aforesaid (having a due regard to the capacity and disposition of such child or young person, whether for a trade or for husbandry, as well as to the morals and reputation of the person to whom such child or young person, may be bound out) until he or she shall have attained the full age of majority or is married, with the consent of the Justice of the Peace having bound out such child or young person or of some other Justice of the Peace in case of his death, or removal from the District; and during the time of service or apprenticeship of any grown person or child or young person as aforesaid, the Justice of the Peace having hired or bound out such grown person shall hear and redress all complaints made by the grown person, child or young person he may have hired or bound out, as well as by their Masters and Mistresses, with respect to such grown person, child or young person, and be accountable that the earnings of such person, child or young person be duly applied or saved for his use. **Provided** always, that before binding out any child or young person as aforesaid, it shall be the duty of such Justice of the Peace to offer him or her to the nearest of any other relative, such child or young person may have to the knowledge of such Justice of the Peace in the Parish, Seignior, Township, or other place adjacent to that where such child or young person may have been found begging and been apprehended, and who shall be willing to take such child or young person as an apprentice, may be capable of maintaining or employing such child or young person, until of a lawful age or married as aforesaid, such relative undertaking that such child or young person shall not thereafter during his or her minority or apprenticeship be again found begging.

Proviso.

Preceding  
clause to be  
publicly read

**XXXIX.** And be it further enacted by the authority aforesaid, that the preceding clause or section shall be publicly read by or under the direction of the Senior Captain of Militia in each and every Parish, Township or Settlement in this



this Province, in which there is a Church, at the Church door, immediately after the forenoon service, on some Sunday in the Month of July, in every year during the continuance of this Act.

Penalty for  
trespassing on  
sown land.

**XL.** And whereas proprietors of land which has been sown, meadows, orchards, coppice or other land sustain considerable damage from the practice of going across such sown land, meadows, orchards, coppice or other land without permission of the proprietors, and that experience proves that, in going over the fences enclosing such sown land, meadows, orchards, coppice or other land, the persons so doing often break down and leave prostrate part of such enclosures, to the great damage of the proprietors:—Be it therefore further enacted by the authority aforesaid, that from and after the passing of this Act any person who shall go over any sown land, meadow, orchard, coppice or other enclosed land without permission of the proprietor or his representative, shall incur a penalty not less than two shillings and six pence currency, and not exceeding thirty shillings currency, which fine shall be levied upon complaint before any one of His Majesty's Justices of the Peace, in the manner prescribed by the second section of the Act hereby continued, without prejudice to his legal recourse for damages and interest.

Fines and pe-  
nalties, how  
recoverable.

**XLI.** And be it further enacted by the authority aforesaid, that all fines, penalties and forfeitures imposed and incurred for offences against this Act, not otherwise provided for, shall be sued for and recovered on the oath of any one credible witness other than the prosecutor or informer, or by the confession of the Defendant, before any one Justice of the Peace for the District wherein the offence shall have been committed, and shall be levied by Warrant under the hand and seal of the Justice of the Peace before whom the conviction of such offence or offences may be had, and by seizure and sale of the Goods and Chattels of the offender, the surplus of monies levied upon the sale of such Goods and Chattels being returned to the offender, after the amount of the fine and costs of suits and distress shall have been satisfied.

Limitation of  
actions.

**XLII.** And be it further enacted by the authority aforesaid, that all fines, penalties and forfeitures that may be incurred under this Act, shall be sued for within one month next after the Commission of the offence, and not afterwards.

Justice of the  
Peace not al-  
lowed fees,  
excepta com-  
pensation for a  
clerk.

**XLIII.** And be it further enacted by the authority aforesaid, that no Justice of the Peace acting in obedience to or in pursuance of this Act, shall be entitled to exact any fees or emoluments whatever in any case or under any pretext, unless such as shall by him be deemed a fair compensation for any Clerk or per-

son who shall be necessarily employed by him, to enable him to fulfil his duties pursuant to this Act, nor shall any such Clerk or person be in any case entitled to any greater sum than five shillings, currency, including all his trouble in drawing a summons and copy thereof, making Subpœnas and copies thereof, recording the conviction, making a Warrant pursuant to such conviction, with all the other incidental trouble and writing in any prosecution under this Act, nor shall any Bailiff, Constable or Peace Officer employed in pursuance of this Act be entitled to any greater sum by way of mileage than one shilling, currency, for every league he may necessarily travel in the execution of his duty (distance in returning not to be counted) nor any greater sum than one shilling, currency, for every service of a Summons or Subpœna; nor any greater sum than seven shillings and six-pence, currency, for executing any Warrant of Distress, and levying any fine or penalty not exceeding in the whole in any one suit thirty-five shillings, currency, including the expenses for Witnesses pursuant to this Act, all which shall be allowed and taxed by the Justice of the Peace before whom the prosecution shall have taken place, and the said allowances shall be in lieu of and cover all expenses of prosecution, nor shall any other fees or charges be on any account exacted, taken or received in respect of any prosecution under this Act, than such as are herein above authorized.

Penalty on  
taking a false  
oath.

**XLIV.** And be it further enacted by the authority aforesaid, that every person who shall be convicted of having wilfully taken a false oath in any case wherein a Justice of the Peace, in the due fulfilment of his duties, pursuant to this Act, may deem it necessary to administer an oath, shall incur the pains and penalties by law provided against wilful and corrupt perjury.

Application  
of the money  
to be account-  
ed for to His  
Majesty.

**XLV.** And be it further enacted by the authority aforesaid, that the due application of all monies raised under and in virtue of this Act, shall be accounted for to His Majesty, his heirs and successors, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form, as His Majesty, his heirs and successors shall direct.

Until pounds  
are establish-  
ed, proprietors  
of lands may  
confine any  
stray cattle, &  
retain the same  
until the pro-  
prietor of the  
said cattle do  
pay the rates  
allowed.

**XLVI.** Provided always, and be it further enacted by the authority aforesaid, that until Pounds, as before provided, shall have been erected, it shall and may be lawful for any person or persons being proprietors or occupiers of land, or their servants, to take and confine any stray horse, neat cattle, sheep, goat or swine found upon the land of such proprietor or occupant, or breaking the fences of such land, or straying on the highway in front of the same, and to retain

The rates. tain such horse, neat cattle, sheep, goat or swine, until the proprietor pay for each beast so retained at the following rates, that is to say ; for each stallion, two shillings and six pence, currency ; for each mare or gelding, one shilling and three pence, currency ; for each bull, one shilling and three pence, currency, for each ox, cow or yearling, one shilling, currency ; for each sheep or goat, three pence, currency ; for each swine, one shilling and three pence, currency ; and double the said rates for the second time that the same horse, neat cattle, sheep, goa or swine may be taken as aforesaid by the same proprietor or occupant. Provided always, that so soon as may be after the taking and confining of such horse, neat cattle, sheep, goat or swine, if the owner or owners thereof is known to such proprietor or occupant, he shall give or cause to be given to such owner or owners notice of the detention ; and in case such owner or owners are not known to such proprietor or occupant, then he shall cause public notice to be given of such taking and confining, describing the animals on the succeeding Sunday, at the church door, immediately after Divine Service in the morning, or in default of such church, give some other public notice usually deemed sufficient within the parish, township or settlement where such land is situated.

Proviso.

A copy of this act to be forwarded to each of the Inspectors of Fences and Drains.

XLVII. And be it further enacted by the authority aforesaid, that one copy of this Act, and no more, shall be forwarded to each of the inspectors of fences and drains for his guidance in the performance of the duties hereby required of him, and that every such inspector upon retiring from office shall transfer such copy of this Act to his successor in office for his guidance.

Continuance of this Act.

XLVIII. And be it further enacted by the authority aforesaid, that this Act shall be and remain in force until the first day of May, one thousand eight hundred and thirty-five and no longer.

### C A P. XXXVIII.

AN ACT to amend an Act passed in the seventh year of His Majesty's Reign, for the Establishment of a New Market at Montreal, and to extend the provisions of the same.

(14th March, 1829.)

Preamble.

WHEREAS it is expedient to amend a certain Act passed in the seventh year of His Majesty's Reign, chapter fourteen, intituled, " An Act for the Establishment of a New Market at Montreal," and to extend the provisions