

*The Provincial Statutes of Lower-Canada, Being the third session of the thirteenth Provincial Parliament of Lower-Canada.* Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1830.

10 & 11 George IV – Chapter 1

**An Act to amend an Act passed in the ninth year of His Majesty's Reign, intituled, "An Act for the more speedy remedy of divers abuses prejudicial to Agricultural Improvement in this Province," and to make further provision to the same effect. (26th March, 1830.)**

Whereas it is expedient to repeal a certain Act, passed in the ninth year of His Majesty's Reign, intituled, "An Act for the more speedy remedy of divers abuses prejudicial to Agricultural Improvement in this Province," and to provide for the prevention of certain trespasses, abuses, and evil practices which prevail in this Province, and retard the progress of Agriculture therein: 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 year of 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 the said Act passed in the ninth year of His Majesty's Reign, intituled, "An Act for the more speedy remedy of divers abuses prejudicial to Agricultural Improvement in this Province," shall be, and the same is hereby repealed.

II. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, no person shall enter into, or pass through any inclosed field, whether it be sown or unsown, nor into, nor through any inclosed garden, coppice, or other inclosed property whatsoever, without the permission of the proprietor, or of some person duly authorized by him to grant such permission, under a penalty of not less than Five Shillings currency, nor more than Thirty Shillings currency, for every such offence, and over and above the amount of all damages occasioned thereby, which may be recovered in the Civil Courts.

III. And be it further enacted, by the authority aforesaid, that any person who shall pull down, cut, break, remove or injure any fence, or part of any fence, or shall cut, bark, fell, or remove any tree, shrub, or plant, or fell, cut, or remove any tree in the wood of any other person, for the purpose of making shingles, or for any other purpose, or shall therein burn any wood to make potash or sugar, without leave from the proprietor or his representative, every such person shall for every such offence committed in the daytime, incur a penalty which shall not be less than five shillings currency, nor more than thirty shillings currency, and when committed in the night time, which shall be twice those sums respectively, over and above ail damages, which may be recovered in the Civil Courts.

IV. And be it further enacted by the authority aforesaid, that any Justice of the Peace upon complaint on oath before him, shall issue his warrant directed to a Constable or Peace Officer for the apprehension of any person charged with such offence, and shall, without unnecessary delay, hear and determine upon the complaint, and shall within eight days cause the penalty to which such person may be condemned under the foregoing provisions to be levied of his goods and chattels, and upon non-payment of such penalty within thirty days thereafter, shall commit the offender to the common gaol until such penalty with the costs of prosecution shall be paid: Provided always, that no person shall remain so committed for a longer time upon any one conviction for the cause aforesaid, than eight days.

V. And be it further enacted by the authority aforesaid, that whenever it shall appear to such Justice of the Peace by the oath of the prosecutor, or that of one witness, or by confession of the offender, that such offender is an alien or is a squatter, or that he has no real property or other means to secure the payment of such penalty and costs, such Justice of the Peace shall commit him to the common gaol for a time not exceeding thirty days nor less than eight days.

VI. And be it further enacted, by the authority aforesaid, that when any person shall have sustained damage by the trespassing of cattle, poultry or other domestic animal, he may lay his complaint before one of the nearest Justices of the Peace, who by summons under his hand and seal, in the form prescribed in the Schedule (A) hereunto annexed, directed to any Bailif or Peace Officer, shall require the person against whom such summons shall be demanded to appear before him, and such Justice having heard the parties, shall refer the matter to two Arbitrators of whom each party shall name one and who in case of difference of opinion shall name a third; and such Arbitrators shall take cognizance of the damage sustained, and report the same in writing to such Justice of the Peace; who shall thereupon allow the prosecutor the amount thereof, with the costs and charges of the view and report, and of prosecution, and in case the Defendant should refuse or neglect to pay the same within eight days, such Justice of the Peace shall cause the same to be levied by Warrant under his hand and seal, under the usual formalities: Provided always, that the damage have not been occasioned by the bad state of the Prosecutor's fence, nor by the want of one, and do not in the whole amount exceed the sum of four pounds, three shillings, and four pence currency: Provided further, that if the defendant make default, or refuse to name his arbitrator, then the Justice of the Peace shall appoint one in his stead, and the said Arbitrators before proceeding, shall make oath before a Justice of the Peace, well and faithfully to examine the matter, and make a faithful report to the best of their skill and understanding, and without any partiality or favour.

VII. And be it further enacted by the authority aforesaid, that every such Justice of the Peace may on application of either party, issue Subpoenas to compel the attendance of witnesses before him, or before the Arbitrators, and may swear them in the usual manner to give true evidence, and may enforce obedience to every such subpoena, and punish or cause to be punished any disobedience thereto by the usual course of Law.

VIII. And be it further enacted by the authority aforesaid, that registers shall be kept by such Justice of the Peace, of all proceedings hereby authorized respecting damages to be sued for by virtue of this Act, to the end that all persons interested, may obtain copies on payment of six pence for every hundred words.

IX. And be it further enacted by the authority aforesaid, that it shall not be lawful for any person whatsoever, at any season of the year, to allow his horse, mule, or other animals to stray upon any land not belonging to him, without leave obtained from the proprietor of such land, or his representative, nor to allow them to stray upon the beaches or along the highways, or other public places; and that whenever any horse, horned cattle, sheep, goat, or hog, shall be found at large in any such place, the owner of such animal, shall in addition to the sum he may be compelled to pay, in the manner hereinafter, provided for the damages which may be adjudged against him as hereinafter prescribed, incur the penalty of live shillings currency, for every stallion found straying as aforesaid; of one shilling and three pence currency, for every mare or gelding so found; of two shillings currency for every bull so found; of one shilling currency for every ox, cow, or calf so found; of three pence currency for every sheep, or goat so found; and of two shillings currency for every hog so found; and shall incur double the said penalties respectively, for every such animal respectively, so found straying a second time by the proprietor of such land, or by his servants or representative: Provided always, that when any such animal shall he seen straying in the highways, beaches or public places, a surveyor or an overseer of highways, or any Freeholder of the Parish, Seigniorie [Seigneurie] or Township, may seize and detain it until the owner of such animal shall have paid the penalty hereby annexed to the offence: Provided always, that the person who may have seized and detained any such animal, shall forthwith give notice to its owner, if known to him, and if not, he shall on the three next ensuing Sundays, cause public notice to be given at the door of the Parish Church, after Divine Service in the morning, of the seizure and detention of such animal, describing the same, unless sooner claimed by, or on behalf of the owner, and if in the place where such seizure and detention may be made, there be no Parish Church or building for public worship, sufficient public notice to the effect aforesaid, shall be given at the most public and frequented place in and according to the custom of the Parish, Seigniorie, or Township: Provided always, that when public notice shall have been given in the manner aforesaid, on three Sundays of the seizure and detention of any horse, ox, cow, hog, or cattle whatsoever; if the said horse, ox, cow, or other animal be not claimed, then it shall be lawful for the person having the same in his possession, to, cause them to be sold by public auction, at the Church door, after divine service in the morning, or in places where there shall be no Church or building for public worship, at the most public and frequented place as aforesaid, and the person detaining the same, may take from, and out of the produce of the sale, the reasonable expences of keeping during the time of detention, together with the fine and damages which may have been incurred, and he shall keep the balance in his hands, and shall pay it over to the proprietor so soon as known to him.

X. And be it further enacted, by the authority aforesaid, that it shall be lawful for any Justice of the Peace, on complaint to him made, that any person keeps on the land belonging to such person, a vicious horse or other animal, being the property of such person, (in which complaint the said, horse, or other animal shall be as exactly described as may be,) and that the said horse or other animal has broken down, or overleapt any fence in good repair, or has attacked and pursued any person, or done him or her any mischief, or has gored any other animal, in any land or on the highway, or on the beaches or other public ground, or has done any other harm to such animal, after having heard such complaint in a summary manner, to order the person against whom such complaint shall have been made, to pay the costs which may have been incurred on such complaint according to the provisions of this Act, and that the horse or other animal concerning which such complaint shall have been made, be clogged or fettered so as to prevent his doing any further mischief, under a penalty of two shillings and six pence currency, to be paid by the owner or person in possession thereof, for every day during which such horse or other animal, concerning which such complaint shall have been made, shall thereafter be allowed to remain unfettered and at large: Provided always, that if such complaint shall be made concerning any stallion more than eighteen months old, or any ram, so left at large as aforesaid, the said penalty shall not be less than two shillings and six pence currency, nor more than five shillings currency for each day.

XI. And be it further enacted by the authority aforesaid, that every person who shall be the owner of, or who shall keep one or more stallions, and shall allow the same to be at large on the King's highway, or in any field not belonging to nor occupied by such person, or on any common in any country parish, seigniority Township or settlement in this Province, or on any beach or other public ground, shall incur a penalty not exceeding ten shillings currency, nor less than five shillings currency for every such offence.

XII. And be it further enacted by the authority aforesaid, that every person who shall be the owner of, or who shall keep one or more rams, and shall allow the same to be at large, or shall allow the same to pasture in any place other than some well fenced field belonging, to or occupied by such person, among any ewes or other sheep, in any country parish, seigniority, township or settlement, at any time whatsoever between the first day of June and the first day of December in any year, shall incur a penalty not exceeding five shillings currency, nor less than two shillings and sixpence currency for every such offence.

XIII. And be it further enacted by the authority aforesaid, that it shall be the duty of every Justice of the Peace, on complaint to him made, that any dog belonging to or kept by, or being on the land, or near the house of any person, has bitten any person, horse, cattle or sheep, or is supposed to be rabid or has pursued any ridden horse, or any horse harnessed to any carriage on the highway, after having heard such complaint in a summary manner, to condemn the person against whom such complaint shall have been made, to pay the costs incurred on such complaint according to the provisions of this Act, and to order, by a writing under his hand, the owner or keeper of such dog, to keep, or cause the same to be kept shut up for forty days, under a penalty, to be paid by such owner or keeper of such dog, not

exceeding two shillings currency; or each day that such dog shall be kept at large before the expiration of the said forty days: Provided always, that in all cases wherein it shall be proved before such Justice of the Peace by two or more witnesses worthy of credit, that the dog concerning which such complaint shall have been made, is mischievous, both with regard to travellers and ridden or harnessed horses, and is in the habit of pursuing them, and of startling or of biting them, then and in such case, such Justice of the Peace may, in the manner herein set forth, order the owner or keeper of such dog, to kill it or cause it to be killed, and further condemn such owner or keeper thereof, to pay in addition to the costs above mentioned, a penalty of five shillings currency, for every day such dog shall be allowed to live after the said order.

XIV. And whereas the proprietors or occupants of land under cultivation, or of building lots in the country parishes, frequently suffer damage from hogs, geese and ducks, as well as from turkies and poultry of all other kinds, belonging to persons other than the said proprietors or occupants; Be it therefore further enacted by the authority aforesaid, that it shall be lawful for every proprietor or occupant of any land or building lot, on which any such damage shall have been done by any hogs, or by any geese, ducks, turkies or other poultry, the owner or keeper of which he shall know, to make complaint thereof to any Justice of the Peace whatsoever, who shall, on proof thereof by one credible witness, other than the complainant, condemn the owner or keeper of such hogs, geese, ducks, turkeys, or other poultry, to pay a penalty not exceeding two shillings and six pence currency, for every hog, and of three pence currency for every goose, duck turkey or other fowl, which shall, have been found doing such damage.

XV. And whereas the establishment of pounds for the impounding of horses, horned cattle, sheep, goats and hogs, which may be found, astray, and impounded by private persons or by the public officers hereinbefore mentioned, would much facilitate the safe-keeping thereof in the cities, towns, villages, country parishes and townships of this Province: Be it therefore further enacted by the authority aforesaid, that it shall be lawful for the Justices of the Peace, in any of their weekly sittings, in either of the cities of Quebec and Montreal, to authorize the erection, or establishment of a pound in any, fit and proper, place in or near either of, the said, cities for the shutting up and impounding therein of all horses, horned cattle, sheep, goats and hogs, found damaging or trespassing upon the property of any person, or straying on the beaches, highways or public grounds, and to place such public pounds under the charge and management of any fit person, who shall her responsible for his conduct touching the care and management of the said pounds to the Justices of the Peace in their weekly sessions, and shall be liable to be dismissed by them, and to have his place filled by another person from time to time whenever it may become necessary.

XVI. And be it further enacted by the authority aforesaid, that three inhabitants of the town of Three-Rivers [Trois Rivières], being freeholders therein, or three, inhabitants of the borough of William-Henry [Tracy-Sorel], being freeholders therein, or three inhabitants of any village in this Province, containing more than thirty inhabited houses, within the space of fifteen arpens in superficial content, being freeholders in such village, may require any

such Justice of the Peace, to call a meeting of the inhabitants of such town, or borough, or village, being freeholders, for the purpose of considering and determining upon the expediency of erecting and establishing a pound, for the purposes aforesaid, and if at such meeting, which shall not be held less than six days after public notice shall have been given thereof, it shall be decided by the majority of the persons present at the said meeting, that such pound shall be erected and established, then and in that case the surveyor of high ways for the said town, borough, or village, may erect and keep such pound, or if he shall refuse to do so, the first freeholder who shall be willing to erect the same, at his own cost and charge, may do so, and shall have the keeping thereof for the purposes aforesaid.

XVII. And be it further enacted by the authority aforesaid, that three inhabitants of any division whatever of any Parish, Seignior, or Township, being freeholders therein, may require the surveyor of highways in such, division to call a meeting of the inhabitants thereof being freeholders therein, after notice thereof as aforesaid, for the purpose of considering and determining whether it be expedient to erect and establish a pound in such-division, for the purposes aforesaid; and if at such meeting it shall be decided by a majority of the persons present thereat, that such pound shall be erected and established the same may be erected and kept by the surveyor of highways for such division, or if he shall refuse to do so, by any other person who shall be willing, and shall offer to erect the same at his proper cost and charge, and when it shall be so erected, such person shall have the keeping thereof for the purposes of this Act.

XVIII. And be it further enacted by the authority aforesaid, that when and so soon as any such pound shall have been erected and established as aforesaid according to the provisions of this Act, all horses, horned cattle, sheep, goats, or hogs, found straying on the land of any person, or on the beach, highway, or public ground, within the place for which such pound shall have been erected and established, shall be within twenty-four hours taken to the said pound by and at the expense of the person who shall have so found them, under a penalty of five shillings currency for every Offence, and shall be there impounded, and shall so remain until they shall be reclaimed by the owner or the owners thereof and until the fine incurred, and the reasonable expense of feeding the said horses, horned cattle, sheep, goats, or hogs, during the time they shall have remained impounded, shall have been paid to the person impounding the same, by the said owners and one half the said penalty, and the whole of the sum paid for such feeding as aforesaid, shall go to the keeper of the pound; as an indemnification for his expences in erecting such pound, and the other half of the said fines shall belong to the person or persons who shall have impounded the said horses, or other cattle as aforesaid, any law to the contrary notwithstanding: Provided always that in case any difficulty shall arise respecting the amount of the expences incurred for the feeding of such horses or other animals so impounded, the said amount shall be ascertained by two arbitrators, one of whom shall be chosen by the keeper of the said pound, and the other by the owner of the horses or other animal so impounded, which arbitrators shall, in ease of difference of opinion, appoint a third, whose decision shall be final.

XIX. And be it further enacted by the authority aforesaid, that it shall be the duty of every proprietor of a pound, when the fine and the expenses incurred as above for the impounding of any horse or horned cattle, or other beast whatsoever, shall be tendered him, to deliver the animal so impounded to the owner thereof, or to any other person duly authorized on his part, under pain of incurring a penalty not exceeding ten shillings currency, for refusal, and of five shillings currency a day, for every day he shall afterwards unjustly detain any such horse, horned cattle, sheep, goat, or hog.

XX. 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 horse, horned cattle, sheep, goat or hog, shall have been impounded, to cause it to be cried, in the manner hereby provided, at the door of the Church of the place where it shall have been taken, or if there shall be in such place no Church or building for public worship at the most public and frequented place as aforesaid.

XXI. Provided always, and be it further enacted by the authority aforesaid, that nothing contained in this Act shall prevent any person from recovering in due course of law from the owner of the horses, horned cattle, sheep, goats or hogs, geese, ducks, turkeys, pigeons, or other fowl whatsoever, so allowed to go at large, the amount of the damage he shall prove that he has sustained therefrom.

XXII. And whereas it is expedient to provide cheap and summary means of adjusting the difficulties which may arise in the country parishes respecting fences or ditches necessary for the draining of lands, be it further enacted by the authority aforesaid, that it shall be the duty of the freeholders in every Parish, Seigniorship or Township, to meet once in every two years, on the first Sunday in the month of October at the door of the Church or other place of public worship immediately after divine service in the morning or where there is no such Church or other place of public worship then in the most public and frequented place in the settlement or neighbourhood for which such meeting shall be held for the purpose of electing by a majority of votes, as many fit and proper persons, being Freeholders, as there may be divisions of overseers in the said Parish, Seigniorship or Township, to be Inspectors of Fences and Ditches in each of the said divisions of Overseers, and the persons so elected, shall serve as Inspectors of Fences and Ditches, until they be replaced by others, to be elected in the same manner, after the expiration of two years.

XXIII. And be it further enacted by the authority aforesaid, that every such meeting of the Inhabitants being freeholders, in every such Parish, Seigniorship or Township, shall be called by the Surveyor of Roads and Bridges in the said Parish, Seigniorship or Township, who shall provide thereat, and shall give notice of the said meeting and election, at the door of the Church or other place of public worship, immediately after Divine Service in the morning, during the two Sundays previous to such election (the Sunday immediately preceding it being One) and shall require all the Inhabitants of such Parish, Seigniorship or Township, being freeholders to attend thereat; and in case there should be no Church, within such Parish, Seigniorship or Township, then such notice shall be given by posting the same in writing, on the most frequented place in the Parish, Seigniorship or Township as aforesaid.

XXIV. Provided always, and be it further enacted by the authority aforesaid, that nothing contained in this Act shall be construed to prevent such inhabitants, being freeholders, in any Parish, Seignior, or Township, as have not yet elected Inspectors of Fences and Ditches, from meeting at any time whatever after the passing of this Act, to proceed to the election of Inspectors of Fences and Ditches as aforesaid in the same manner and with the formalities prescribed for elections on the first Sunday in October; provided further, that in case of the death of any Inspector of Fences and Ditches in any division for which he may have been appointed, the Surveyor of Highways and Bridges shall appoint another who shall serve until the expiration of the two years.

XXV. And whereas doubts have arisen as to the legality of the election of the Inspectors who have been appointed in the several parts of this Province, which doubts might be followed by the most, mischievous effects to the inhabitants and persons concerned in the execution of this Act; Be it further enacted by the authority aforesaid, that all such elections are, and they are hereby declared to be legal and valid, and that no person shall be troubled on account of any thing heretofore done by him as such Inspector, and that the work and labour which may have been ordered to be done, and performed by any Inspector heretofore elected, have been legally ordered, and shall be executed according to the form and tenor of the Proces Verbaux in which they are set forth, unless such Proces Verbaux be otherwise defective. Provided always, that the Inspectors of fences and ditches elected under the Act hereby repealed, shall continue to act as such until the first Sunday in October next.

XXVI. And be it further enacted by the authority aforesaid, that every person who shall be chosen and elected Inspector; in the manner hereinbefore provided, who shall refuse or neglect to enter forthwith on the execution of the functions of his said office, according to the provisions of this Act, shall incur a penalty of two pounds ten shillings currency,

XXVII. And be it further enacted by the authority aforesaid, that every person chosen and elected to be an Inspector of Fences and Ditches, shall before entering on the duties of his office, make oath before some Justice of the Peace, that he will well and faithfully perform the duties of the Office of Inspector of Fences and Ditches, to the best of his knowledge, ability and understanding, without fear, favor or affection for any person whatsoever, according to the provisions of this Act, and that he will in all cases decide and determine impartially and to the best of his judgment, and in such manner only as to law and justice shall appertain; which oath any Justice of the Peace is hereby empowered to administer.

XXVIII. And be it further enacted by the authority aforesaid, that every Inspector of Fences and ditches, shall for every neglect or refusal to perform any of the duties with which he is hereby charged, when thereunto required, incur a penalty of ten shillings currency to be sued for and recovered in the manner herein provided.



XXIX. And be it further enacted by the authority aforesaid, that it shall be the duty of every such Inspector of Fences and Ditches, when and so often as he shall be thereunto required by any person being proprietor or occupant of more than one fourth of a superficial arpent of Land and residing within his division to visit and examine the line fences, separating the lands belonging to or occupied by different persons, (giving previous notice of the day and hour when such examination will take place, either personally or by notice left at the residence of the person against whom complaint shall have been made,) and the said Inspector of Fences and Ditches, shall determine whether the fence belonging to the person against whom such complaint shall have been made, be sufficient; and if the fence belonging to the said party be declared insufficient, such party shall be ordered to repair the same within a certain time, to be fixed by the said Inspector of Fences and Ditches, which time shall not exceed four days in any case wherein it shall be possible to perform the work required within that time; and in all other cases such Inspector shall allow such further delay as he shall think necessary; and if the person whose fence shall have been so declared insufficient, shall fail to conform to the order made concerning such fence such person shall incur a penalty of two shillings currency for each and every day such fence shall remain unrepaired after the expiration of the time so fixed: Provided always, that no fence shall be considered as insufficient which shall not be inferior to the fence erected on the same line or boundary, and in a similar position, in the same field or enclosure by the party complaining. Provided further, that it shall be the duty of every such Inspector of Fences and Ditches after the expiration of four days or of the time which he shall have fixed for the making or repairing of any fence as aforesaid, to cause it to be erected or repaired at the expence of the person, who having been adjudged to erect or repair the same, shall have neglected so to do, and to recover the expence thereof by suit before a Justice of the Peace, with costs including a just allowance for the time employed in that service.

XXX. And be it further enacted by the authority aforesaid, that whenever the matter in question shall relate to the erection of a fence, where there shall have been none before, or where although there has been a fence, the old fence shall be in such a state that the labour of repairing it shall be equal to that of making a new one, such Inspector shall not condemn the party against whom complaint shall have been made, unless the party complaining shall prove that the party complained against, was called upon to erect the said fence before the tenth day of January, preceding the time at which such complaint shall be made.

XXXI. And be it further enacted by the authority aforesaid, that it shall be the duty of every such Inspector, whenever he shall be thereunto required by one or more proprietors or occupants of land, to proceed to inspect all ditches opened, or to be opened, on any line separating the lands of one person from those of another, and all other ditches, drains, or water-courses, commonly known as work to be jointly performed, (travaux mitoyens,) or therewith connected, and to order what kind of work shall be necessary, and the parties by whom the same shall be performed and kept in repair, as well as the manner in which the same shall be done, and the time within which it shall be completed as he shall deem just and conformable to the custom and laws of this Province, in that behalf; and every proprietor, or occupant of land, as aforesaid, who shall refuse or neglect, to make, repair,

take care of, and keep in order any line, ditch or other ditch as aforesaid, according to the order made by such Inspector within four days, or within the time fixed by such Inspector, (when he shall have thought fit to grant a longer delay,) after a written or verbal notice to such person given, shall incur a penalty of two shillings currency, for every day that such ditch shall remain unmade or unrepaired, in the manner aforesaid.

XXXII. And be it further enacted by the authority aforesaid, that it shall be the duty of every such Inspector within his division, and so often as he shall be thereunto required, to visit and examine all outlets, water-courses, and brooks, common to several lands, or to any number of proprietors or occupants of land, the necessary labour concerning which shall have been regulated by Proces Verbal duly homologated, or by an agreement made by the parties interested, and to see whether such work has been done conformably to such Proces Verbal or agreement, and to order that the same be done, repaired, and kept in order in the manner stated in such Proces Verbal or agreement; and every person refusing or neglecting to conform to, and obey such order, within four days after written or verbal notice to that effect shall have been given to such person, or within the time fixed by the said Inspector, shall incur a penalty of two shillings currency, for each and every day such work shall thereafter remain unperformed: Provided always, that in all the cases provided for by this, and the preceding section, it shall be the duty of every such Inspector of fences and ditches, after, the expiration of the delays therein specified, to cause to be performed the work ordered and remaining undone, at the expence of the persons bound to perform such works, and to recover the expences thereof by suit before a Justice of the Peace, with costs and expences as directed by the twenty-ninth section.

XXXIII. And be it further enacted by the authority aforesaid, that in all cases when it shall be necessary to open any outlet or water course, or to cleanse any brook common to the lands of several persons, the work connected with which shall not have been apportioned and regulated by any Proces Verbal or agreement, the matter in dispute shall be adjusted on the requisition of one of the parties interested, by two Inspectors resident in the Parish, Seignior, or Township, conversant in such matters, and in no wise interested, and residing nearest to the place where such work is to be done, and in case there shall be no such Inspector so conversant, or not interested, in the Parish, Seignior, or Township, then by two Inspectors of the neighbouring Parish, Seignior or Township, qualified as aforesaid.

XXXIV. Provided always, and be it further enacted by the authority aforesaid, that before any such Inspectors shall proceed to the execution of the duties hereinbefore assigned to them, public notice shall be given by them either verbally or by advertisement in writing, read at the door of the Church, or other place of Public Worship in the Parish, Seignior, or Township, immediately after Divine Service in the morning, and posted thereon, on the two Sundays immediately preceding the day on which they intend to visit the place, requiring all persons interested to take notice of the same, and to attend thereat, at the time and place appointed; and in the Townships and other places where there shall be no Church or place of public worship, then the said notice shall be given personally or in writing left at the residence of the parties interested.

XXXV. And be it further enacted by the authority aforesaid, that after having given the notice aforesaid, the said Inspectors shall on the day, and at the hour fixed, proceed to the place, and after having become competently acquainted therewith, and after being fully informed of the matter in dispute, shall give their decision, and shall draw up a Proces Verbal of their proceedings, setting forth every thing to be done with respect to such outlet, water-course and brooks, for the general advantage of all the parties interested, and apportioning the share of the work to be done by each of the parties interested, and the time at which it shall be done, with such further particulars as they shall judge necessary or expedient, concerning the matter, comprising also the expenses incurred as well for the examination of the place, as for the advertisements, and for drawing up the Proces Verbal; which Proces Verbal shall be deposited in the office of the nearest Notary, or in the keeping of the nearest Justice of the Peace, if such Proces Verbal be made in any Township; such Notary or Justice of the Peace shall give a certified copy thereof to any of the parties interested therein, who shall require it, on payment of the expense of such copy, at the rate of six pence currency for every hundred words.

XXXVI. Provided always, and be it further enacted by the authority aforesaid, that it shall be the duty of all Inspectors, who shall draw up, or cause to be drawn up any Proces Verbal as aforesaid, to select and appoint from among the parties interested, and after having consulted with them, one or more overseers, according to the importance of the work to be done, who shall after their names shall have been inserted in the said Proces Verbal, carry the same into effect, and see that the work therein ordered to be done, as well with respect to the immediate performance thereof, as to the keeping the same in repair in future, be duly performed for the general advantage of the parties interested therein: Provided further, that the persons so named as overseers shall not be bound to act as such during more than four successive years, if they shall consider the office burdensome, and wish to be relieved therefrom, in which case, as in case of death or infirmity, or absence of one or more of the said overseers or in case one or more of such overseers shall sell his properly, the persons interested shall, when thereunto required by one or more such persons, who shall give notice thereof in the manner hereinbefore set forth respecting the view of the place, meet for the purpose of proceeding to a new election, which shall be made by the majority of the persons interested then and there present, who shall cause a minute thereof to be drawn up, and shall deposit the same in the place where the Proces Verbal, to which it has reference shall have been deposited.

XXXVII. And be it further enacted by the authority aforesaid, that the inspectors, after having drawn up their Proces Verbal, as aforesaid, shall have a copy thereof prepared, which they shall cause to be read on the following Sunday after divine service in the forenoon, at the Church door or other place of public worship, and when there is none, then at the most central or public place of the Parish, Seignior, or Township, for which such Proces Verbal shall be made, and shall then deposit the same with one of the said overseers, to be by him kept as a guide in the direction of the work, and for the information of all persons interested, to whom he shall give communication gratis, whensoever they shall require it.

XXXVIII. And whereas it is necessary to fix the time within which the work ordered in any Proces Verbal shall be done: Be it therefore enacted by the authority aforesaid, that the overseer or overseers chosen to superintend the execution thereof, shall give public notice at the door of the Church, or of any place of public worship, on a Sunday after divine service in the forenoon, and when there is no place of public worship, then at the most public place in the settlement, Parish, Seignior, or Township, of the day and hour when they will repair to the spot, to cause the work to be begun and performed, whether it is to be done in common, or severally by the persons interested, accordingly as by the Proces Verbal it may have been appointed, and any person interested who shall refuse or neglect to repair to the spot, on the day appointed, and to perform his share of the work within the time fixed by the overseer, shall incur a penalty of two shillings currency for each and every day he shall so have neglected to perform his share of the work, and when at the expiration of eight days from that appointed for beginning the work, none of the persons interested shall have done it, the said overseer may cause it to be done, and may recover the expense of the parties in default, by prosecution before any Justice of the Peace with costs: Provided always, that in cases wherein a work is to be performed in common, the overseer may employ one or more men, instead of such of the persons interested as shall have neglected to attend their duty, and to recover from every such offender the amount disbursed, in paying the men employed, by prosecution before a Justice of the Peace as aforesaid, with costs of suit.

XXXIX. And whereas it is just to allow an indemnification to every Inspector for the time he may be employed in the execution of the duties hereby assigned him:—Be it therefore enacted by the authority aforesaid, that there shall be allowed to every Inspector of Fences and Ditches employed by virtue of this Act, and he shall be entitled to recover six-pence for every hour he may be so necessarily employed, which shall be paid by the party in default or in the wrong, whether such party be that at whose instance he acted, or be the adverse party in cases of travaux mitoyens, (joint labour,) and when he shall have been called on respecting a water course, outlet or brook, then six-pence per hour and all the expenses incurred for carrying into effect the notices and proces verbal, the copy and other expenses deemed necessary, shall be paid by all the persons interested in such water-course, outlet, or brook, and in either case shall be recovered in a summary manner before any Justice of the Peace.

XL. And be it further enacted by the authority aforesaid, that when the inhabitants of any two or more Parishes, Seignories, or Townships, shall be interested in the opening of any such said outlet or water-course, or in the widening of any old outlet or water-course, or brook, the matter in dispute shall be regulated on the requisition of any person interested therein, in each of the said Parishes, Seignories, or Townships, by two inspectors conversant in such matters and disinterested, in each Parish, Seignior, or Township, who after having agreed upon the preliminary points of their operation, shall in the manner aforesaid, notify the persons of their respective Parishes, Seignories or Townships, who are interested in the matter, in order that they may, if they think fit, attend at the view of the spot, and give the inspectors all the information in their power, towards enabling them to do justice to the

persons interested in the Proces Verbal, which they shall draw up, after having observed the formalities hereinbefore prescribed, and they shall deposit the said Proces Verbal in the office of the Notary, and if there be no Notary, then with the Justice of the Peace nearest to such outlet, water-course, or brook, and shall have a copy thereof made for each of the Parishes, Seigniories, or Townships interested, which copy shall be deposited in the hands of the overseer or overseers whom they shall have chosen and named as above for conducting and superintending the performing and keeping up of the works: Provided that in all cases of difference of opinion and equal division of votes, among such inspectors, upon any point or matter submitted to them as hereinbefore enacted, they shall apply to the inspector nearest the place and not interested in the matter in dispute, as an umpire, who shall have the casting vote: Provided always, that the Overseers chosen and appointed as aforesaid, shall, in the execution of their duties, act in the manner herein prescribed, respecting outlets, water-courses, or brooks, which are common to the inhabitants of one Parish, Seigniorie or Township only.

XLI. And whereas in certain cases great inconvenience might result from the performance of the work by the persons interested, by reason of their great number and the difficulty of the work: Be it therefore enacted by the authority aforesaid, that on every such occasion the majority of the persons interested, may cause the said work or any part thereof, to be performed by contract, each of them paying his share in money, according to an apportionment to be made by one or more persons conversant in the matter, which apportionment, before it shall go into operation shall be ratified by three Justices of the Peace convened for the purpose, or a majority of them, after having been read during two successive Sundays at the door of the church or of any place of public worship in the Parishes, Seigniories or Townships concerned, immediately after divine service in the forenoon, each reading and publication being followed by a verbal notice and a handbill posted at the door of the church or other place of public worship, making known to the persons interested the day and hour, and the place where such three Justices of the Peace are to sit to take cognizance of the grounds of opposition, if any, to the ratification of such distribution.

XLII. And be it further enacted by the authority aforesaid, that the Inspectors to whom shall be referred the settlement of the difficulties which may arise concerning the opening of outlets, water-courses and brooks, common to several Parishes, Seigniories, or Townships, shall be appointed in each of the said Parishes, Seigniories or Townships interested therein, by the Surveyor of Highways if not interested therein, and if he be so, then by the Overseer residing earest to the place where it shall be necessary to open such new outlet or water-courses, or to enlarge any such outlet or water-course, and he shall notify the Inspectors of their appointment, that they may be enabled to perform the duties hereby assigned them.

XLIII. And be it further enacted by the authority aforesaid, that it shall be the duty of the Overseers, with respect to every such outlet, water-course, or brook, to collect such sums of money as each-of the parties interested shall be liable to pay by reason of the said apportionment, with all expenses incurred therein, and in case of refusal or negligence on

the part of any such person, to compel the payment, thereof, by suit, before any Justice of the Peace resident in the place, with cost, including an allowance of six-pence per hour, to the Overseer for the time he shall have lost by reason of the said suit, and the disbursements he may have been obliged to make for the payment of a clerk, if it shall have been necessary to employ one.

XLIV. Provided always, and be it further enacted by the authority aforesaid, that the powers hereby given, shall not in any case extend to authorize any inspector to make any change concerning the work connected with any outlet, water-course, or brook, which shall have been previously regulated by a Proces Verbal, made in due form of law, whether such outlet, water-course, or brook, be common to several Parishes, Seigniories, or Townships, or only one such place be interested therein, unless two-thirds, at least, of the persons interested, shall require him to do so, and consent to a departure from the old Proces Verbal.

XLV. And be it further enacted, by the authority aforesaid, that if any of the parties interested, in the decision given or orders made by an Inspector or Inspectors, by virtue of any of the provisions of this Act relating to outlets, water-courses, and brooks, as well such decisions or orders as concern only one Parish, Seignior, or Township, as those which concern several, shall deem himself aggrieved thereby, and shall be dissatisfied therewith, such party shall, within eight entire days after the same is given or made, lay his complaint before one Justice of the Peace, who is neither interested therein, nor related to any one so interested, within the degree prohibited by law in such cases, and the said Justice shall summon the Inspector or Inspectors to appear on some certain day before him, and one other Justice of the Peace residing in the same County, and not being interested in the matter in dispute, or related to any one so interested, within the degrees prohibited by law as aforesaid, and to have with him or them the Proces Verbal in such case, which, as well as the reasons alledged in favour of, and against it by the parties and their witnesses if any they have shall be maturely examined by the said Justices of the Peace, and if it shall appear to the said Justices of the Peace that the requisite formalities have been observed and that there has been no partiality or injustice or negligence in the conduct of the Inspectors, then the said Proces Verbal shall be ratified and shall be executed, according to the form and tenure thereof, and if on the contrary it shall appear to the said Justices of the Peace that there has been partiality or a want; of exactness and diligence in examining the place, or that the work has not been equitably apportioned, according to the custom of the country, then two Experts shall be appointed, one by the Plaintiff or Plaintiffs and the other, by the Defendant or Defendants, who being sworn by a Magistrate, shall proceed to a new view of the place in presence of the said Inspectors, and if either of the parties Plaintiff or Defendant shall refuse or neglect, to appoint an expert, then such expert shall be appointed by the said Justices, of the Peace, and in case, of difference of opinion between the Experts then such Justices of the Peace shall appoint a third, who shall also be sworn and any Justice of the Peace is authorized to administer the necessary oaths, and the decision of the majority of the said Experts, whether confirming or setting aside the decision rendered by such Inspectors, shall to all intents and purposes be final and conclusive.

XLVI. 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 to the injury of such proprietors, and their discouragement with respect to Agricultural Improvements they grow: Be it further enacted by the authority, aforesaid, that it shall be lawful for any proprietor or occupant 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 Holyday, immediately after divine service in the forenoon, to require any proprietor or occupier of any adjoining land or piece of ground, not sown, nor being a meadow in crop, or the persons having shares, or being interested in a common aforesaid, to destroy or cut down all such noxious weeds, to wit; those commonly called marguerites, also renuncules, commonly called marguerites jaunes, and thistles, wild endive, (chicoree,) and cottonniers, 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 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 complained of, to order in writing, the proprietor or occupier or other 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 currency for every day such weeds shall remain standing or growing, from and after the time at which such notice shall have been served upon him with the expenses incurred in obtaining such order, according to this Act.

XLVII. 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 section, to cause to be destroyed or cut down, by the persons bound to make and keep in repair the highways and bye roads in their respective divisions, all weeds growing on high ways or bye roads, in their whole width, to the fences inclosing such highways or bye roads, under the same penalties on the said Surveyors or overseers, and persons bound to make and keep in repair the said highways and bye-roads, as are provided by the Acts now in force, for neglect or default in keeping such highways and roads in repair, and recoverable in the same manner.

XLVIII. And be it further enacted by the authority aforesaid, that any two Justices of the Peace, in any of the Country Parishes, Seigniories, Townships, or Settlements in this Province, are hereby authorized and empowered to take cognizance of, hear, try and determine all causes and complaints of offences against any of the rules, orders or regulations made by virtue of any law in force to that effect concerning apprentices,

domestics, hired servants or labourers or their masters or mistresses, in a summary manner, as enacted by an Act passed in the fifty-seventh year of the Reign of His late Majesty King 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."

XLIX. 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 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 further enacted by the authority aforesaid, that any 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 above 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 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 authorised to administer,) it shall appear proper and expedient, such Justice of the Peace may, with the advice and consent of any 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, 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, 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 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 such grown person, child or young person, shall hear and determine all complaints made by the grown person, child or young person he may have so hired or bound, 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 in case of the death or removal of such Justice of the Peace who shall have hired or bound such grown person, child or young person any other Justice of the Peace shall and may hear and determine any complaints that shall be made as aforesaid, by or with respect to such grown person, child or young person, and provided further that



before binding 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 or 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, known to such Justice of the Peace, and who shall be willing to take such child or young person as an apprentice and 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.

L. And be it further enacted by the authority aforesaid, that the preceding section shall be publicly read by, or under the direction of the Surveyor of Highways in each and every Parish, Township, or Settlement in 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.

LI. And be it further enacted by the authority aforesaid, that all fines, penalties, and confiscations incurred under this Act, may be sued for and recovered within one month after the offence may have been committed, and not afterwards.

LII. And be it further enacted by the authority aforesaid, that no Justice of the Peace, acting in obedience to, or under the authority of this Act, shall be entitled to any fee or emolument in any case, or under any pretext whatsoever, excepting only such as he may consider a just compensation for the Clerk or other person it may have been necessary for him to employ to assist him in the performance of the duties with which he is charged by this Act; and that such Clerk or other person, shall not be entitled to more than one shilling currency, for any summons, and six pence currency, for every copy thereof; nor to more than one shilling currency for any Subpoena, and six pence currency for every copy thereof; nor to more than one shilling and three pence currency for enregistering any conviction: and shall be paid for drawing up any order in pursuance of such conviction, and for every other paper writing made, with relation to any prosecution instituted under this Act, at the rate of six pence currency, for every hundred words and no more, which said fees as well as the allowance made to the witnesses shall be taxed by the Justice of the Peace before whom such prosecution shall have taken place, and the taxed account of such costs and allowance shall be annexed to the Judgment, and make part thereof; and no Bailiff, Constable, or Peace Officer employed in the execution of any thing to be done in conformity to this Act, shall be entitled to more than one shilling currency for every league he shall be obliged to travel in the performance of such duty, (the distance travelled in returning not being reckoned,) nor to more than one shilling currency for the service of any Summons, or Subpoena; nor to more than seven shillings and six pence currency, for making a seizure under the authority of any order, or for levying any penalty under the authority of this Act.

LIII. 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 informer, or by 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 offenders goods and chattels, the surplus of the monies levied upon the sale of such goods and chattels being returned to the offender after the amount of the fine and costs of suit and execution shall have been satisfied.

LIV. And be it further enacted by the authority aforesaid, that every person who shall be convicted of having wilfully taken a false oath in a case wherein a Justice of the Peace, in the due fulfilment of his office, 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.

LV. And whereas the provisions of a certain Act or Ordinance, made in the thirtieth year of His late Majesty's Reign, Chapter four, intituled, "An Act or Ordinance, for preventing cattle from going at large or l'abandon, des animaux," are contained in this Act, and the said Act or Ordinance thereby rendered unnecessary: Be it therefore further enacted by the authority aforesaid, that from and after the passing of this Act, the said Act or Ordinance made in the thirtieth year of His late Majesty's Reign, chapter four, intituled, "An Act or Ordinance for preventing cattie from going at large, or l'abandon des animaux," shall be and the same is hereby suspended for, and during the continuance of this Act.

LVI. 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 ditches, 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.

LVII. 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.

#### SCHEDULE A.

District of } By A. B. of the (Parish, Seigniori or Township,) Esquire, one of His  
} Majesty's Justices of the Peace for the District of  
To C. D of the Parish, Seigniori or Township of

Greeting.

You are hereby required in His Majesty's name, personally to be and appear before me the said Justice of the Peace at in the (Parish, Seigniori or Township) of on the day of 18 at the hour of in the forenoon, to answer to the complaint against you made before me by of the said Parish, Seigniori or Township of (Prosecutor's Trade,

Profession or calling,) for having at the (Parish, Seigniorship or Township) of \_\_\_\_\_ on the  
day of \_\_\_\_\_ 18 \_\_\_\_\_ (set forth the offence) against the form of the Statute in such  
case made and provided.—Hereof fail not at your peril. Given under my Hand and Seal at  
(Parish, Seigniorship or Township) this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
A. B. (L. S.)