

*Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1810.* Saint John, NB: Jacob Mott, Printer to the King's Most Excellent Majesty, 1810.

50 George III – Chapter 31

**An Act to provide for the erection of Fences, with gates across highways, leading through interval lands in Queen's County, and the County of Sunbury, where the same may be found necessary. Passed the 14th of March, 1810.**

I. Be it enacted by the President, Council, and Assembly, That when any proprietor or occupant of any interval lands in Queens County, or the County of Sunbury, over which any Highway, or Public Road passes, shall think it necessary or expedient for the protection of such interval land, that a fence or fences should be erected across such road or highway, with a swinging gate or gates therein, and with a fence or fences extending into the water, from the place or places where such road or highway may require fencing (if the same shall be at or near the shore of any river or other water,) it shall and may be lawful for such proprietor or occupant, to prefer a petition to any two of His Majesty's Justices of the Peace in the said respective Counties, stating particularly the object and grounds of such application, and praying for permission to erect such fence or fences; upon the presenting whereof, the said Justices are authorised and required forthwith, by order thereon, indorsed to appoint five substantial and disinterested freeholders of the said respective Counties, not resident in the Town or Parish in which such fence or fences, is or are proposed to be erected, to be Commissioners to examine and report upon such petition, which Commissioners shall be sworn to the faithful discharge of their trust, before the said Justices or either of them, a certificate of which shall be indorsed upon the same petition: And the said Commissioners shall thereupon proceed to view the said place or places where the same fence or fences are proposed to be erected, and to report thereon in writing, to the then next Court of General Sessions of the Peace for the said respective Counties: And if it shall appear to the Justices of such Court from the report so made by the said Commissioners, or by any of them, that it is necessary or expedient that the fence or fences prayed for, should be erected, they are hereby authorised and required to make an order for the erection of such fence or fences, with a good convenient swinging gate or gates in the same where such fence or fences cross the road, and to make such further order respecting the same as to them shall seem meet; and that it shall be lawful for the person or persons so petitioning at his, her or their own expence to erect such fence or fences, with such swinging gate or gates, agreeably to the directions of the said Court.

II. And be it further enacted, That if any person or persons shall break, or throw down, or in any way destroy any fence or fences so to be erected, or any part thereof; or shall block up and fasten, or slake open, or take down, or destroy any gate or gates which may be erected by virtue and in pursuance of this Act, such offender or offenders shall upon conviction thereof, before any one of His Majesty's Justices of the Peace, of the said Counties respectively, upon the oath of one or more credible witness or witnesses, forfeit and pay the sum of twenty shillings, for each and every offence, to be levied with costs by warrant of distress and sale of the offenders goods, under the hand and seal of such Justice, directed to either of the Constables within the said respective Counties, and for want of goods whereon to levy the same, the offender or offenders shall be

committed to the common gaol of the County, there to remain for the space of five days, unless the said sum with costs be sooner paid; which forfeiture when recovered, shall be paid into the hands of the Overseers of the Poor of the Parish, where the offence shall be committed, for the use of the said Poor; and such offender or offenders shall be further liable for all damages sustained thereby, to be recovered with costs by action or actions, at the suit of the party injured. Provided always, that if any gate or gates erected by virtue, or in pursuance of this Act, shall not be kept in good repair by the proprietor or proprietors thereof, at his, her, or their own expence, he, she, or they shall have no benefit or advantage from this Act.

III. Provided always, and be it further enacted, That whenever it shall appear to the said Justices in General Sessions by the report of any three or more of five Commissioners (freeholders as aforesaid) to be appointed and sworn in manner as aforesaid, that the reason for erecting any such fence or fences, has ceased to exist, it shall and may be lawful for the said Justices in their General Sessions to order such fence or fences to be removed ; and the proprietor or proprietors of such fence or fences, shall not after such order, have any further benefit or advantage from this Act; and the continuance of such fence or fences shall thereafter be considered and adjudged to be a nuisance upon the highway.

IV. And be it further enacted, That this Act shall continue in force for four years and no longer.