

*Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1836.* Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1836.

6 William IV – Chapter 26

**An Act to provide for the erection of fences with gates across highways leading through the sand beaches and marshes in the County of Kent. Passed 8th March 1836.**

Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That when any proprietor or occupant of any marsh land or sand beaches in the County of Kent over which any highway or public road passes, shall think it necessary or expedient for the protection of such marsh land or sand beaches, 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 or river or other water,) it shall be lawful for such proprietor or occupant to prefer a petition to any two Justices of the Peace in the said County, 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 endorsed, to appoint five substantial and disinterested freeholders of the said County, 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 endorsed upon the same petition; and the said commissioners shall thereupon proceed to view the said place or places where the said 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 County; and if it shall appear to the Justices of such Court from the report so made by the commissioners or by any three 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 expense to erect such fence or fences with such swinging gate or gates agreeably to the direction of the said Court.

I. And be it 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 stake open, or take down or destroy any gate or gates which may be erected by virtue or 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 County, 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 cost of prosecution by warrant of distress and sale of the offender's goods, under the hand and seal of such Justice, directed to either of the constables within the said County, 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 County Treasurer for the use of the County; 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 expense, he, she or they shall have no benefit of this Act.

II. Provided always and be it 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.

III. And be it enacted, That this Act shall continue in force until the first day of April which will be in the year of our Lord one thousand eight hundred and forty.