

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1838. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1838.

1 Victoria – Chapter 19

An Act to provide for the erection of Fences with Gates across the Highways on Deer Island in the Parish of West Isles, in the County of Charlotte. Passed 9th March 1838.

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That when any proprietor or occupant of any lands in Deer Island, in the Parish of West Isles, in the County of Charlotte, over which a public Road passes, shall think it necessary or expedient that a fence or fences extending to the water where the said Road may require fencing, (if the same may be at or near the sea shore,) it may and shall be lawful for such proprietor or occupant to prefer a petition to the Court of General Sessions of the Peace for the said County of Charlotte, stating particularly the object and grounds of such application, and praying permission to erect such fence or fences, upon the presenting whereof, the Justices of the Peace in the said General Sessions are authorized and required forthwith, by order thereon endorsed, to direct the Commissioners of Highways in the said Parish to examine and report upon such petition to the said Justices; and if it shall appear to the said Justices of the Peace in General Sessions, from the report so made by the Commissioners of Highways aforesaid, or the major part of them, that it is necessary or expedient that the fence or fences prayed for should be erected, they are hereby required to make an order for the erection of such fence or fences, with a sufficient swinging gate or gates in the same place 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 directions of such Court.

II. 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, or fasten, or stake open, or destroy any gate or gates which may be erected by virtue of this Act, such offender or offenders shall upon conviction thereof, before any one of Her Majesty's Justices of the Peace of the said County, upon the oath of any one or more credible witness or witnesses, forfeit and pay the sum of forty shillings for each and every offence, to be levied with costs, 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 of the Parish, and for want of goods whereon to levy the same, the offender or offenders shall be committed to the Common Gaol of the said County, there to remain for the space of eight 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 said Parish, of West Isles, and such offender or offenders shall be further liable to all damages sustained thereby, to be recovered with costs of action or actions, at the suit of the party injured.

III. And be it enacted, That whenever it shall appear to the said Justices in their said general Sessions, by the report of the said Commissioners of Highways, or the major part of them, that the reason for erecting such fence or fences as aforesaid has ceased to exist, it shall and may be lawful

for the said Justices in their said 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 benefit or advantage from this Act, and the continuance of such fence or fences shall thereafter be considered and adjudged a nuisance on the highways.

IV. And be it enacted, That this Act shall continue and be in force until the first day of April one thousand eight hundred and forty two, and no longer.