

one paper read on the same evening. Several special committees are now pursuing their special inquiries. Twenty-seven new members were enrolled during the year. Some of the recently elected members are influential public bodies.

There are at present twenty-nine honorary members and two hundred and ninety-six ordinary members. The latter includes eleven corporate members. This feature is a novel one; and we must say we approve of it. Corporate members, representing commercial, manufacturing and educational interests, are specially qualified to render important service to such an association. The bodies whom they represent share, through their deputies, in the deliberations of the association, and are, at the same time, in a position to make valuable communications upon subjects of interest. The association, whose object is the good of the people, is thus mediately brought into connection with the people, and by a species of reflex action the object of the association is directly advanced.

We cannot say too much in praise of such an association. Its conception is laudable, and its existence, as we have already said, is in a civilized community a matter of necessity. We trust that ere long the people of Upper Canada will give a proof of their advanced state of civilization by forming and successfully working an association of the kind. If we have done or said anything to hasten the movement our labor will not be in vain. We can only suggest; others must act. We feel confident that if either encouragement or support be needed from the parent association, the same shall not be wanting.

PROTECTION OF SHEEP.

An act of last session, having for its object the protection of sheep, effects a strange alteration in the substance of the law, to which we would direct attention.

The act contains seven clauses, besides one limiting its application to Upper Canada.

Section 1 enacts that "It shall be lawful for any person to kill any dog in the act of pursuing, or worrying, or destroying such sheep, elsewhere than on land belonging to the owner of such dog."

Sections 2, 3 and 4, provide, that on complaint in writing, on oath, to a justice of the peace, that any person "owns or has in his possession a dog which has within six months worried and injured or destroyed any sheep," such justice may proceed summarily with the matter, and, in case of conviction, may make order for the killing of the dog, and, "on default, may in his discretion impose a fine upon such person not exceeding twenty dollars with costs." Section 5 enacts that no conviction under the act shall be a bar to an action for the recovery of damage done to such sheep; and section 7 enables the defendant in any action

for killing a dog under the 1st section, to plead the general issue, and give the act and the special matter in evidence.

The above sections are so worded, we fear, that much doubt will arise as to their true meaning, and some difficulty in proceeding under them; but we do not purpose examining their clauses now. It is with sec. 6 that we are more particularly concerned. It is as follows:—"It shall not be necessary for the plaintiff in any action of damages for injury done by a dog to sheep, to prove that the defendant was aware of the propensity of the dog to pursue or injure sheep, nor shall the liability of the owner or possessor, as aforesaid, of any dog in damages for any injury done by such dog to any sheep, depend upon his previous knowledge of the propensity of such dog to injure sheep."

This, as regards injuries, &c., to sheep by dogs, completely alters the existing law, which is thus laid down, namely, that the owner of domestic animals not necessarily inclined to commit mischief, is not liable for any injury committed by them, unless it can be shown that he previously had notice of the animal's vicious propensity—in other words, in an action against the owner of a dog, for an injury committed by such dog to the person or to personal property, the rule of law is that the *scienter* must be alleged and proved. As the act comes at once into force, and contains nothing express to show that it is not intended to have a retrospective effect, there is more necessity for drawing attention at once to the above provision. The alteration in the rule of law seems to us of doubtful advantage, and exposes every farmer in the community to the danger of loss without misconduct on his part. True, it may be said, why should my neighbour's dog injure my sheep with impunity? But every farmer must keep a dog for his own protection, and dogs are not by nature inclined to kill sheep—in fact not one dog in a thousand will do so, and the rule seemed reasonable enough that the owner should not be held liable unless a mischievous propensity developed itself. Blame can only attach to the owner of a dog when, after having ascertained that the animal has propensities not generally belonging to his race, he omits to take proper precaution to protect the public against the ill consequences of those anomalous habits.

It seems strange that the Legislature should do away with a wholesome rule as respects *sheep* only—afford protection to sheep, and not to men. Thus, if a dog worries sheep, it is *not* necessary to prove that the owner "was aware of the propensity of the dog to pursue or injure sheep;" but if a dog grievously bites and wounds a grown-up person or a child, the disposition of the animal to do so and the *scienter* are still the gist of the action.

It is the *knowingly* keeping a dog *accustomed to bite mankind*, that constitutes the liability in case any person