

CAP. II.

An ACT to alter and amend an Act, passed in the twenty sixth Year of His MAJESTY's reign, intituled, "An ACT "for PREVENTING TRESPASSES."
Passed the 18th February, 1797.

Part of the said
act repealed.

Provision in lieu
of that which is
hereby repealed.

The nearest
Fence-viewer is
to determine the
proportions
of fence to be
made by the re-
spective owners
of adjacent lands

Owner neglect-
ing to make or
repair his pro-
portion of fence,
to be liable to all
damages,

BE IT ENACTED, by the Lieutenant Governor, Council and Assembly, that from and after the first day of May next, the following provision in the second Section of the said act be repealed, to wit, that "In case any person or persons occupying such lands on receiving such notice shall neglect or refuse so to do within ten days after due notice given him or them, it shall and may be lawful to apply to any one of the Fence-viewers, who is hereby empowered to view such Fence or Place where the same is proposed to be erected, and to cause such part as is deficient to be made, or otherwise to repair any already made if insufficient; and the person or persons whose right it was to build and maintain the same, or any part thereof, and shall have refused or neglected so to do, shall pay all the costs or charges arising from such default." And in lieu thereof it be enacted, that in case any dispute shall arise between the occupiers of such lands on which the said Fence should be erected, or the particular part or proportion of the Fence to be by them erected, it shall and may be lawful to apply to the nearest Fence-viewer, who is hereby empowered (notice being given to the parties to attend) to view such place where the same is proposed to be erected, and to determine the part or proportion that it may be equitable each of the occupiers of such improved lands should erect. And if either of the parties, after ten days notice of the determination of the said Fence-viewer, shall not make and erect his proportion of the said Fence in manner herein before directed, or shall not immediately repair any already made on notice being given of the necessity of such repair the person so neglecting shall be liable to all the damages that may ensue in consequence of such neglect, whether such damage be committed by the Horses, Sheep, Swine or Neat-Cattle of such delinquent, or by the Horses, Sheep, Swine or Neat-Cattle of any other person, to be recovered by action of Trespass in any of His MAJESTY's Courts of Record in this province with costs of suit.