

Drains may be opened at their own expense by parties interested across lands of persons not interested.

**XVII.** *And be it further enacted by the authority aforesaid,* That when it shall appear to such Fence Viewers that the owner or occupier of any tract or parcel of land is not sufficiently interested in the opening of such ditch to make him a party, and at the same time that it is necessary that such ditch should be continued across his land by the other party or parties, at their own expense, they may award the same in manner and form aforesaid, and upon such award, such party or parties may lawfully, and without molestation, open such ditch or water course across such land, as aforesaid, at their own expense.

Any party neglecting to open his share within time allowed, the other, after completing his own share, may do so:

**XVIII.** *And be it further enacted by the authority aforesaid,* That if any party shall neglect or refuse to open or make and keep open his share or proportion allotted or awarded to him by such Fence Viewers, as aforesaid, within the time allowed by such Fence Viewers, either of the other parties may, after first completing his own share or proportion allotted to him in manner aforesaid, open the share or proportion allotted to such party neglecting or refusing to open the same; and such party so opening such other parties share shall be entitled to recover the value thereof from the party so neglecting or refusing to open his share or proportion, in the same way and manner and form as is in this Act provided relative to line and division fences.

Value may be recovered from party neglecting.

Appropriation of fines paid under this Act;

**XIX.** *And be it further enacted by the authority aforesaid,* That all fines levied under the provisions of this Act shall be by the Justice or Justices of the Peace by whom the same may be imposed and collected, paid over to the Overseer or Overseers of Highways in the division wherein such fine or fines shall have been levied; and such Overseer or Overseers are hereby authorised and required to expend the same in the same manner as other monies coming to their hands to be expended on the Highways, and shall render an account thereof, within three months after expenditure thereof, to the Justices in Quarter Sessions assembled.

To be expended on highways.

Duration of this Act.  
(Made permanent by 2 Vic. Chap. 15.)

**XX.** *And be it further enacted by the authority aforesaid,* That this Act shall be and continue in force for four years, and from thence to the end of the next ensuing Session of Parliament, and no longer.

So much of 33 Geo. III. Chap. 2, Sec. 5, as relates to fence viewers, repealed.

**XXI.** *And be it further enacted by the authority aforesaid,* That so much of the fifth clause of an Act of the Parliament of this Province, passed in the thirty-third year of the reign of King George the Third, intituled, "An Act to provide for the nomination and appointment of Parish and Town Officers within this Province," as provides that persons chosen to be Overseers of Highways and Roads shall also serve the office of Fence Viewers, shall be, and the same is hereby repealed; and that whatever duties that were before the passing of this Act directed to be performed by such Overseers of Highways and Roads, in relation to fences, shall hereafter be performed by the persons chosen to be Fence Viewers under the authority of this Act.