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No. 197.

1st Session, 8th Parliament, 27 Victoria, 1863

BILL

An Act to amend chapter fifty-seven of the
Consolidated Statutes for Upper Canada
respecting Line Fences and Watercourse

Received and read first time Friday, 25th
September, 1863.

Second reading, Monday, 28th Sept., 1863

Mr. AULT.

QUEBEC:

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An Act to amend chapter fifty-seven of the Consolidated Statutes for Upper Canada, respecting Line Fences and Watercourses.

WHEREAS it is expedient to amend the Act respecting Line Fences and Watercourses, chapter fifty-seven of the Consolidated Statutes for Upper Canada: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Damages caused by Animals.

1. No proprietor or occupant of land shall be entitled to any penalty nor to any claim for damages against his neighbor, by reason of the animal or animals of such neighbor coming upon his property, if the trespass of such animal or animals should happen in consequence of the bad condition of his own fences; neither shall any owner or occupant of land, his servant or representative, seize or impound, or retain at his or their own place of abode, any animal or animals found wandering on his land, and belonging to his neighbor, unless the fence of that portion of the land trespassed upon is in good repair, and made in conformity with the said Act.

No damage for trespass caused by bad fences.

Damages to Line Fences.

2. If any tree or building should be thrown down, by accident or otherwise, across a line or division fence, or in any way in and upon the property adjoining that upon which such tree or building stood, thereby causing damage to the crop upon such property or to such fence, it shall be the duty of the proprietor or occupant of the premises on which such tree or building theretofore stood to remove the same forthwith, and also forthwith to repair the fence, and otherwise to make good any damage caused by the falling of such tree or building; and on his neglect or refusal so to do for twenty-four hours after notice to remove the same, the injured party may remove the same or cause the same to be removed, in the most convenient and inexpensive manner, and may make good the fence so damaged, and may retain such tree or the material of such building, as the case may be, to remunerate him for such removal, and may also recover any further amount of damages from the party liable to pay it under this Act: Provided always, that for the purpose of such removal the owner of such tree or building may enter into and upon said neighboring premises for the removal of the same without being a trespasser, taking due regard to avoid any unnecessary spoil or waste in so doing.

Owner to move trees, &c., falling across a line fence:

Or his neighbour may remove it at his expense, and also recover damages.

Owner of tree, &c., may enter to make such removal.

3. The provision of the said Act for the adjustment of disputes by fence viewers, and for the collection and recovery of all or any sum or sums of money becoming due thereunder, shall apply to all disputes arising between parties relative to the matters within the purview of this Act, and to the collection of all sums of money becoming due thereunder.

Provisions as to adjustment of disputes by fence viewers to apply.

Provision to
compel a party
whose
fence is carried
away to
replace it.

4. In the event of any line fence being carried away by water or destroyed by fire, accidentally or otherwise, or removed by the proprietor or occupant, the party whose portion of fence is so destroyed or removed may be notified, either in writing or orally, forthwith to repair or replace such portion; and on his refusing or neglecting so to do, the aggrieved party or parties may proceed under the said Act to summon the fence viewers, in the manner thereby provided, to examine and adjudge in what manner and by whom such repairs shall be done, and their award shall be binding on all parties concerned, and shall be enforced in the manner provided in the said Act. 5 10

Interpretation of this Act.

Construction
of this Act.

5. This Act shall be read and construed as forming part of the said first recited Act as fully as though it were embodied in the same.