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No. 107.

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2nd Session, 7th Parliament, 26 Victoria, 1863.

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**BILL.**

An Act to amend chapter 26 of the Consolidated Statutes for Lower Canada respecting abuses prejudicial to Agriculture.

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Received and read, 1st time, Thursday, 5th  
March, 1863.

Second reading, Monday, 9th March, 1863.

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**Mr. FORTIER.**

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**QUEBEC.**

PRINTED FOR THE CONTRACTORS BY HUNTER,  
ROSE & LEMIEUX, ST. URSULE STREET.

An Act to amend Chapter 26 of the Consolidated Statutes for Lower Canada, respecting abuses prejudicial to Agriculture.

WHEREAS it is expedient to amend chapter twenty-six of the Consolidated Statutes for Lower Canada, intituled "An Act respecting abuses prejudicial to Agriculture." Therefore, Her Majesty, &c., enacts as follows :

Preamble

5 1. After the words "such expertise" in the last line of the seventh paragraph of the seventeenth section, shall be added the following provisions, which shall be deemed to form part of the aforesaid seventeenth section :

S. 17 of chapter 26 of the Con. Stat. for L. C. amended.

10 "8. Provided always, that the Inspector after having carefully examined the premises and heard the parties may abstain from ordering the *decouvert* demanded, if the proprietor against whom the complaint is preferred, declares that he intends to take the benefits of this provision, declaring that he refuses to make the *decouvert* demanded, in order to preserve the standing timber remaining on his land for the use and indispensable requirements of his family, offering then and there to have the damage which might result from the withholding of the *decouvert* demanded and due, assessed by the said Inspector."

New paragraphs added.

20 "9. Provided also, that if the valuation made on the spot by the Inspector is not satisfactory to either of the two proprietors, it shall be lawful for the non-content to choose and appoint another Inspector, and such two Inspectors so appointed shall choose a third with the consent of the parties interested, and in case they cannot agree upon the appointment of a third Inspector, the non-content shall apply to a Justice of the Peace for the Parish or Township in which the contestation takes place, to appoint a third Inspector; and the Justice of the Peace may, if he thinks proper, choose an Inspector from a neighbouring Parish or Township, and cause him to be notified of the fact that he has been so chosen; the third Inspector so appointed shall give verbal notice to the other two Inspectors, and to the parties interested, of the day and hour when they shall proceed to examine the premises; the three Inspectors (two of whom shall have power to assess and decide) shall equitably examine the premises and after having carefully considered and weighed the claims of the parties interested, shall give their judgment (as may also be done by the first Inspector, in case the parties are both content) either under their proper signature or before a Notary, and such judgment shall be final and obligatory, and the judgment shall be registered at the office of the Registrar of the County in which such *expertise* shall have been made, in the same manner as that in which all judgments rendered by Courts of Justice are registered, and such registration shall have the effect of creating a hypothec on the property of the party against whom judgment shall have been rendered."

New paragraph.

40 "10. Provided however, that it shall be lawful for the proprietor who shall have refused to grant the *decouvert*, or for his representatives, to

New paragraph.

at any time after the rendering of such judgment, to make the *decouvert* in question, and to pay to the complainant, or his representatives, the reasonable expenses which may have been incurred by the latter for the registration of the judgment, as well as for the cost of *expertise*, which expenses may, in case of disagreement, be taxed by the Justice of the Peace, and after such payment, the complainant shall be bound to give a receipt to the proprietor who shall have so refused to grant the *decouvert*, or to his representatives, absolving him from all obligation in that respect." 5

**New section in lieu of sec. 20.** 2. The twentieth section of the above cited Act is hereby repealed and the following is substituted therefor, and shall be read as the twentieth section of the same chapter. 10

**Duty of Trustees of water-courses** "After the fifteenth day of July of each year for the future, the Trustee or Trustees appointed by competent authority to do and execute the orders of the Municipal Council of a Parish or Township, agreements made by the parties interested, or any *proces-verbal* establishing any water-course or water-courses whatsoever, shall cause such orders of a Municipal Council of a Parish or Township, agreements or *proces-verbaux*, appertaining to their office, to be executed according to their form and tenor." 15 20

**Same subject.** 2. The Trustee or Trustees shall be held and obliged, and it shall be an integral part of their duty to cause all water-courses which may be assigned to them by their appointment, to be repaired and cleansed in a suitable manner, so as to allow of the free passage of the water which flows through them, and this even if the water-course or water-courses established by the order of a Municipal Council or by an agreement or by a *proces-verbal*, be already of greater dimensions than are prescribed by order of the Municipal Council, agreement or *proces-verbal*. 25

**Same subject.** 3. The Trustee or Trustees shall cause public notice to be given on the first Sunday following the fifteenth day of July in each year, that all parties interested in any water-course whatsoever, who within ten days after the publication of such notice, shall not have conformed to the enactments of the preceding paragraph, will be liable to have their work on such water-courses done by the intervention of the Trustee or Trustees, who are hereby authorized to cause such work to be done, and who may recover all costs consequent thereupon before a Justice of the Peace, together with a further amount of ten cents for each hour of time passed by them in superintending the execution of such works as well as any disbursements which they may have had to make in consequence. 30 35 40

**Same subject.** 4. The Trustee or Trustees may, if they think proper to do so, authorize the persons complaining of the non-execution of work in a water-course, to do such work upon such conditions and terms of payment as may be agreed upon, and the cost of such work may be recovered in the manner prescribed by the thirty-fifth section of this Act. 45

**Same subject.** 5. Any Trustee who shall neglect or refuse to give a cause to be given the public notice mentioned in this section shall be liable to a penalty of *five shillings*; and any Trustee who shall neglect or refuse to visit the water-course or water-courses assigned to his care during his term of office shall be liable to a farther penalty of *five shillings* a day, counting from the Thursday morning following the Sunday when the public notice should have been given; and such penalties may be recovered at the suit of any person interested in such watercourse in accordance with the provisions of this Act. 50