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No. 243.

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3rd Session, 5th Parliament, 20 Victoria, 1857

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RURAL STATUTE OF LOWER  
CANADA.

**BILL.**

An Act to amend the Acts relating to abuses  
injurious to Agriculture.

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Received and read, first time, Tuesday, 21st  
April, 1857.

Second reading, Thursday, 30th April, 1857.

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MR. PRÉVOST.

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TORONTO:  
PRINTED BY JOHN LOVELL,  
YONGE STREET.

## RURAL STATUTE

OF

## LOWER CANADA.

**W**HEREAS it is necessary to reform the several Acts relating to abuses prejudicial to agricultural; Therefore Her Majesty, &c., enacts as follows:

*Acts Repealed.*

Article 1st. The Act of 1850, chapter 40, the Act of 1851, chapter 102, and the Act of 1853, chapter 210, are hereby repealed; but any proceeding commenced in virtue of the said Acts shall be concluded as though the said Acts remained in force. Certain Acts repealed.

All Acts and Laws suspended or repealed by the above Acts, shall nevertheless remain repealed.

*Title.*

Article 2nd. This Act shall be intituled the "Rural Statute for Lower Canada," and shall be in force in Lower Canada only from and after the 29th Sept., 1857.

*Abbreviations and Interpretation.*

Article 3rd. The term "Municipality" shall include a local Municipality. The term "Municipal Council" shall signify local Council. The title "Secretary Treasurer" shall signify the Secretary Treasurer of the local Council. The term "Inspector" shall signify Inspector of water courses, ditches and fences. Municipality.

The whole as defined in the Municipal Acts.

Article 4th. The term "proprietor" shall apply also to the possessor, occupier, master, agent, representative, and servant. Proprietor.

Article 5th. The word "water courses" shall include any stream, drain and outlet, in which one or more persons are interested, other than line ditches between neighbors. Watercourse.

Article 6th. A special notice shall be given in writing, either personally or at the domicile of the person, with a delay of at least three complete days. Special Notice

Article 7th. Public notice shall also be given in writing, read in an audible voice, and posted up at the door of the church or other place of public worship of the most numerous religious denomination in the Muni- Public Notice.

cipality, on Sunday, at the issue of Divine Service in the forenoon. If there be no such place, the notice shall only be posted at the most frequented place in the Municipality. Such notice shall be given at least seven days before the object thereof can be taken into consideration.

### *Noxious Weeds.*

Weeds to be removed. Article 8th. Every proprietor shall be bound to destroy all noxious plants or vegetables, such as mustard, tares, *marguerites*, thistles, wild endives, chicory, and all other noxious weeds, detrimental to agriculture, growing upon his land, or on the public highway, with the maintenance of which the said land may be charged. 5

Notice to be given Article 9th. Any proprietor desirous of having the eighth article carried into effect, **may** cause it to be so carried into effect in the months of July and August, by means of a special notice served by a bailiff upon the party in default, if such party reside on the spot, otherwise by public notice. 10

Penalty. Article 10th. Any offender shall be punishable by a fine of one dollar for every day he shall delay to conform to the requisition referred to in Article 9th, and if the offender be absent, the party making the requisition may cause the weeds to be destroyed at the cost of the said absentee. 15

Sowing seeds of weeds. Article 11th. Any person who shall have scattered or sown the seeds of any weeds either upon his own property or upon the property of another, or upon the roads, public places, beaches, or vacant lands, shall be subject to a fine of \$25 over and above the damages. 20

## PUBLIC WORKS.

### *Water Courses.*

Obstructions to water-courses. Article 12th. Any proprietor of any low land, who shall fill up any drain or water course, or shall obstruct or interrupt the course thereof, to the prejudice of the proprietor of elevated land; and any proprietor of elevated land, who by any works or means whatsoever, shall impede or increase, to the prejudice of the owner of the low land, the volume and flow of the water, without being authorized so to do, shall be subject to a fine of \$4, over and above the damages, for every day he shall have neglected to put the lands in question in the state they were before such unlawful proceedings. 25 30

Duties of Inspectors with respect to watercourses. Article 13th. Two Inspectors, upon the requisition of any proprietor, shall be authorized to regulate any matter with respect to water courses, and for that purpose to summon, by public notice, a meeting of the parties interested, to be held at the place under consideration, inspect the same, and trace or change the direction of the water course, fix its dimensions, decide which of the proprietors shall be liable to the performance and maintenance of the works, the manner in which they shall be effected, whether in shares or in equal or unequal proportions, or in common, or whether they shall be done by contract, make the necessary apportionments, fix the delays; in fact, prescribe and order whatever they shall deem necessary, in order to render justice to the parties interested. 35 40

Contributions. Article 14th. The Inspectors shall also determine the contribution to be paid by the proprietors to the works, and also to the costs, according to their respective interests; and for that purpose they shall adopt such mode of repartition, as under the circumstances, they shall deem most just. 45

Article 15th. They shall appoint a Trustee, who shall be selected from among the parties interested. Trustees to be appointed.

Article 16th. The Inspectors shall prepare a *procès-verbal* of their proceedings, which they shall deposit, within eight days, in the office of the Municipal Council, and of which they shall give public notice; and the said *procès-verbal* shall only have force and effect after the decision of the Council to be made thereupon, in accordance with Article 17. *Procès verbaux of proceedings.*

Article 17th. The Municipal Council shall be authorized to take cognizance of the *procès-verbal*, to which reference is made in Article 16th, to reject or homologate, modify or amend the same, hear the petitioners and the opposants, appoint experts, visit the localities, appoint a committee, regulate the costs and fees to be paid by and to the respective parties interested; in fact, do all that may be requisite to render justice to all concerned. Homologation thereof.

Article 18th. When the water course shall affect more than one Municipality, an Inspector shall be appointed, the public notice given, and a Trustee named in each Municipality; but the *procès-verbal* shall be submitted to the Council of the Municipality in which the majority of the interested parties reside. When two Municipalities are interested.

Article 19th. When it is under consideration to change, alter, or modify the provisions of a *procès-verbal* duly homologated, the Inspectors shall only take action in the matter after being authorized so to do by the Municipal Council. Amendment of *procès verbaux.*

#### *Trustees.*

Article 20th. It shall be the duty of the Trustee to see the *procès-verbal* carried into effect. He shall remain in office for the space of two years, and until the appointment of his successor, to be made by the Municipal Council; and such successor shall be in like manner appointed every two years. Duty of Trustees.

Article 21st. The Council shall also, when necessary, appoint Trustees to carry out acts of agreement or *procès-verbaux.* Appointment.

Article 22nd. The Trustee shall, when required, either upon the requisition of a party interested or when he shall deem it necessary, cause the the water courses under his superintendence, to be cleansed upon giving public notice. Powers.

#### *Cleansing.*

Article 23rd. Any proprietor who shall, after the 15th July, have neglected to cleanse any ditch or water course, a portion of which work shall have been assigned to him, shall be liable to a fine of fifty cents for every day of delay. Neglect.

Article 24th. Any one who shall have caused the obstruction of any water course or river, by throwing therein trees, wood, or other things shall, besides the damages, be liable to a fine of one dollar for every day he shall have neglected to remove such obstruction. Obstructions.

## JOINT LABOR.

*Ditches, Fences, Decouvert.*

- Powers of Inspectors.** Article 25. Any two Inspectors shall, when required by a proprietor, upon giving special notice to the neighbour, if he resides in the place, otherwise by a public notice, inspect the localities, regulate and decide all questions which may arise between neighbours with respect to the division, partition, completion, maintenance, and repair of any ditches and fences separating lands bordering one on the other.
- Partitlon of labour.** Article 26th. They shall assign, according to the nature of the localities, to each neighbouring proprietor, his share in the works and labour, either by requiring such proprietors to do them in common, or separately, or making them jointly and severally liable to the payment of an indemnity for the work already done, fixing the delays for the completion of the works, in fact by ordering whatever they may deem necessary to render justice to the parties.
- Documents.** Article 27th. Two Inspectors are also empowered, when required so to do by a proprietor, after having given, according to the circumstances of the case, the notices prescribed by Article 25th, to visit the localities, to order and require, if they think proper, that a clearing or *decouvert* shall be made, not exceeding 45 feet in breadth, and to prescribe the manner of making the same, to fix a delay therefor, in a word, to do whatever they may think proper to effect the object; they shall not, however, be empowered to force the neighbour to destroy orchards, or fruit, or maple trees.
- Necessary Notice.** Article 28th. No proprietor shall be compelled to make *decouvert*, or a new fence, unless he shall have been required so to do before the 1st December preceeding the inspection of the locality, either by special notice given to himself if he be present, or by public notice, if he be absent from the place in question.
- Proces verbaux.** Article 29th. Within three days after they shall have concluded their operations, the Inspectors shall prepare their *proces verbaux*, which they shall deposit in the office of the Municipal Council, and which shall have the force of law.
- Parties aggrieved.** Article 30th. Any party who shall deem himself aggrieved, may, nevertheless, within three days after the deposit of the *proces verbal*, demand the revision thereof, by the Municipal Council, who are hereby authorized to decide and order whatever may appear to them to be just and reasonable, and to fix and adjudge the costs.
- Joint labour.** Article 31st. When question is raised touching any joint labor to be performed by neighbouring proprietors, in different Municipalities, an Inspector shall be named in each Municipality, and the report of the said Inspectors shall be made to the Council of the Municipality in which the petitioner shall reside, and such Council shall be invested with the powers conferred by Article 30th.
- Evidence** Article 32nd. One Inspector only shall be called to prove the completion or non-completion of any joint labor, and his evidence shall be sufficient before any Judge.

*Damages to the property of others.*

Article 33rd. Persons entering or passing over the land of another, Trespass.  
without being authorised so to do by law or otherwise, shall be liable, besides the damages, to a fine of not less than one, nor more than five dollars.

5 Article 34th. Persons allowing their cattle to stray, besides the dama- Penalties.  
ges, if any, shall be liable to the following fines, to wit :

	For each gelding or colt less than eighteen months old, or a mare or filly, twenty-five cents.....	\$00.25
10	For each stallion more than eighteen months old, eight dollars .....	8.00
	For each ox, or bull of less than a year old, cow or steer, twenty cents.....	00.20
	For each bull more than a year old, boar, pig or ram, of more than six months.....	4.00
15	For each pig with a ring in its nose, fifty cents.....	0.50
	For each pig without a ring in his nose.....	1.00
	For each sheep or goat, five cents.....	00.05
	For each goose, duck, turkey or other fowl.....	00.02

The penalties shall be doubled if the offence take place again within 20 thirty days.

Article 35th. Damages caused by cattle of any description, on the Action of  
property of others, whether within the precincts of the homestead or the damages.  
farm or in the open fields, shall entitle the party injured to an action of damages against the persons who have the use of the cattle, or in their 25 absence, the owners thereof.

Article 36th. If the damages be caused by the cattle of a neighbour, Insufficiency  
by reason, however, of the insufficiency of the fence of the plaintiff, the of fences.  
lattershall not be entitled to claim damages.

Article 37. The proprietor who shall have suffered damage from cattle Seizure of  
as well as any person who shall find them straying, shall have a right to cattle.  
seize them, subject, however, to the obligation of driving them to the pound within twenty-four hours, if one exists in the Municipality in which the damages have been committed, otherwise he may keep them until the fine, damages the expenses of returning the cattle and costs of suit, and others, if 30 there be any, have been paid.

Article 38th. If the damages shall have been caused by winged ani- In case of  
mals, accustomed to do damage, as geese, turkeys, hens, ducks and pigeons, damage by  
the proprietor of the land, having notified the owner thereof, may, in case birds of any  
they return, shoot them, but in this case he must leave them on the ground description.  
40 and if they are in large numbers he should only kill a few.

Article 39th. It shall be the duty of the person who shall have seized Information.  
cattle to inform, as soon as possible, the owner thereof if he be known to him.

He shall be held to feed and take care of the cattle so as to be able to Care of ani-  
return them in good condition to their owner, and if the latter undertakes mals seized.  
45 this duty he shall be allowed so to do.

- Release.** Article 40th. The master, however, of the cattle seized is authorized to release the same upon payment of the fines and the cost of their food and keep, upon giving security to the satisfaction of an Inspector and causing a copy of such security to be served by a bailiff upon the other party.
- Estimation of damages** Article 41st. Damages shall be estimated by one of the Inspectors required for that purpose, he shall do it with all convenient speed, shall visit the locality, summon the party in default, if he be known and reside in the Municipality, either by verbal notice or by notice left at his domicile, shall summon the witnesses and examine them upon oath, and if they refuse to appear, there shall be compelled to do so by order of the Judge under the legal penalties, and the said Inspector shall make his report to the plaintiff who shall sue out the execution thereof before the Judge who is authorized to decide all matters in dispute, and for that purpose to adopt all the proceedings which he may find necessary to render justice to the parties. 5 10
- Arrangement,** Articles 42nd. If the parties shall compromise or arrange the matter, the judge may order the execution either of the arrangement or the compromise and of the report thereon. 15
- In case owner unknown.** Article 43rd. If the master of the cattle taken in the act of committing damage be unknown, the person who shall have seized them shall give notice to the Secretary-Treasurer of the Municipality in which the cattle shall have been found, and he shall sell them by auction after having given public notice. 20
- Proceeds.** Article 44th. Out of the proceeds of the sale he shall pay to the party aggrieved whatever he can justly claim ; in such case the Secretary-Treasurer is authorized to accept the estimation made by the Inspector without the intervention of the Judge, and the surplus shall be returned to the master of the cattle if he shall claim the same, within one year from the date of sale, if not it shall be deposited in the funds of the Corporation of the Municipality to form part thereof. 25
- Dangerous Animals.*
- Idiots and dangerous animals.** Article 45th. Persons who shall allow idiots or madmen under their charge or dangerous or vicious animals, to go at large, or who shall excite or shall not have restrained them when attacking or pursuing passengers or sheep, shall be liable to a fine of not less than one nor more than ten dollars, although no harm or damage may have resulted. 30
- Mad dogs.** Article 46th. Any person who shall see a dog at large in his field chasing or known to be in the habit of chasing sheep, or who shall see elsewhere than on his masters property a dog at large, and supposed to be attacked with hydrophobia, may kill such dog or prosecute the master of such dog, who shall be condemned either to kill him or confine him for a certain time, under penalty of a fine of one dollar for every day he shall refuse to execute the judgment. 35 40

*Public Health.*

- Dead animals.** Article 47th. The bodies of dead animals shall be buried, on the day of their death, at a depth of a least four feet, under penalty of a fine of five dollars for every day of delay, and it shall be lawful for the Secretary-

Treasurer to cause the carcasses to be buried at the cost of the owner and upon his property.

Article 48th. Those found in the roads or other public property shall be buried by the Secretary Treasurer as soon as he shall have been informed of the fact, at the expense of the Municipality, which costs he may claim from the owner if he be known. The owner shall also be liable to a fine of five dollars for each day he shall omit to bury the said carcase.

Carcasses on the public highway, &c.

Article 49th. Persons who shall throw into rivers or streams any filth or impure matter, or who shall have collected the same upon the wharves and banks without being authorised so to do by local authority, shall be punishable by a fine not less than one and not exceeding five dollars, and be condemned to remove the same under penalty of four dollars for each day of such neglect.

or thrown into streams.

### *General Provisions.*

Article 50th. In case of the absence of or refusal on the part of any proprietor to do any of the works which may be imposed upon him by Inspectors or Trustees within the delay limited, and in cases in which it shall not already be provided for, such proprietor shall be liable to a fine of fifty cents for each day of such delay; and it shall be lawful for any person interested in the completion of the said works, or labor, or in the destruction of noxious weeds, upon being previously authorised so to do by an Inspector, to advance the money required to defray the expenses of the same and to sue for the recovery of the amount certified by the Inspector upon oath, which certificate shall be sufficient proof thereof.

Case of absence or refusal to complete works. &c.

Article 51st. Any person who shall have advanced the money authorised by Article 50 shall have a privileged hypothec over all other claims upon the land for which he shall have made the said advances and without its being necessary for him to have the said claim registered.

Privilege in certain case.

Article 52nd. The party interested shall make to the Secretary Treasurer a report of the sums due by virtue of Articles 50 and 51 who shall then, in accordance with the Municipal Act, proceed to the sale of the lands thereby affected.

Return to be made

Article 53. The *procès-verbaux* deposited in the offices of the Municipal Councils shall form part of the Records of the Corporation, and Secretary-Treasurers are hereby authorised to certify and deliver authentic copies thereof.

*Procès-verbaux.*

Article 54th. Inspectors in whose Municipality are situate the lands which form the object of their consideration, are hereby declared competent authorised to act as are also those acting in virtue of Articles 18 and 31.

Inspectors.

Article 55th. When two Inspectors shall not agree in their proceedings they shall unite with them a third Inspector, and if they do not agree upon the choice of the said third Inspector, the Secretary-Treasurer shall appoint him, and the report or *procès-verbal* of the majority of the three Inspectors shall be received. And in cases in which the third Inspector shall be required, if it relate to the case provided for in Article

In case of disagreement among Inspectors.

18, he shall be taken in the Municipality mentioned in the said Article, and if it refers to Article the 31st it shall be taken in the Municipality mentioned in the said Article the 31st.

Want of Inspectors provided for.

Article 56th. Whenever there shall not be in a Municipality a sufficient number of Inspectors competent to act, they shall be replaced by any of the Inspectors or *Sous-voyers* of roads and bridges in the same Municipality. 5

Penalties.

Article 57th. Inspectors, or in their absence their substitutes or persons supplying their place, the Trustees and Secretary-Treasurers shall be liable to a fine from one dollar to four dollars for every refusal or neglect in their duty. 10

Indemnity.

Article 58th. The indemnity to Inspectors or their substitutes and Trustees shall be ten cents per hour, exclusive of all disbursements during which they shall be usefully employed in the execution of their duties, payable by such party or parties and in such manner as they may deem just and reasonable, and they shall have a right of action against the parties liable, for the recovery of to the same, unless the Municipal Council shall have already regulated by whom and in what manner the said claims are to be acquitted. 15

Who may sue.

Article 59th. Any contravention, trespass, or damage committed upon the property of another party may be sued for by the party injured, and to him shall belong all fines, indemnities, restitutions, and damages to which the said contravention, trespasses, or damages shall have given rise. 20

Trespass, &c. on highways.

Article 60th. Any contravention, trespass or damage committed upon roads, public places or lanes, upon beaches, vacant lots, or other public properties, may be sued for by and in the name of any rate-payer in the Municipality in which such contravention, trespass or damage shall have taken place, and to him alone shall belong the fines and penalties which he shall have caused to be levied. The party suffering any damage shall also be entitled to bring an action for damages, restitution and indemnity. 25

Power of Justices of the Peace.

Article 61st. Any Justice of the Peace in the Municipality in which the cause of the prosecution shall take place shall be competent to cause this Act to be carried out in all its points, to decide all actions, prosecutions, or suits brought in virtue of the provisions herein contained, and impose the penalties it authorises; he shall therefore besides all the powers with which he is already vested by law, be authorized to adopt all the measures and proceedings necessary to attain that end to issue and make to all summonses, interlocutory judgments or warrants, cause all arbitrations to be made, receive as conclusive, the evidence of the Inspector, Trustee and Secretary-Treasurer, when each or any of them shall be the plaintiff, and of one witness other than the prosecutor, or plaintiff when the action is brought by any person other than the said officers; he may grant and fix all costs of suit and others. 30

Clerk.

Article 62nd. The Secretary-Treasurer shall be the Clerk of the Justice of the Peace for all the purposes of this Act. 45

Limitation of actions.

Article 63rd Suits or claims for fines shall be brought within one month at latest; those relative to indemnities, restitutions, and damages, shall be

brought within three months, and those relating to reimbursements shall be imprescriptible.

Article 64th. Suits by which fines and damages are claimed shall be indivisible, unless the one or the other has been settled or abandoned. Suits indivisible.

5 Article 65th. No Justice of the Peace, Inspector, or substitute for the latter, shall be competent to act in any matter in which he himself or any of his relatives to the degree of first cousin inclusively shall be interested. Relationship.

10 Article 66th. All those who shall be called upon to cause this law to be carried into effect should have in view the object of conciliating the interest of agriculture with that of the parties. Objects of this Act.

Article 67th. This law shall not deprive Municipal Councils of the right of making the By-laws they have the power to make respecting the same, and that even without reference to the provisions of this Act. Rights of Municipal Councils not affected.