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No. 29.

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

BILL.

An Act to amend the Act respecting abuse
prejudicial to Agriculture.

Received and read first time, Monday, 31st
August, 1863.

Second reading, Wednesday, 2nd Sept.
1863.

Mr. TASSÉ.

QUEBEC :

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

An Act to amend Chapter twenty-six of the Consolidated Statutes for Lower Canada, respecting Agriculture, and the Acts amending the same.

WHEREAS it has become necessary to amend the Agricultural Act, Chapter twenty-six of the Consolidated Statutes for Lower Canada, and the Act twenty-fourth Victoria, Chapter thirty: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Preamble.

DAMAGE CAUSED BY ANIMALS.

1. After the second paragraph of the eighth section, add the following paragraph:—

Addition to eighth section.

“No proprietor of land shall be entitled to the penalty nor to damages against his neighbor, if the cattle of such neighbor come upon his property in consequence of the bad condition of his own fences.”

2. After the first paragraph of the ninth section, add the following paragraph:—

Addition to ninth section.

“But no owner or occupant of land, his servant or representative, shall seize or impound or retain at his own place of abode, any animal he finds wandering on his land and belonging to his neighbor, unless his fence is in good repair.”

OF DECOUVERT.

3. Strike out the fourth and fifth paragraphs of the seventeenth section, and substitute the following:—

Seventeenth section amended.

“Whoever refuses or neglects to obey the orders of the Inspector shall be bound to pay the damages, if such there be, as established by experts chosen one by each neighbor and the third, if the two do not agree, by a Justice of the Peace, unless the two experts already appointed agree upon a selection themselves. Such damage if any there be, shall be paid annually, so long as the cause continues.”

WATER COURSES.

4. Strike out the nineteenth and twentieth sections, and substitute the following:

New nineteenth and twentieth sections.

19. “On the first Sunday in the month of July in each year, every Inspector upon the requisition of one or more parties interested in a water course regulated by a *procès-verbal*, or by an agreement made by the parties interested or by Municipal authority, shall be bound to give public notice of the day and hour, on which the works to be done in portions or in common for the suitable repair and cleansing of such water course are to be commenced.

2. “Every party interested shall be bound to be present on the spot on the day and at the hour mentioned.

3. "If the works are to continue only a single day, and if two hours after the time fixed by the public notice, any one of the parties interested is not present, the Inspector may cause the work of any party interested in default, to be done by another person.

4. "If the works are to continue several days, and if on the second day any one of the parties interested is not present, the Inspector may cause the work of any party interested in default, to be done by one or two other persons. 5

20. If in the two cases above mentioned the Inspector does not think proper himself to cause the work of any party interested in default, to be done, he shall order the other parties interested to do it together or to cause it to be done by some one from among them; and whoever shall have done such work, may recover the cost thereof, according to the provisions of this Act, on the testimony of the Inspector who shall have ordered such work to be done or on the testimony of two other persons. 15

5. On the second Monday in the month of July in each year, an inspector shall, on the requisition of one or more parties interested in any water-course regulated by *procès-verbal*, order any parties interested in such water-course, to repair and cleanse properly, in order to give a free course to the waters flowing into the same, any part of such water-course passing through their respective lands, the same to be done within the eight days following such public notice. 20

2. If within the eight days above mentioned, the work of any interested party is not done, the inspector may himself cause it to be done by any other person, but if he does not deem it advisable to cause it to be done himself, he shall order that such work be done by the parties interested in that portion of the water-course situated above the part which has not been repaired, or by those of them who may complain, and the party doing such work may recover the cost, under the provisions of this Act, on the evidence of the inspector or on the evidence of two other persons. 25 30

6. On the demand of two-thirds of the parties interested in a water-course not extending beyond the municipality, the local council of such municipality may pass any resolution having for its object to declare that such water-course shall be repaired and cleansed, only between the fifteenth of August and the fifteenth of October in each year. 35

Construction of provisions of section 21.

7. The provisions of the twenty-first section of the Act first cited, shall not be interpreted as declaring that the two inspectors aforesaid shall be chosen in the same parish, or in the same township, but as permitting one to be chosen in one parish or township and the other elsewhere, provided that it be not beyond the limits of the county. 40

23rd Section amended

After the words "*procès-verbal*" in the first paragraph of the twenty-third section of the said Act, the following shall be added: "and as regards the parties obliged to make or maintain water-courses, it shall not be necessary to give their names, but only to designate their lands; either by the range, the concession, or otherwise." 45

2. The Inspectors may also appoint from among the parties interested, a trustee to carry out the *procès-verbal*.

3. After the word "*procès-verbal*," in the last line of the second paragraph of the twenty-third section, the following words shall be added: "in order to have them taxed." 50

25th section amended.

9. After the words "equitably apportioned," in the third line of the ninth paragraph of the twenty-fifth section, add: "according to the usage in Lower Canada." 55

2. After the seventeenth paragraph of the twenty-fifth section, add the following paragraph:

“The costs of each *procès-verbal* shall be taxed by the Justice or Justices of the Peace homologating such *procès-verbal*.” New sub-section:

5 10. After the word “inspector,” in the first line of the first paragraph of the thirtieth section, add the following words: “when the works in question are to be done in virtue of a new *procès verbal*.” 30th Section amended.

2. After the word “water-course,” in the second line of the fourth paragraph of the thirtieth section, add the following: “regulated by former or by a new *procès-verbal*.”

3. After the fourth paragraph of the thirtieth section, add the following paragraphs: New sub-section.

4. The Trustee may be chosen among the parties interested residing out of the local municipality in which he is appointed, and in which the works or a portion of them are to be done.”

5. “After his appointment he may make or cause to be made, signed or attested before two witnesses, if required so to do by any one of the parties interested and at the costs of all the parties interested, any apportionment that may be necessary in conformity with the provisions of the *procès-verbal* or the decision of the majority of the parties interested, and require the homologation thereof.”

6. “If the Trustee is appointed to superintend the execution of the works in and about any water-course which passes through several parishes or townships, his powers and duties shall be the same in all the parishes or townships in which there are parties interested with the water-course.”

LINE FENCES

11. After the word “complaint” in the last line of the first sub-section of Section thirty-three of the said Act, add the words following “unless the fence there in question has been carried away by water, destroyed by fire, or by any other unforeseen accident, or removed by the proprietor, in which case the special notice above mentioned, need only be given fifteen days before the complaint.” 33rd Section amended.

12. After the words “cause to be made,” in the first line of the thirty-fifth section, add the following “or repair or cause to be repaired.” 35th Section amended.

13. For the word “third” in the fourth line of the fifth sub-section of section thirty-seven, substitute the word “second.” 37th Section

14. After the word “case” in the third line of the first sub-section of section thirty-eight, strike out the remainder of the said sub-section. 38th Section.

15. After the word “other” in the fourth line of the third sub-section of section thirty-nine, strike out the words “in former or.” 39th Section

2. After the fourth sub-section of the thirty-ninth section, add the sub-sections following:

5. “Any Inspector who shall refuse or neglect to give the notice specified in the nineteenth section of this Act, shall incur a penalty of five shillings, and in case he refuses or neglects to cause to be executed any work required by the said section, he shall incur a penalty of five shillings for each day during which he so refuses or neglects to act, unless he orders the parties interested, themselves to execute the said works in the place of the interested parties in default.” Sub-section added to section 39.

Every person obliged by a *procès-verbal* to contribute to the works of any water-course, in the ratio of the extent of the land, which he causes

to be drained into the said water-course, who shall refuse or neglect to declare to the Inspector when required so to do, what extent of his land is drained by the said water-course, shall for each refusal or neglect incur a penalty of not less than four nor more than eight dollars."

APPEALS.

Appeals **16.** Appeals from judgments rendered in pursuance of the Agricultural Acts and the Acts amending it may be prosecuted in vacation as well as in term. **5**

INTERPRETATION.

17. After the word "stream" in the second sub-section of section forty-five, add the following words, "creek or natural water-course."

2. Substitute the words "second" for the word "third" in the fourth 10 sub-section of section forty-five.

3. The words "inspector" "trustee" shall be held to include inspectors or trustees.