

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming are checked below.

- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires: **Cover title page is bound in as last page in book but filmed as first page on fiche.
Cover title page is cut off.**

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below /
Ce document est filmé au taux de réduction indiqué ci-dessous.

10x		14x		18x		22x		26x		30x	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12x		16x		20x		24x		28x		32x	

No. 195.

2nd Session, 3rd Parliament, 12 Victoria, 1849.

BILL.

An Act to repeal two certain Acts therein mentioned relating to Agriculture, and to provide for the remedy of Abuses prejudicial to Agriculture.

Received and Read a first time, Tuesday, 20th
March, 1849.

Second Reading, Friday, 23rd March, 1849.

Mr. WATTS.

195

BILL.

An Act to consolidate and amend the laws relating to Agricultural abuses in Lower Canada.

WHEREAS it is expedient to repeal the Preamble.
Act and Ordinance hereinafter mentioned, and to provide more effectually for the prevention of certain trespasses, abuses and evil practices which prevail in Lower Canada, and retard the progress of Agriculture therein: Be it therefore enacted, &c.

And it is hereby enacted by the authority of Repeal of 8 W. 4 c. 56, and 50 G. 3 c. 4.
the same, That the Act of the Legislature, of Lower Canada, passed in the sixth year of the Reign of his late Majesty King William the Fourth, intituled, "*An Act to repeal a certain Act therein mentioned, and more effectually to remedy diverse abuses prejudicial to Agriculture,*" and the ordinance of the Province of Quebec passed in the thirtieth year of the Reign of King George the Third, intituled, "*An Act or Ordinance for preventing Cattle from going at large,*" be, and the same are hereby repealed, but no Act or law thereby repealed shall revive, but shall be and remain repealed, this Act being substituted for all other Acts heretofore passed on the subject to which it relates. Laws repealed not to revive, &c.

II. And be it enacted, That from and after the passing of this Act, no person shall enter into or pass through any field, whether it be sown or unsown, nor into, nor through any garden, coppice or other property whatsoever, without the permission of the proprietor, or some person duly authorized by him to grant such permission, under a penalty of not less than *five shillings* nor more than *thirty shillings* currency, for every such of- Penalty for trespassing on the lands of another.

Offender may
be arrested.

fence, and over and above the amount of all damages occasioned thereby, which penalty or damages or both may be recovered before any one Justice of the Peace, who shall decide the matter in a summary way, either on his personal knowledge of the fact, or on the confession of the party complained against, or on the oath of one credible witness: Provided always, that it shall be lawful for any landholder, or for his representative or servant to arrest any person taken in the fact of contravening this Section, and to carry him or cause him to be carried forth with before one of the nearest Justices of the Peace not interested, in order that such Justice of the Peace may decide summarily on the complaint.

Penalty on
persons injur-
ing fences,
trees, &c.

Offenders
may be arrest-
ed.

III. And be it enacted, That any person who shall pull down, cut, break, remove or injure any fence or part of any fence, or cut or destroy any hedge, which may have been planted as a line fence, or shall cut, bark, fell or remove any tree, shrub or plant, or fell or cut or remove any tree, or any part of a tree, in the wood of any other person for any purpose whatsoever, or shall therein burn any wood for any purpose whatsoever, without leave from the proprietor or his representative, every such person shall for every such offence committed in the day time, incur a penalty which shall not be less than *five shillings* nor more than *thirty shillings* currency, and shall be double the said sums if the offence be committed in the night time, over and above all damages, which damages or penalty or both, may be recoverable before one Justice of the Peace; and that any person who shall have thrown down or carried away any part of any fence, or shall be found on any land, highway or bye-road, with any portion of the materials of any fence in his possession, may be detained by any landholder of the vicinage, or any person in the service of such landholder, and carried before one of the nearest Justices of the Peace, who may cause the person so accus-

ed to be detained until more ample inquiry can be made, for any time not exceeding twenty-four hours, and who may deal with such person according to the circumstances of the case and according to the requirements of this Act.

IV. And be it enacted, That any Justice of the Peace, upon complaint on oath before him of any infringement of the provisions in this Act contained, shall issue his warrant, directed to a competent person, for the apprehension of any person charged with any offence against any of the provisions of this Act, and shall without delay, summarily hear and determine upon the complaint, on the evidence of one credible witness other than the prosecutor, and pronounce a judgment according to the requirements of this Act: Provided always, that the penalties hereby imposed or authorized to be imposed, shall be levied forthwith by warrant for the imprisonment of the offender, unless sufficient goods and chattels shall by him be offered, to be attached and sold, in which case the said Justice of the Peace may issue his warrant of distress for the seizure and sale of such goods and chattels, failing which such Justice of the Peace shall commit the offender to the Common Gaol of the District in which the offence is committed, until such penalty with the costs of prosecution shall be paid: Provided always, that no person shall remain so committed for a longer time, upon one conviction for the cause aforesaid, than sixty days.

Justice to issue his warrant on complaint.

And hear the same summarily.

Proviso: as to mode of levying penalties.

Proviso.

V. And be it enacted, That whenever it shall appear to such Justice of the Peace, by the oath of the prosecutor, or that of one witness, that an offender against any of the provisions of this Act, is a foreigner, or is a squatter, or a stranger, or that he has no real property or other means to secure the payment of such penalty and costs; such Justice of the Peace shall commit him to the common Gaol, for a time not exceeding sixty days.

As to offenders being Foreigners or strangers.

Fees to the Clerk and persons employed in executing any warrant under this Act.

VI. And whereas it is expedient to ascertain the several fees to be paid to the Clerk of such Justice of the Peace, for such warrant, and to the Constable or Peace Officer executing the same: Be it enacted, That there shall be allowed to such clerk or person acting as such, for every warrant for such apprehension, *one shilling and six pence* currency, and to the Constable, Bailiff or Peace Officer for the execution thereof, *one shilling and three pence* currency, and an additional sum of *one shilling* currency for every league travelled by him to execute the same, the distance travelled in returning not being reckoned, together with reasonable charges for the transportation or safe keeping of any one or more prisoners, to be taxed by any Justice of the Peace: Provided always, that any person to whom any Justice of the Peace shall in pursuance of this Act direct his warrant, shall be to all intent and purposes for executing the said warrant a Peace officer.

Proviso.

Road Surveyor to estimate damages from the trespassing of animals, and report to the Justice.

VII. And be it enacted, That for damages sustained by the trespassing of horses, mules, cattle, poultry, or other domestic animals, any person may lay his complaint before one of the nearest Justices of the Peace, who shall immediately command the Road Surveyor of the Parish forthwith to give notice to the complainant, as well as to the person or persons complained of, and immediately thereafter to proceed to assess the damages in the presence of the parties, or in their absence, when duly notified; and thereupon the said Road Surveyor shall report the same in writing to such Justice of the Peace, who shall hear the parties, and if good cause be not shown to the contrary, thereupon allow the prosecutor the amount thereof, with the costs and charges of the view and report, and of prosecution, and shall cause the same to be levied in the manner prescribed by this Act; Provided always, that if on hearing the parties the Justice of the Peace shall see fit to acquit the defendants then

Proviso.

that the complainant shall be condemned to pay the costs; And provided also that the said Justice of the Peace shall allow and pay to the Road Surveyor a reasonable remuneration for his trouble, and in case of the Road Surveyor being sick, absent, interested or otherwise unable shall act, the Justice of the Peace to name another respectable and competent person.

Proviso : compensation to Road Surveyor, &c.

10 VIII. And be it enacted, That every such Justice of the Peace may, on the application of either party, issue subpoenas to compel the attendance of witnesses before him or before the Arbitrators, and may swear them
15 in the usual manner, to give true evidence, and may enforce obedience to every such subpoena, and punish or cause to be punished any disobedience thereto by the usual course of law.

Justice may summon and swear witnesses.

20 IX. And be it enacted, That registers shall be kept by such Justice of the Peace, of all proceedings hereby authorized respecting damages to be sued for by virtue of this Act, to the end that all persons interested
25 may obtain copies on payment of *six pence* for every hundred words: Provided always, that every Justice of the Peace who shall neglect to keep such Register, shall incur a penalty of not less than *ten shillings* nor
30 more than *twenty shillings* currency, for every case in which the proceedings shall not be so-enregistered.

Registers of proceedings under this Act to be kept. Copies.

Penalty for neglect.

X. And be it enacted, That it shall not be lawful for any person whomsoever, at any
35 season of the year, to allow his horses, mules or cattle or poultry or any other animal or bird whatever to stray upon any land which does not belong to him, without the permission of the owner thereof, or of his
40 representative, or upon any beach, highway or public place; and whenever any horse, neat cattle, sheep, goat or hog or any other animal or bird whatever, shall be found straying

Penalties for allowing animals or domestic birds, &c., to stray on the land of others.

in any such place, the owner of such animal shall (over and above the damages which he may be condemned to pay to the person complaining, who must be a landed proprietor or the servant of a landed proprietor within the Parish or Township or in some adjoining Parish or Township, in the manner hereinbefore prescribed) incur the following penalties, that is to say; for each mare, gelding, colt or filly, *one shilling and three pence*, currency; for each ox, cow or calf, *one shilling* currency; for each sheep or goat, *three pence*, currency; for each hog, *two shillings and six pence*, currency; for each bull or boar or ram, *ten shillings* currency; for each stallion, *twenty-five shillings* currency; for each goose, duck, turkey, or head of other poultry of any kind, *three pence* currency; and double the said sum for the second time, treble for the third time, quadruple the fourth time, and in that proportion on every subsequent occasion that such animals shall respectively be seen or found straying upon any lands or fields without the permission of the proprietor thereof or of his representative, or on any highway, beach or public place.

Further penalty for repetition of the offence.

Recital.

Animals, &c., straying on the lands of others may be detained,

and also if found on beaches or public places.

XI. And whereas it is expedient to give proprietors or occupiers of lands, who take animals or poultry straying on their lands or in their fields, the right of detaining and keeping them until the penalty and damages by this Act attached to the offence committed, shall have been paid: Be it enacted, That any proprietor or occupier of land or his servants or representatives, may seize, take and detain any animal or poultry which he or they shall find straying on his land, or in his fields without his permission, and may detain the same until the owner thereof shall have paid the penalty hereby attached to the offence committed; and that when any animal shall be seen straying on any beach or public place, it shall be lawful for the Road Surveyor, or any overseer under him, or for any freehol-

der whomsoever of the Parish, Seigniorship or Township, to take and detain such animal until the proprietor thereof shall have paid the fine hereby attached to the offence committed; Provided always, that the person who shall have so taken any animal, shall give notice thereof as early as possible to the owner, if known to him; and if the owner of such animal shall not within twenty-four hours come forward and claim the same, and pay to the person so seizing or detaining them, the penalty incurred with the cost of keeping such animal, or if the person detaining it shall not know the owner thereof, he shall cause public notice to be given that such animal has been so taken and detained, with a description thereof, on the doors of the churches of the Parish on two consecutive Sundays immediately after divine service in the forenoon, and in the same manner on the second Sunday at the doors of the churches in the neighbouring Parishes, if before that time the owner shall not claim the said animal, and pay the penalty and costs of keeping the same, in which notice the time and place of sale shall be specified, or if there should be no church in the place, he shall give such other public notice as may be considered sufficient, according to the custom of the Parish, Seigniorship, Township or Settlement in which such animal shall be so detained: Provided always, that when notice shall have been given in the manner aforesaid on two consecutive Sundays, of the seizure and detention of any horse, ox or cow, poultry or any other animal whatever, then if such animal is not claimed and the penalty and costs paid as aforesaid, it shall be lawful for the person who shall have such animal in his possession, to cause the same to be sold on the Monday next after the last notice shall have been given, by public auction, at the hour of noon: Provided always, that the said auction shall take place at some church door or other place of public worship in the locality at the most

Proviso: public notice to be given that such animal, &c., is so detained.

Proviso: after such notice the animal, &c., may be sold if not claimed.

Proviso.

Proviso: sale to be by auction by the Road Surveyor or Overseer.

Balance, if any, to be paid over to the owner of the animal, &c., or applied to the improvement of roads.

Account to be rendered.

Unknown bidders may be refused at such sale, unless they give security.

public and frequented place: Provided the persons intending to sell such animal shall give at least two days notice of such sale to the Road Surveyor, who shall be bound to attend at such sale, or in case of his absence through sickness or otherwise, one of the Overseers under him shall upon being notified of such sickness or absence, act for him, and who shall sell the animal in the capacity of auctioneer and receive the proceeds of the sale, and out of the proceeds of the sale which shall be paid to the Road Surveyor, or the person acting for him, by the purchaser, the person having detained the animal shall be entitled to receive from the Road Surveyor the penalty incurred and the reasonable costs of keeping the animal while detained, (which shall be estimated by any Justice of the Peace,) with all damages sustained by such detainer; and the balance shall remain in the hands of the Road Surveyor, who shall pay it over to the owner of the animal as soon as he shall be known; or if such owner shall not become known to him within a year it shall become the property of the Parish and be applied to the improvement of the bridges and highways therein, under the supervision of the Municipality: and such Surveyor or Overseer of Roads shall account to the nearest Justice of the Peace for the due application of the proceeds of the sale of any such animal, within eight days after the sale, under a penalty of *ten shillings* currency, and shall account for the balance within eight days of the period hereinabove assigned for paying the same.

XII. And be it enacted, That the Road Surveyor or his representative, shall have the right of refusing all biddings at the sale of any such animal from any person unknown, or a stranger in the Parish, or known to be insolvent, until such person shall have given security to the satisfaction of such Road Surveyor or his representative; and the

person becoming surety in such case shall be responsible for the price in the same manner as if he were the purchaser: **Provided** always, that if the Road Surveyor should see fit, the sale shall not be binding unless the price be instantly paid, in which case at the option of the Road Surveyor the animal shall be put up and sold again under the same rules.

Proviso: Surveyors may require cash down.

10 XIII. And be it enacted, That any proprietor or occupier of land, who shall receive cattle to pasture on his lands or grounds, or shall permit cattle belonging to others to stray or pasture on his lands or grounds, shall be responsible for such cattle as if he were the owner thereof, without its being necessary that the name of the owner should be ascertained: **Provided** always, that the complainant may in any case cause the summons or complaint to be served on any reasonable person in any house built on the land whereon the animals committing the damage are at pasture, and that such service shall be sufficient even if the owner or occupant of the land should not have his domicile there, or should be absent.

Person taking cattle to graze, to be responsible as for their own.

Proviso: as to place of service of complaint.

XIV. And be it enacted, That it shall be the duty of every Justice of the Peace, on complaint to him made, that any dog belonging to or kept by any person, has bitten any person, horse, cattle or sheep on any spot not included within the property of his owner or is supposed to be rabid, or has pursued any person or ridden horse, or any horse harnessed to any carriage on the highway, after having heard such complaint in a summary manner, to condemn the person against whom such complaint shall have been made to pay the costs incurred on such complaint, according to the provisions of this Act, and to order, by a writing under his hand, the owner or keeper of such dog, to keep or cause the same to be kept shut up for forty days, under the penalty, to be paid

Duty of Justice on complaint being made that any dog is rabid, or bites people or cattle, &c.

Penalty for
disobeying
order of Jus-
tice.

Proviso: the
order may be
to kill the dog
if very mis-
chievous.

Penalty for
refusal to obey.

Recital.

Dogs at large
on the lands of
others than
their masters
may be killed
or complained
of, &c.

by such owner or keeper of such dog, not exceeding *two shillings* currency, for each day that such dog shall be suffered to be at large before the expiration of the said forty days; Provided always, that in all cases 5 wherein it shall be proved before such Justice of the Peace, by one or more witnesses worthy of credit, that the dog concerning which such complaint shall have been made, is very mischievous both with regard to 10 travellers and ridden or harnessed horses, and is in the habit of pursuing them, and of startling or biting them, then and in such case, such Justice of the Peace may in the manner herein set forth, order the owner or 15 keeper of such dog to kill it or cause it to be killed, and condemn such owner or keeper thereof, to pay in addition to the costs above mentioned, a penalty of *five shillings* currency, for every day such dog shall be 20 allowed to live after the said order.

XV. And whereas it frequently happens that great mischief is done in the country parishes by dogs which chase and strangle sheep, and whereas it is sometimes very 25 difficult to prove that the mischief has been occasioned by such dogs: Be it therefore enacted, That it shall be lawful for any person to kill any dog which shall be seen at large in any field being the property of such 30 person or his employer, unaccompanied by the master thereof or by any person belonging to his family or in his employ, or to complain thereof to any Justice of the Peace, who shall on such complaint summon the 35 owner of the dog to appear before him, and shall order him to kill such dog, and shall condemn such owner to pay the costs of such complaint, and such owner shall incur a fine of *five shillings* currency, for every 40 day during which such dog shall be suffered to live after such order.

As to hogs or
pigs at large
without rings
in their noses.

XVI. And be it enacted, That every person who shall allow any hog or pig to be at

large without ringing the same, shall incur a penalty not exceeding *ten shillings* nor less than *five shillings* currency; the amount whereof shall go to the informer.

- 5 XVII. And be it enacted, That it shall be the duty of every proprietor of a pound, when the fine and expenses incurred as above for the damage caused by or for the impounding of any horse or horned
10 cattle or other beast whatsoever, shall be tendered to him, to deliver the animal so impounded to the owner thereof, or to any other person duly authorized on his part, under pain of incurring a penalty not exceeding
15 *ten shillings* currency, for refusal, and of *five shillings* currency, a day for every day he shall afterwards unjustly detain any such horse, horned cattle, sheep, goat or hog:
Provided always, that any person or persons
20 removing or taking away any animal or animals detained for damage done or complained of, shall forfeit and pay a penalty equal to the *whole* amount of the damage and penalty to which the owner of the said
25 animals was subject, and also another and further sum of *ten shillings*, currency and eight days imprisonment, or either.

Duty of pound keeper in certain cases.

Proviso: as to persons carrying off an animal detained.

- XVIII. And whereas it is expedient to
provide cheap and summary means of adjusting
30 the difficulties which may arise in the Country Parishes respecting fences and ditches necessary for the draining of lands or roads, be it further enacted, That it shall
be the duty of the Surveyor of Roads to act
35 as Inspector of Fences, ditches and drains, when and so often as they or any of them may be required so to do.

Recital.

Road Surveyors to act as Inspectors of fences and drains.

- XIX. And be it enacted, That every
Road Surveyor, and in the event of his being
40 interested, absent or sick, every Overseer of Roads shall perform the duty of an Inspector of
Fences and Ditches, and shall before entering
on the duties of his office, make an oath before

Inspector of fences and ditches to take an oath of office.

some Justice of the Peace that he will well and faithfully perform the duties of the office of Inspector of Fences and Ditches, to the best of his knowledge, ability and understanding, without fear, favor or affection for any person whatsoever, according to the provisions of this Act, and that he will in all cases decide and determine impartially and to the best of his judgment, and in such manner only as to law and justice shall appear; which oath any Justice of the Peace is hereby empowered to administer.

Penalty on such Inspector neglecting his duty.

XX. And be it enacted, That every Road Surveyor shall for every neglect or refusal to perform any of the duties with which he is hereby charged, when thereunto required, incur a penalty of *ten shillings* currency, to be sued for and recovered in the manner herein provided.

Duties of the Inspector of fences and ditches.

XXI. And be it enacted, That it shall be the duty of every Road Surveyor, when and so often as he shall be thereunto required by any person being proprietor or occupant of lands within his division, to visit and examine the drains or ditches and the line fences separating the lands belonging to the complainant from the lands of any other person, or of the public, (giving previous notice of the day and hour when such examination will take place, either personally or by notice left at the residence of the person against whom complaint shall have been made,) and the said Road Surveyor shall determine whether the fence belonging to the person against whom such complaint shall have been made be sufficient, or the drain deep enough to carry off the water; and if the fence or drain belonging to the said party be declared insufficient, such party shall be ordered to repair or deepen the same within a certain time, to be fixed by the said Road Surveyor, which time shall not exceed four days, in any case wherein it shall be possible to perform

Notice.

Repairs ordered.

the work required within that time; and in all other cases such Surveyor shall allow such further delay as he shall think necessary; and if the person whose fence or drain shall have been so declared insufficient shall fail to conform to the order made concerning such fence or drain, such person shall incur a penalty of *two shillings and six pence* currency for each and every acre in length of such fence or drain (any fraction being reckoned as a whole acre) for each and every day such fence or drain shall remain unrepaired after the expiration of the time so fixed: And provided also, that it shall be the duty of every such Road Surveyor after the expiration of four days, or of the time which he shall have fixed for the making or repairing of such fence or deepening of such drain as aforesaid, to cause it to be erected or repaired or deepened at the expense of the person who having been adjudged to erect or repair or deepen the same shall have neglected so to do, and to recover the expense thereof by suit before a Justice of the Peace, with costs, including a just allowance for the time he shall be employed in the execution of his duty: Provided always, that if the party in default is absent from the Province, deceased or unknown, or has abandoned his land, or if the land of such party is seized by the Sheriff, then the said Surveyor after having caused to be made or repaired the fences or drains of the party who shall have been condemned to make or repair the same, shall have for the recovery of the expenses incurred in so doing, a privileged hypothec on such land from the day on which such work shall have been completed; and such land may be seized and sold under a judgment of any competent Court; on a petition to such Court, setting forth the facts; and on proof of the allegations of such petition, to the satisfaction of such Court, without its being necessary that the name of the owner of such land should be ascertained in the proceedings had before such Court in conformity with the foregoing enactments: Provided always, that if the owner of such

Penalty for not obeying his order.

Duty of Inspector when his order is not obeyed.

Proviso: if the party be absent. Hypothec on land.

Land may be sold in certain cases.

Proviso: if

payment to
made before
the sale.

land shall at any time before the sale thereof
under such judgment as aforesaid, pay to the
said Road Surveyor for the division in which
such lands shall be situate, the amount of
the expenses so incurred with all such costs 5
and expenses as shall or may have been in-
curred in suing for such judgment and caus-
ing such lands to be seized, then and in
such case such hypothec shall be deemed
and taken to be satisfied and discharged. 10

As to cases
where a new
fence shall be
ordered to be
made.

XXII. And be it enacted, That whenever
the matter in question shall relate to the erec-
tion of a fence where there shall have been
none before, or where although there has
been a fence, the old fence shall be in such 15
a state that the labour of repairing it shall be
equal to that of making a new one, such In-
spector shall not condemn the party against
whom complaint shall have been made, un-
less the party complaining shall prove that 20
the party complained against was called up-
on to erect the said fence before the tenth
day of March preceding the time at which
such complaint shall be made.

Duty of In-
spector as to
work to be
done by joint
labour, &c.

XXIII. And be it enacted, That it shall 25
be the duty of every such Road Surveyor
whenever he shall be thereunto required by
one or more proprietors or occupants of land,
to proceed to inspect all ditches opened or
to be opened, and all other ditches, drains 30
or water-courses commonly known as work
to be jointly performed (*travaux miloyens*),
and then and there to order such work as
they shall deem necessary, and shall deter-
mine the parties by whom the same shall be 35
performed and kept in repair, as well as the
manner in which the same shall be done, and
the time within which it shall be completed,
as he shall deem it just and conformable to
the custom and laws of this Province in that 40
behalf; and every proprietor or occupant of
land as aforesaid, who shall refuse or neglect
to make, repair, take care of and keep in
order any line ditch or other ditch as afore-

Penalty for not
obeying his
order.

said according to the order made by such Surveyor, within four days or within the time fixed by such Surveyor not exceeding six additional days (where he shall have thought 5 fit to grant a longer delay) after a written or verbal notice to such person given, shall incur a penalty of *two shillings and six pence* currency, for every day that such ditch shall remain unmade or unrepaired in the manner 10 aforesaid.

XXIV. And be it enacted, That it shall also be the duty of every such Surveyor within his division so often as he shall be thereunto required, to visit and examine all 15 outlets, water courses and brooks common to several lands or to any number of proprietors or occupants of land, the necessary labour concerning which shall have been regulated by *procès verbal* duly homologated, 20 or by a *procès verbal* heretofore made by any Inspector of fences and drains, or by an agreement made by the parties interested or by direction of the Municipal Council, and to see whether such work has been done con- 25 formably to such *procès verbal* or agreement, and to order that the same be done, repaired and kept in order in the manner stated in such *procès verbal* or agreement; and every person refusing or neglecting to conform to 30 and obey such order, within four days after written or verbal notice to that effect shall have been given to such person, or within the time fixed by the said Inspector, shall incur a penalty of *two shillings* currency for 35 each and every day such work shall thereafter remain unperformed: Provided always, that in all cases provided for by this and by the next preceding section, it shall be the duty of every such Road Surveyor after the expiration 40 of the delays therein specified, to cause to be performed the work ordered and remaining undone at the expense of the persons bound to perform such works, and to recover the expenses thereof by suit before a Justice of 45 the Peace, with costs and expenses as directed by this Act.

As to water courses, &c., where the labour shall have been regulated by *procès verbal*.

Penalty for refusing to obey the order made.

Proviso: work may be performed and charged against the proper party.

Case where a water course shall be common to the lands of several proprietors, provided for.

XXV. And be it enacted, That in all cases when it shall be necessary to open any outlet or water course, or to cleanse any brook common to the lands of several persons, the work connected with which shall not have been apportioned and regulated by any *procès verbal* or agreement, the matter in dispute shall be adjusted on the requisition of one of the parties interested by two Road Surveyors, conversant with such matters and in nowise interested, and residing nearest to the place where such work is to be done, and in case there shall be no such Road Surveyors so conversant or not interested in the Parish, Seigniority or Township, then by two Overseers qualified as aforesaid, that on or before the fifteenth day of July of each and every year, every brook, water course, drain or ditch, shall be thoroughly opened, cleansed and rendered fit for the flowing and passing through the same of all the water that may during any period of the year flow into the same, and that any person or persons failing so to open and cleanse every part of any ditch, drain, water course or brook which may be upon his land or to which he may by law be subjected, shall incur and pay a penalty of *ten shillings* currency for each and every day during which such drain, ditch, water course or brook shall remain unopened and uncleaned.

Previous notice to be given.

XXVI. Provided always, and be it enacted, That before any such Surveyors shall proceed to the execution of the duties hereinbefore assigned to them, public notice shall be given by them, either verbally or by advertisement in writing, read at the doors of the Churches or other places of public worship, in the Parish, Seigniority or Township, immediately after Divine Service in the morning and posted thereon on the Sunday immediately preceding the day on which they intend to visit the place, requiring all persons interested to take notice of the same, and to attend at the time and place appointed

ed; and in places where there shall be no Church or place of public worship, then the said notice shall be given personally, or in writing, left at the residence of the parties interested, if the said residence be in the same locality.

XXVII. And be it enacted, That after having given the notice aforesaid, the said Road Surveyor shall, on the day and at the hour fixed, proceed to the place, and after becoming competently acquainted therewith and after being fully informed of the matter in dispute, shall give their decision, and shall draw up a *procès verbal* of their proceedings, setting forth every thing to be done with respect to such outlet, water course and brooks, for the general advantage of all the parties interested, and the time at which it shall be done, with such further particulars as they shall judge necessary or expedient concerning the matter, comprising also the expenses incurred as well for the examination of the place as for the advertisements, and for drawing up the *procès verbal*; which *procès verbal* shall be deposited in the office of the nearest Notary, (or in the keeping of the nearest Justice of the Peace, if such *procès verbal* be made in any Township,) and such Notary or Justice of the Peace shall give a certified copy thereof to any of the parties interested therein who shall require it, on the payment of the expense of such copy, at the rate of sixpence currency for every hundred words; Provided always, that each *procès verbal* so made, whether it concern one or more Parishes, Seignories, Townships or Settlements, shall be homologated before one or more Justices of the Peace in the manner hereinafter prescribed.

Proceedings
on the day
fixed by the
Inspector for
deciding the
matter.

Deposit of
procès verbal.

Proviso.

XXVIII. Provided always, and be it enacted, That the owners of lands which shall be higher than those of their neighbours shall not in any wise be bound or required by any Road Surveyor to make or assist in making

As to the
owners of
higher lands.

the drains or water courses through their lands of any greater depth than may be necessary for draining their own lands: Provided further nevertheless, that it shall in all cases be lawful for the persons owing any adjacent land or swampy grounds, to make use of such drains or water courses as aforesaid, through higher grounds, to clear out and deepen the same at their own expense, or where there are no such drains already existing, to cause the same to be opened in the manner and after the formalities herein before prescribed in the section of this Act, in such manner as to carry off the water from their own lands, or to prevent the same from coming, lodging or remaining thereon.

Proviso: as to owner of adjacent swampy lands.

Overseers of such joint work to be appointed.

XXIX. Provided always, and be it enacted, That it shall be the duty of all Road Surveyors, who shall draw up any *procès verbal* as aforesaid, to select and appoint from among the parties interested, and after having consulted with them, one or more overseers, according to the importance of the work to be done, who shall, after their names shall have been inserted in the said *procès verbal*, carry the same into effect, and see that the work therein ordered to be done, as well with respect to the immediate performance thereof as to the keeping the same in repair in future, be duly performed for the general advantage of the parties interested therein: Provided further, that the persons so named as overseers shall not be bound to act as such during more than four successive years, if they shall consider the office burdensome and wish to be relieved therefrom, in which case, (or in case of death or infirmity, or absence of one or more of such overseers,) or in case one or more of such overseers shall sell his property, the persons interested shall when thereunto required by one or more such persons, who shall give notice thereof in the manner hereinbefore set forth respecting the view of the place, meet for the purpose of proceeding to a newelec-

Proviso: length of service of such overseers.

- tion, which shall be made by the majority of the persons interested, then and there present, who shall cause a record thereof to be drawn up, and shall deposit the same in the
- 5 place where the *procès verbal* to which it has reference, shall have been deposited: Provided always, that it shall be lawful for all the persons interested in any *procès verbal* of a water course, homologated in any Court of
- 10 Law; or in any such *procès verbal* made by any Road Surveyor or Inspector of fences and drains, or made by agreement, to proceed in the manner above mentioned, to an election for the purpose of filling up
- 15 the place of any overseer or overseers deceased; absent, or having sold their lands, or desirous to resign their office after four years of service; and when such water course shall concern two Parishes, Seigniories, Town-
- 20 ships or settlements, one or more Overseers from each place shall be appointed to see such *procès verbal* carried into effect; and any such Overseer who shall neglect or refuse to cause such *procès verbal* to be carried
- 25 into effect according to its form and tenor, after having been required so to do by one or more of the parties interested, at least eight days before, shall incur a penalty not exceeding *five shillings* currency, for each
- 30 day during which such work shall not be done in the manner provided by the *procès verbal*; allowing four days for performing such work.

Proviso: as to election of new overseers in certain cases.

When two or more Parishes, &c., are concerned.

Penalty on overseers neglecting their duty.

- XXX. And be it enacted, That the Sur-
- 35 veyors after having drawn up their *procès verbal* as aforesaid, shall have a copy thereof prepared, which they shall cause to be read on the following Sunday after Divine Service in the forenoon, at the Church doors
- 40 or other places of public worship, and when there is none, then at the most central or public place of the Parish, Seigniorly or Township, for which such *procès verbal* shall be made, and immediately after such read-
- 45 ing, shall give public notice of the time when

Procès verbal to be publicly read, &c.

Notice of ap-

plication for its homologation. such *procès verbal* will be presented for confirmation, and of the name of the Justice of the Peace to whom it will be so presented; and that all persons interested therein may appear before such Justice of the Peace for the purpose of stating their reasons (if any they have), why such *procès verbal* should not be confirmed, and a copy of the said *procès verbal*, after it shall have been confirmed, shall be deposited in the keeping of such Overseer or Overseers, to be by them kept as a guide in the direction of the work, and for the information of all persons interested, to whom he or they shall give communication thereof, gratis, whensoever they shall require it; and every such Overseer shall deliver the said *procès verbal* and all other records and papers relating to his office, to his successor or successors in office; and every such *procès verbal* shall be deposited after its homologation, in the office of the Justice of the Peace who shall have homologated it, under a penalty of *twenty shillings* currency against any Justice of the Peace neglecting to do so.

Overseers to deliver *procès verbal* to their successors.

Penalty for non-deposit.

Fee for homologation.

Recital.

Certain *procès verbaux* to be null unless homologated.

XXXI. And be it enacted, That for such homologation the Clerk of such Justice of the Peace shall receive a fee of *ten shillings*.

XXXII. And whereas the erroneous construction put by certain Justices of the Peace upon the obligation of the Inspectors of Fences and Drains to prosecute the homologation of the *procès verbaux* by them made according to the requirements of the Act hereby repealed, has become prejudicial to opposants, and tends to impede the purposes of justice; Be it therefore further enacted, That any *procès verbal* drawn up under the authority of the Act hereby repealed, and concerning one or more localities, which shall not have been homologated before one or before two Justices of the Peace, shall be null and of no effect until it shall have been homologated conformably to the requirements

of the Act in that behalf, before the Justice or Justices of the Peace nearest to the residence of the persons interested in such *procès verbal*.

- 5 XXXIII. And whereas it is necessary to fix the time within which the work ordered in any *procès verbal* shall be done; Be it therefore enacted, That the Overseer or Overseers chosen to superintend the execution thereof, shall give public notice at the door of the church, or of any place of public worship, on the two Sundays next preceding the day they shall appoint as hereinafter set forth, after Divine Service in the forenoon, and when there is no place of worship, then at the most public place in the Settlement, Parish, Seigniorly or Township, of the day and hour when they will repair to the spot to cause the work to be begun and performed, whether it is to be done in common, or severally by the persons interested accordingly, as by the *procès verbal* it may have been appointed, and any person interested who shall refuse or neglect to repair to the spot on the day appointed, and to perform his share of the work within the time appointed by the Overseer, shall incur a penalty of *two shillings* currency for each and every day during which he shall have neglected to do and perform his share of the work; and when at the expiration of eight days from the time appointed for beginning the work, none of the persons interested shall have done it, the said Overseer may cause it to be done, and may recover the expenses from the parties in default, by prosecution before any Justice of the Peace, with costs; Provided always, that in cases wherein a work is to be performed in common, the Overseer may employ one or more men instead of such of the persons interested as shall have neglected to attend their duty, and may recover from every such person in default the amount disbursed in paying the men employed, by prosecution before a Justice of the Peace as aforesaid, with costs.

Time to be fixed within which the work is to be done.

Penalty for not performing the work accordingly.

Proviso: work may be done and the cost recovered.

Recital.

Allowance to
Road Survey-
ors, *Experts*,
&c.,

XXXIV. And whereas it is just to allow an indemnification to the Road Surveyors for the time they may employ in the execution of the duties hereby assigned them: Be it enacted, That there shall be allowed to every such Road Surveyor, employed by virtue of this Act, and to every *Expert*; and he shall be entitled to recover *six pence* for every hour he may be so necessarily employed, which shall be paid by the party in default or in the wrong, whether such party be that at whose instance he acted, or be the adverse party in cases of *travaux mitoyens*, (joint labour,) and when he shall have been called on for a water-course, outlet, rivulet, or other stream whatsoever, then the *six pence* per hour and all the expenses incurred for carrying into effect the notices and *procès verbal*, the copy and other expenses deemed necessary, shall be paid by all the persons interested in such water-course, outlet, rivulet, or other stream, and in either case shall be recovered with costs, in a summary manner, before a Justice of the Peace.

Provision for
the case where
the inhabitants
of two or more
Townships,
&c., shall be
interested in
any water
course.

XXXV. And be it enacted, That when the inhabitants of any two or more Parishes, Seigniories or Townships, shall be interested in the opening of any such new outlet or water course, or in the widening of any old outlet or brook, the matter in dispute shall be regulated on the requisition of any person interested therein in each of the said Parishes, Seigniories or Townships, by applying to the Road Surveyor of each Parish, Seignior, Township, or settlement, if he be not interested, and if he be interested, to an Overseer of Roads in each such place respectively, who shall, after having agreed upon the preliminary points of their operation, in the manner aforesaid, notify the persons of their respective Parishes, Seigniories or Townships, who are interested in the matter, in order that they may, (if they think fit) attend at the view of the spot, and give the Road Surveyor all the information in their

power, towards enabling them to do justice to the persons interested in the *procès verbal*, which they shall draw up after having observed the formalities hereinbefore prescribed, and they shall deposit the said *procès verbal* in the office of the Notary, (and if there be no Notary, then with the Justice of the Peace,) nearest to such outlet, water course or brook, and shall have a copy thereof made for each of the Parishes, Seigniories or Townships interested, which copy shall be deposited in the hands of the Overseer or Overseers whom they shall have chosen and named as above for conducting and superintending the performing and keeping up of the works: Provided that in all cases of difference of opinion and equal division of votes among such Surveyors, upon any point or matter submitted to them as hereinbefore enacted, they shall apply to the Surveyor nearest the place, and not interested in the matter in dispute, as an umpire, who shall have the casting vote; Provided always, that the Surveyors chosen and appointed as aforesaid, shall in the execution of their duties, act in the manner herein prescribed, respecting outlets, water courses and brooks, which are common to the inhabitants of one Parish, Seigniorly or Township only.

Proviso: as
equal division.

Proviso.

XXXVI. And whereas in certain cases great inconvenience might result from the performing of the work by the persons interested, by reason of their great number and the difficulty of the work: Be it therefore enacted, That on every such occasion the majority of the persons interested may cause the said work or any part thereof, to be performed by contract, each of them paying his share in money, according to an apportionment to be made by one or more persons conversant in the matter, which apportionment, before it shall go into operation, shall be ratified by one Justice of the Peace, after having been read during two successive Sundays, at the door of the Church, or of any place of public

Recital.

Majority of
those interest-
ed may have
the work per-
formed by
contract, after
public notice
and tenders.

worship in the Parishes, Seigniories or Townships concerned, immediately after divine service in the forenoon, each reading and publication being followed by a hand-bill posted at the door of the Church or other place of worship, making known to the persons interested the day and hour, and the place where such Justice of the Peace is to sit to take cognizance of the grounds of opposition, if any, to the ratification of such apportionment. 5

Surveyors to collect monies due from the parties interested.

XXXVII. And be it enacted, That it shall be the duty of the Surveyors appointed, with respect to every such outlet, water-course or brook, to collect such sums of money as each of the parties interested shall be liable to pay by reason of the said apportionment, with all expenses incurred therein, and in case of refusal or negligence on the part of any such person, to compel the payment thereof by suit before any Justice of the Peace resident in the place, with costs, including an allowance of *six pence* per hour to the said Surveyor for the time he shall have lost by reason of the said suit, and the disbursements he may have been obliged to make for the payment of a clerk, if it shall have been necessary for him to employ one. 15 20 25

Recital.

Parties may be required to cut down noxious weeds on their lands.

XXXVIII. And whereas the seeds of noxious weeds growing on the land or ground of one proprietor, or upon a common, are frequently driven by the winds and otherwise conveyed upon the lands and grounds of the adjoining proprietors, where to the injury of such proprietors, and their discouragement with respect to agricultural improvement, they grow:—Be it enacted, That it shall be lawful for any proprietor or occupier of land, at any time between the twentieth day of June, and the first day of the month of August, in each year, by verbal notice in the presence of one witness, or by notice in writing, left at the domicile of the person to whom it may be addressed, or in case of a 30 35 40

common in which several persons have shares or are interested, by notice published at the Church door of the Parish within which such common shall be situate, on a Sunday or Holiday, (*Fête d' Obligation*), immediately after Divine Service in the forenoon, to require any proprietor or occupier of any adjoining land, or a meadow not being then sown or under crop, or the persons having shares or being interested in common as aforesaid, to destroy or cut down all such noxious weeds, to wit.: those commonly called *marguerites*, also ranuncules, commonly called *marguerites jaunes*, and thistles, wild endive, (*chicorée*,) and *colonniers*, and all other noxious weeds whatsoever as may be then growing on such adjoining land or piece of ground, and if the weeds so required to be destroyed or cut down are not entirely destroyed or cut down at the expiration of four days from the date of such notice, then it shall be lawful for any Justice of the Peace, upon complaint duly made before him, and the oath of one credible witness other than the complainant, or on the confession of the party or parties complained of, to order in writing the proprietor or occupier, or other person or persons against whom such complaint shall be made, to pay day by day to the party claiming a penalty of *two shillings and sixpence* currency, for every day that any such weeds shall remain standing or growing from and after the time at which such notice shall have been served, with the cost and expenses incurred in obtaining such order, according to this Act; Provided always that such order shall be pronounced in a summary way.

Penalty for not cutting down the same.

Provided.

XXXIX. And be it enacted, That if any of the parties interested in the decision given or orders made by any Surveyor or Surveyors, by virtue of any of the provisions of this Act, relating to outlets, water-courses and brooks, as well such decisions or orders as concern only one Parish, Seigniorship or

Appeal given from the decision of Surveyors in certain cases: and proceedings on such appeal.

Township, as those which concern several shall deem himself aggrieved thereby, and shall be dissatisfied therewith, such party shall within eight days (reckoning from the day on which the *procès verbal* shall have 5 been publicly read as aforesaid, at the Church doors and other places of public worship, or public place) lay his complaint before a Justice of the Peace, neither interested therein nor related to any one so interested within 10 the degree prohibited by law in such cases, that is to say, within the third degree, and the said Justice shall before the expiration of the said term of eight days, summon the Surveyor or Surveyors to appear before him 15 and one other Justice of the Peace, not being interested in the matter in dispute or related to any one so interested within the degree aforesaid, some certain day, and to have with them *procès verbal*, which, as well as the 20 reasons in favour of or against it (if any there be) alleged by the parties or the witnesses, shall be maturely examined by the said Justices, and if it shall appear to them that the reasons alleged against the same are 25 insufficient, and that the requisite formalities have been observed, and that there has been no partiality or injustice or negligence in the conduct of the Surveyors, then the said *procès verbal* shall be ratified, and shall be executed according to the form and tenor thereof; and if on the contrary it shall appear to the said Justices, that there has been partiality or a want of exactness and diligence in examining the place, or that the work has not 35 been equitably apportioned according to the custom of the country, then three *experts* shall be appointed, one by the Plaintiff or Plaintiffs, another by the Defendant or Defendants, and the third by the said Justices of the Peace, and 40 if either of the parties shall refuse to name an *expert*, the said Justices shall name one instead of such party; and such *experts* after being duly sworn before a Justice of the Peace (who is hereby authorized to administer the necessary oath) shall proceed to view 45

Experts to be appointed and sworn.

the place concerning which the dispute shall have arisen, in the presence of the said Surveyors, and of the parties interested (who shall be duly notified by the said *expert*, at least eight days before such second view shall take place, by notice given at the door of the Church, or at the most public place in the Parish, Seigniority or Township where the parties interested, reside and the decision of the majority of the said *experts* whether it be to confirm or set aside the decision given by the Surveyors, shall be final and conclusive to all intents and purposes whatsoever; and if the said *experts* shall set aside the decision given by the Surveyors, or if they shall deem it advisable to change the direction of the water-courses, concerning which the dispute shall be, then the said *experts* shall make a fresh *procès verbal* which shall be confirmed by the Justices of the Peace; Provided always, that in every case of such appeal to the decision of the *experts*, the Surveyor by whom the *procès verbal* appealed from shall have been made, may cause the parties at whose requisition it was made, to intervene and defend such *procès verbal*, and to pay the costs attending the same, if it be by the fault of the said parties that it is defective, but if it shall appear that such defect shall have arisen from negligence or partiality of the Surveyors, then the said Surveyors shall pay the costs thereof, and the said Justices of the Peace shall homologate such *procès verbal*, if it be confirmed by such *experts*, and if it be disallowed, they shall homologate that made by such *experts*.

Proceeding if the *procès verbal* be set aside.

Proviso: certain parties may be called upon to intervene in such appeal.

XL. And be it enacted, That it shall be the duty of the Surveyors and overseers of highways, within the time limited in the foregoing section, to cause to be destroyed or cut down by the persons bound to make and keep in repair the highways and bye-roads in their respective divisions, all weeds growing on highways or bye-roads, in their whole width, to the fences inclosing such

Surveyors, &c. to cause weeds on highways to be cut down.

highways or roads, under the same penalties on the said Surveyors or overseers, and persons bound to make and keep and repair the said highways and bye-roads, as are provided in the Acts now in force for neglect or default in keeping such highways and roads in repair, and recoverable in the same manner. 5

Recital. **XLI.** And whereas it also frequently happens that animals dying of disease or otherwise remain exposed in fields and other places, whereby travellers are incommoded and exposed to danger, and dangerous disease may be produced; Be it therefore enacted, That the owners of any such animal of what kind soever, who shall refuse or neglect to bury the same at least three feet under ground, and to cover the same with two feet of earth at least, shall incur a penalty of not more than *ten shillings* currency, nor less than *five shillings* currency. 10 15 20

Dead animals to be buried.

Penalty.

Recital. **XLII.** And whereas it also frequently happens that animals dying of disease or otherwise, are thrown into brooks, rivulets and rivers, and whereas individuals are in the habit of carrying filth in summer, and more particularly in winter, into the brooks, rivulets and rivers, and upon ice of the said brooks, rivulets and rivers: Be it therefore enacted, That every person who shall be convicted, on the oath of the informer, or other credible witness, of having so thrown any such animal, or so carted any such filth (unless in or to a place appointed for that purpose by the competent local authorities) shall incur a penalty of not more than *twenty shillings* currency, nor less than *ten shillings* currency, in addition to all damages. 25 30 35

Penalty for throwing filth into brooks, &c.

Limitation of suits. **XLIII.** And be it enacted, That all fines and penalties incurred under this Act, may be sued for and recovered within three months after the offence may have been committed and not afterwards. 40

- XLIV. And be it enacted, That no Justice of the Peace, acting in obedience to, or under the authority of this Act, shall be entitled to any fee or emolument in any case
- 5 or under any pretext whatsoever; Provided always, that the following fees may be allowed and paid to such Clerk as he shall have been under the necessity of employing to assist him in the performance of the duties
- 10 with which he is charged by this Act; and that such Clerk or other person shall not be entitled to more than *one shilling* currency for every copy thereof, nor to more than *one shilling* currency for any subpoena, and *sixpence* currency for every copy thereof, nor to more than *one shilling and threepence* currency for enregistering any conviction, and shall be paid for drawing up any order in pursuance of such conviction, and for
- 20 every other paper writing made with relation to any prosecution instituted under this Act, at the rate of *six pence* currency for every hundred words and no more, which said fees, as well as allowances made to the witnesses,
- 25 shall be taxed by the Justice of the Peace before whom such prosecution shall have taken place, and the taxed account of such costs and allowance shall be annexed to the judgment and make part thereof, and no
- 30 Bailiff, Constable or Peace Officer employed in the execution of anything to be done in conformity to this Act, shall be entitled to more than *one shilling* currency for every league he shall be obliged to travel in the
- 35 performance of such duty, the distance travelled in returning not being reckoned nor to more than *one shilling* currency, for the service of any summons or subpoena, nor to more than *seven shillings and sixpence* currency for making a seizure under the authority of any order, or for levying any penalty under the authority of this Act: Provided always, that no Bailiff, Constable or Officer of the Peace, by whom
- 45 several summonses or subpoenas shall be served in one day at the requisition of the

No Justice to take fees.

But certain fees allowed to Clerks of Justices.

Fees and allowances to be taxed.

Proviso: as to Bailiffs, Peace Officers, &c.

same plaintiff and on the same road, shall be entitled to more than *one shilling* currency per league for the distance travelled to serve the same, the distance travelled in return not being reckoned as aforesaid; over and above 5 reasonable costs and charges for detaining or conveying any prisoner or animal.

How penalties not otherwise provided for may be sued for and recovered.

XLV. And be it enacted, That all fines, penalties and forfeitures imposed or incurred for offences against this Act, and not otherwise provided for, shall be sued and recovered on the oath of one credible witness other than the informer or prosecutor, or by confession of the defendant before any one Justice of the Peace for the District wherein 15 the offence shall have been committed, and shall be levied by warrant under the hand and seal of the Justice of the Peace before whom the conviction of the offender or offenders shall be had, and by seizure and sale 20 of the goods and chattels, and such penalty shall go to the informer or prosecutor, whether he be or be not interested.

XLVI. And be it enacted, That if there be any writ of *Certiorari* at any time heretofore 25 issued or at any time after the passing of this Act to be issued, for reviewing any decision of any Justice of the Peace, rendered upon any matter growing out of the Act repealed by this Act, or out of this Act, the Court out 30 of which such writ of *Certiorari* shall have issued shall determine the question summarily upon a motion to quash the said writ, and shall award costs to the successful party.

False swearing to be perjury.

XLVII. And be it enacted, That every 35 person who shall be convicted of having wilfully taken a false oath in a case wherein a Justice of the Peace in the due fulfilment of his duties, pursuant to this Act, may deem it necessary to administer an oath, shall incur 40 the pains and penalties by law provided against wilful and corrupt perjury.

XLVIII. And be it enacted, That one copy of this Act, and no more, shall be forwarded to each of the Road Surveyors for his guidance in the performance of the duties hereby
 5 required of him; and that every such Surveyor upon retiring from office shall transfer such copy of this Act to his successor in office for his guidance; and that every such Surveyor who shall retire from office
 10 and refuse or neglect to transmit such copy to his successor in office for his guidance, shall incur a penalty of not less than *five shillings* currency nor more than *ten shillings* currency.

Copies of this Act to be forwarded to Road Surveyors.

15 XLIX. And be it enacted, That any contravention of this Act, whether by doing any thing hereby forbidden or leaving undone any thing hereby required to be done, and for which no other penalty is herein provided, shall be an offence by which the
 20 party guilty thereof shall incur a penalty of *fifty shillings* to be recovered with costs in the manner herein provided for the recovery of other penalties not exceeding
 25 that amount.

Penalty for contraventions not otherwise provided for.

L. And be it enacted, That a Justice of the Peace having under this Act cognizance of any offence may convict a party of such offence on the personal view of such
 30 Justice if the offence be committed in his presence; any law, custom or usage to the contrary notwithstanding.

Justice may convict on view.

SCHEDULE.

To

of

Take notice that you are hereby required to cut down, destroy and root out all the noxious weeds on your property, whether the same be thistles, *marguerites jaunes* or *marguerites blanches*, wild endive, *chicorée* or *cotonnier* or any other noxious

weed, within four days from this day, and in default of your so doing I do hereby summon and enjoin you to be and appear before
 Esquire, Justice of the Peace, at his house in
 at the hour of in
 the noon, on the day of
 being the day immediately following
 the said fourth day—then and there to show cause if any you have, why you should not be condemned to pay me *ten shillings* currency for the said four days and a further sum of *two shillings and six pence* for each succeeding day, during which any of the said noxious weeds shall remain on your said property, the said sum to be levied day by day by distress: Herein fail not.

(Date.)

(Signature.)

SCHEDULE.

Judgement of the Justice of the Peace.

Be it Remembered, that having upon the complaint of heard him and
 and examined the witnesses by them produced (or visited the spot and judged upon my own view as the case may be,) I do hereby acquit the defendant, or I do hereby enjoin and command
 to pay to the said

the sum of shillings and
 also a further sum of *two shillings and sixpence* for each succeeding day during which the noxious weeds specified in the annexed complaint shall not be cut down and destroyed, the said sum of *two shillings and sixpence* currency to be levied by distress day by day.

And these are to empower and command all Bailiffs and other Peace Officers to make such distress accordingly with costs taxed at the sum of

As witness my hand.

(Signature.)