



CAP. XXVI.

An Act to provide for the erecting of fences with gates across highways leading through the sand beaches and marshes in the County of Kent.

Passed 8th March 1836.

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, That when any proprietor or occupant of any marsh land or sand beaches in the County of Kent over which any highway or public road passes, shall think it necessary or expedient for the protection of such marsh land or sand beaches, that a fence or fences should be erected across such road or highway with a swinging gate or gates therein, and with a fence or fences extending into the water from the place or places where such road or highway may require fencing, (if the same shall be at or near the shore or river or other water), it shall be lawful for such proprietor or occupant to prefer a petition to any two Justices of the Peace in the said County, stating particularly the object and grounds of such application, and praying for permission to erect such fence or fences; upon the presenting whereof the said Justices are authorized and required forthwith, by order thereon endorsed, to appoint five substantial and disinterested freeholders of the said County, not resident in the Town or Parish in which such fence or fences is or are proposed to be erected, to be Commissioners to examine and report upon such petition, which Commissioners shall be sworn to the faithful discharge of their trust before the said Justices or either of them, a certificate of which shall be endorsed upon the same petition; and the said Commissioners shall thereupon proceed to view the said place or places where the said fence or fences are proposed to be erected, and to report thereon in writing to the then next Court of General Sessions of the Peace for the said County; and if it shall appear to the Justices of such Court from the report so made by the Commissioners or by any three of them, that it is necessary or expedient that the fence or fences prayed for should be erected, they are hereby authorized and required to make an order for the erection of such fence or fences with a good convenient swinging gate or gates in the same where such fence or fences cross the road, and to make such further order respecting the same as to them shall seem meet; and that it shall be lawful for the person or persons so petitioning, at his, her or their own expense, to erect such fence or fences with such swinging gate or gates agreeably to the direction of the said Court.

II. And be it enacted, That if any person or persons shall break or throw down, or in any way destroy any fence or fences so to be erected or any part thereof, or shall block up and fasten or stake open, or take down or destroy any gate or gates which may be erected by virtue or in pursuance of this Act, such offender or offenders shall upon conviction thereof before any one of His Majesty's Justices of the Peace of said County, upon the oath of one or more credible witness or witnesses, forfeit and pay the sum of twenty shillings for each and every offence; to be levied with cost of prosecution by warrant of distress and sale of the offender's goods, under the hand and seal of such Justice, directed to either of the Constables within the said County, and for want of goods whereon to levy the same, the offender or offenders shall be committed to the common goal of the County, there to remain for the space of five days unless the said sum with costs be sooner paid; which forfeiture when recovered shall be paid into the hands of the County Treasurer for the use of the County; and such offender or offenders shall be further liable for all damages sustained thereby, to be recovered with costs by action or actions at the suit of the party injured: Provided always, that if any gate or gates erected by virtue or in pursuance of this Act shall not be kept in good repair by the proprietor or proprietors thereof, at his, her or their own expense, he, she or they shall have no benefit of this Act.

III. Provided always and be it enacted, That whenever it shall appear to the said Justices in General Sessions by the report of any three or more of five Commissioners, (freeholders as aforesaid,) to be appointed and sworn in manner as aforesaid, that the reason for erecting any such fence or fences has ceased to exist, it shall and may be lawful for the said Justices in their General Sessions to order such fence or fences to be removed, and the proprietor or proprietors of such fence or fences shall not after such order have any further benefit or advantage from this Act, and the continuance of such fence or fences shall thereafter be considered and adjudged to be a nuisance upon the highway.

IV. And be it enacted, That this Act shall continue in force until the first day of April which will be in the year of our Lord one thousand eight hundred and forty.

CAP. XXVII.

An Act for the appointment of Firewards in the Parish of Woodstock.

Passed 8th March 1836.

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, That the Lieutenant Governor or Commander in Chief for the time being, is hereby empowered by and with the advice of His Majesty's Executive Council, from time to time, by warrant under his hand and seal, to appoint a sufficient number of prudent and discreet persons as Firewards, not exceeding nine, resident in that part of the Parish of Woodstock described as follows, (to wit:) commencing at James Upham's lower line and running up the river Saint John, to Charles Marvin's upper line or what is commonly called Lane's creek, thence back one mile and down until it strikes James Upham's lower line, and thence to the place of beginning; three of the Firewards shall reside at the upper corner, three at the creek, and three at the lower corner; who shall be sworn to the faithful discharge of their duty before one of His Majesty's Justices of the Peace of the County of Carleton, and a certificate thereof endorsed on the several warrants of appointment, for which warrants and certificates no fees shall be demanded or received from the person so appointed and sworn.

II. And be it enacted, That in order that the said Firewards may be distinguished from others when on duty at a fire and to enable them to communicate their directions with more facility, they shall each carry a staff seven feet in length, coloured red, and also a speaking trumpet painted white, with the name of the Parish and district painted on it in black letters.

III. And be it enacted, That whenever a fire shall break out in the said district or part of the said Parish described in the first section of this Act, and during the continuance thereof, the said Firewards are hereby authorized and required jointly or separately to command assistance for extinguishing the fire and removing household stuff, furniture, books, public stores, goods and merchandise out of any houses, store houses and other buildings actually on fire or in danger thereof, and to appoint persons to take care of the same, and also to require assistance to prevent the further spreading of the fire in the said district and to prevent tumults and disorders in the same; and the said Firewards respectively are hereby required, upon the notice of fire breaking forth in the said district (taking their badges and trumpets with them), immediately to repair to the place and vigorously to exert their authority in requiring assistance, and to use their utmost endeavours to extinguish the fire and prevent its spreading, and to preserve and secure prop-

erty and effects both public and private, and due obedience is hereby required to be yielded to them, and each and every of them accordingly for that service as well by the person or persons having the charge or management of any engine or engines in the said district as all other persons whomsoever.

IV. And be it enacted, That for every refusal or neglect of any person to obey the order of any Fireward in performing any of the duties and services hereinbefore mentioned, such person shall forfeit and pay the sum of forty shillings, to be recovered upon conviction before any one of His Majesty's Justices of the Peace of the County of Carleton on the oath of a Fireward or any other credible witness, and levied by distress and sale of the offender's goods and chattels, and for want of sufficient distress such offender shall suffer ten days imprisonment unless the penalty and costs be sooner paid; which penalty when recovered shall be paid into the hands of the Firewards of the said district or their Treasurer for the time being, to be applied by them towards defraying the necessary expense attending the keeping the engine or engines of the said district in a proper state of repair and equipment, and any other necessary expenses attending the keeping of the Fire Company of the said district in a proper state of organization.

V. And whereas it is necessary that prompt and implicit obedience should at all times during the raging of a fire be paid to the directions of the Firewards; Be it enacted, That the said Firewards respectively, or any or either of them, shall have power, and they and every of them are hereby authorized when such necessity shall exist, to require and compel the persons present at any fire to fall in and form a line or ranks for the conveyance of water for extinguishing the fire; and to remain in such ranks as long as may be deemed necessary, and if any person present at a fire shall refuse to fall in or remain in any such rank when thereunto required by any Fireward, such person so offending shall for each and every offence forfeit and pay the sum of forty shillings, to be recovered, levied and applied in the manner specified and provided in and by the fourth section of this Act.

VI. And be it enacted, That the Firewards or any two or more of them are hereby authorized and empowered from time to time and at all seasonable times in the day time to enter into any house, shop or other buildings within the limits of the said district, and to examine and inspect the manner in which any stove or stove pipes are set up, placed, fixed or carried, or any hearths, fire places or chimneys constructed or built, and if such stove or stove pipes, or such hearth, fire place or chimney shall be found (in the opinion and judgment of the said Firewards or any two of them, and in case more than two be present, the major part of those present) so set up, placed, fixed or carried, constructed or built as to be dangerous, such Firewards are hereby authorized and empowered to give directions in writing to prevent the continuance of fire in any such stove or any such hearth, fire place or chimney, until the same shall have undergone such alterations as shall be pointed out in writing by the same Firewards, and any person or persons who shall disobey any such directions of such Firewards shall for each and every offence forfeit and pay the sum of three pounds, to be recovered and applied in manner aforesaid.

VII. And be it enacted, That the Firewards of the said district shall at any meeting to be for the purpose holden, nominate and appoint, by warrant under the hands and seals of them or the hands and seals of the major part of them present, a sufficient number of able and discreet men willing to accept, not exceeding twenty in number for each engine, being inhabitants of the said district or part of the Parish of Woodstock aforesaid, to have the care, management and working of the said engine or engines, tools and instruments for extinguishing fires which may happen within the same, and to remove and displace all or any of them from time to time, and to nominate and appoint others in their stead, and to fill up any vacancy which may happen at any time by death or removal or otherwise, and that the names of the said persons so appointed shall from time to time as the appointments shall be made be registered with the Clerk of the Peace in the said County upon the certificate of the said Firewards, and to be called the Firemen of Woodstock, and are hereby enjoined and required to be ready at a call by night as well as by day to manage, work and use the engine or engines, tools and instruments for extinguishing fires which may happen to break out within the said district.

VIII. And be it enacted, That it shall and may be lawful for the Firewards for the time being of the said district, at any meeting to be holden at which the major part of them shall be present, to make and establish such rules, orders and regulations in respect of the government, conduct, duty and behaviour of the said Firemen in working, managing, exercising, trying and using the engine, tools and instruments, and to impose and establish such reasonable fines and penalties upon them or any of them for default or neglect of the duties and services thereby to be enjoined or required from them, as the said Firewards or the major part of them present met as aforesaid shall from time to time think meet, so that the fine or penalty shall not exceed in any one instance the sum of forty shillings, to be recovered and applied as in the fourth section of this Act; which rules, orders and regulations shall be notified to the said Firemen by putting the same up at the engine house, which engine house shall be erected near the new Episcopal church in said district.

IX. And be it enacted, That no person or persons shall carry fire into any mill or lath machine within the said district, or be allowed to use any fire in such mills or lath machines, except it be carried in well secured lamps or lanterns, and that any person or persons offending against the provision of this section shall be liable to forfeit and pay the sum of two pounds for each and every offence, to be recovered and applied as the fines in the fourth section of this Act.

X. And be it enacted, That the Justices of the Peace for the County of Carleton at any General Sessions of the Peace hereafter to be holden or the major part of them, be and they are hereby authorized and empowered to raise by assessment the sum of two hundred pounds for the purpose of purchasing an engine and various tools and instruments for the better extinguishing of fires which may happen in said district; such assessment to be made in due proportion upon all and every the person or persons who do or shall inhabit, hold, occupy, possess and enjoy any house, shop, mill, warehouse or other tenement or property liable to be consumed by fire within the said district; such sum to be assessed, levied, collected and paid in such proportion and in the same manner as any other County rates can or may be assessed, levied, collected and paid under any Act or Acts in force in this Province for assessing and levying and collecting of rates in this Province for public charges.

XI. And be it enacted, That as soon after the passing of this Act as the same can be procured, every household in the said Town or Parish or in its immediate vicinity shall provide himself with two good leather buckets of sufficient size to hold two and a half gallons of water, with the name of the proprietor thereof painted on the side of each of the said buckets, to be kept always ready in some convenient place in his house, and shall also provide himself with two good and sufficient ladders, one to reach from the top of his house and the other to lay on the roof, and held at which shall extend down the roof until it meets the ladder standing on the ground, which said ladder every such household shall keep stationary at his house in such convenient situation as will at all times afford a ready access to the top of his house when necessary; and that on every alarm of fire in the said district every household in the said district knowing of such alarm as above directed or cause the same to be carried to the place where the fire may be, to be there used as occasion may require; and every person of this Act imposed shall for every such offence forfeit and pay the sum of forty shillings, to be recovered and applied in like manner as the forfeitures mentioned in the fourth section of this Act are hereinbefore directed to be recovered and applied.

XII. And be it enacted, That this Act shall continue and be in force

until the first day of April which will be in the year of our Lord one thousand eight hundred and forty five.

CAP. XXVIII.

An Act to provide for the expenses of the Speaker and Members of the House of Assembly.

Passed 8th March 1836.

WHEREAS it is deemed expedient to provide for the services of the Speaker and defray the expenses of Members of the House of Assembly in attending to their Legislative duties;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That there be allowed, and paid out of the Treasury of the Province to the Speaker of the House of Assembly the sum of one hundred and fifty pounds for each and every Session of the General Assembly.

II. And be it enacted, That there be allowed and paid out of the said Treasury to each and every Member of the House of Assembly for defraying the expenses of attendance in General Assembly, for each and every day's attendance the sum of fifteen shillings per day, such attendance to be certified by the Speaker.

III. And be it enacted, That for defraying the travelling charges of Members there be allowed and paid out of the said Treasury the sum of fifteen shillings per day, allowing twenty miles for each day's travel, to be also certified by the Speaker.

IV. And be it enacted, That the several and respective sums of money hereinbefore mentioned shall be paid by the Treasurer by warrant of His Excellency the Lieutenant Governor or Commander in Chief for the time being, by and with the advice of His Majesty's Executive Council, out of the monies in the Treasury or as payment may be made at the same.

V. And be it enacted, That this Act shall continue and be in force for and during the continuance of the present House of Assembly and no longer.

CAP. XXIX.

An Act in amendment of the Act relating to Trespasses.

Passed 8th March 1836.

WHEREAS by an Act made and passed in the first year of the reign of His present Majesty, intituled, "An Act to repeal all the Acts in force relating to Trespasses, and to make more effectual provision for the same," it is enacted, that the Justices in their General Sessions of the Peace may have power to make regulations for preventing trespasses by horses, sheep, swine, goats, and neat cattle, but they are not empowered to levy a fine for any breach thereof, by reason of which the Act is ineffectual for the purposes intended;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the Justices in their General Sessions of the Peace shall be and are hereby empowered in addition to the sum to be paid to the hog-reeve and pound keeper for their services, to order and direct that a fine of five shillings be levied on the owner for each horse, swine, goat or neat cattle, and sixpence for each sheep found going at large, contrary to any regulations so made to be specified, in such regulations, which fines shall be collected by the pound keeper in the way he is directed to receive the fees of the hog-reeve by the third section of the Act of which this is an amendment, or by complaint to any Justice of the Peace, and when collected to be paid by the said Justice and pound keeper respectively into the hands of the overseers of the poor of such town or Parish for the use of the poor thereof.

II. And be it enacted, That all horses, swine, sheep, goats and neat cattle impounded by virtue of this Act, or by virtue of the third section of the Act of which this is an amendment, shall be advertised at least fourteen days, and if no owner appears to pay the said fine and charges for taking up, keeping and advertising, then the pound keeper shall publicly sell the same, rendering the overplus, after paying such fine and charges aforesaid, to the owners thereof, and if no owner appears in fourteen days after such sale to demand the same, then the said overplus to be paid to the overseers of the poor of such town or Parish for the use of the poor thereof.

CAP. XXX.

An Act to authorize certain persons to build a Bridge across the Kennebecasis river, in the Parishes of Hampton and Kingston in King's County.

Passed 8th March 1836.

WHEREAS the erection of a free Bridge across the river Kennebecasis near the present line of great road, would greatly increase the facilities for travelling and be of great public benefit; And whereas certain persons are willing and desirous of building such Bridge at their own expense on being legally authorized so to do;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That Azor Hoyt, Sylvester Z. Earle, Edwin Fairweather, Thomas Secord, Lyman C. L. Perkins, together with such other persons as may hereafter associate with them and their successors, be and they are hereby authorized to build a Bridge over the Kennebecasis river, in the Parishes of Hampton and Kingston, such Bridge to be erected near the house of Lyman C. L. Perkins in Kingston, commencing on land of persons named in this Act and crossing the said river to land of Thomas Secord also named in this Act, on the south side of the same river in the Parish of Hampton.

II. And be it enacted, That the said Bridge be built of good and durable materials and so constructed as to admit the free passage of the waters of the Kennebecasis river and the free and navigable passage for rafts, logs and timber at any season of the year, and the said Bridge to be at least twenty four feet wide.

III. And be it enacted, That the expenses of building the said Bridge shall be borne by the persons named in this Act and their associates, and when the same shall be finished it shall be free for all persons at all times to pass and repass over the same with their teams and carriages without any expense whatever.

IV. And be it enacted, That the said Bridge may be erected upon abutments to be placed at each end and with not more than six piers between the abutments, of such width and length as may be considered sufficient, provided however that the passage of the water shall not be obstructed more than sixteen feet by each pier, and that a space of not less than forty feet shall be left between the said piers.

V. And be it enacted, That the persons named in this Act and their associates shall make a sufficient draw or slide in the said Bridge for the passage of vessels navigating the said river Kennebecasis, with proper chains and pulleys for opening and closing the same.

VI. And be it enacted, That when the said Bridge and the draw or slide therein shall be fully finished and ready for use, the same shall become public property.

VII. And be it enacted, That a plan and specification of the said Bridge shall be submitted to the Supervisor of that district of the great road from Saint John to the Nova Scotia line in which Hampton Ferry lies, or in case of his sickness or absence to such other person as the Lieutenant Governor or Commander in Chief shall for that purpose appoint, and such Supervisor or other person as aforesaid shall approve of the plan and specification and of the site of the said Bridge before the same is commenced; and such Supervisor or other person shall and may from time to time as he shall see fit, inspect and examine the material and work of the said Bridge while the same is in progress and after the same is completed; and the said persons authorized to build the said Bridge shall not be deemed to have complied with the requisites of this Act until such Supervisor or other person as aforesaid shall have certified to the Lieutenant Governor or Commander in Chief, that the said Bridge has been built and completed in all respects according to the provisions of this Act.

VIII. Provided always and be it enacted, That if the said Bridge shall not be erected and completed within three years from the passing of this Act, then this Act and every thing therein contained shall be null and void.

CAP. XXXI.

An Act to incorporate the Saint Andrew's and Quebec Rail Road Company.

Passed 8th March 1836.

WHEREAS the construction of a Rail Road from Saint Andrews in the Province of New Brunswick to Quebec in Lower Canada would be of great public utility; And whereas it is deemed advisable to grant encouragement to such enterprising persons as may be desirous and willing at their own cost and charges to make and maintain a Rail Road in the direction aforesaid, by granting to them an act of incorporation;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the Honorable James Allanshaw, Colin Campbell, Beverly Robinson, John M. Master, John Wilson, Harris Hatch, Thomas Wyer, the Honorable William F. Odell, Alexander Rankin, James Rait, the Honorable Ward Chipman, Charles Simonds, Hugh Johnston, John R. Partelow, the Honorable Thomas Baillie, William Walker, James Douglas, Adam Jack, E. D. W. Ratchford, James W. Chandler,