

Statutes of Upper-Canada, Passed in the fourth session of the third provincial parliament (1803). From The Provincial Statutes of Upper-Canada: Revised, Corrected, and Republished (York, R. C. Horne, 1818.)

43 George III – Chapter 10

An Act to extend the Provisions of an Act passed in the thirty-fourth year of His Majesty's Reign, intituled, "An Act to restrain the, custom of permitting Horned Cattle, Horses, Sheep and Swine to run at large." (5th March, 1803.)

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That whenever any Horses, Cattle, Sheep or Swine, taken damage feasant, or running at large contrary to law, shall be impounded in the pound of any township, parish or place, it shall be the duty of the pound-keeper to feed the same, for doing which he shall be entitled to an allowance over and above his fees as pound-keeper, which allowance shall be from time to time regulated by the Justices in Quarter Sessions.

II. And be it enacted by the authority aforesaid, That in all such cases, the pound-keeper, within forty eight hours after the distress shall have been impounded, shall cause a notice thereof in writing to be affixed in three of the most conspicuous and frequented parts of the Township, parish, or place, which notice shall give a description of such distress, and specify when and where the said distress was intended to be sold; and if the owner of such distress, or some person on his behalf, shall not, within fifteen days after such notice shall have been so affixed, redeem the same by paying the charges of the pound-keeper, and also by paying or tendering the damages or penalty, if any, at the place where the pound is kept, it shall and may be lawful to and for such pound-keeper to cause such distress, or so much of the said distress to be sold, and after deducting in the first place his own charges, to pay the damages or penalty, if any, to the person entitled thereto, and after payment of such charges, damage or penalty, to return the surplus, if any, to the owner.

III. And be it further enacted by the authority aforesaid, That if the owner of any distress, or some person on his behalf, shall not appear, or shall dispute the amount of the damages claimed, it shall and may be lawful for the pound-keeper to apply to some neighboring Justice of the Peace, who is hereby authorised and required forthwith to summon three freeholders, to whom he shall administer an oath well and truly to assess the damages, and where the said freeholders shall not agree, the determination of the majority of them shall be conclusive as to such damages. Provided nevertheless, That nothing herein contained shall be construed or taken to restrain the owner of the distress from instituting any suit or suits in consequence of any distress or distresses to be

made under the authority of this Act, in which nothing shall be tried or called in question, except the legality of taking or impounding such distress or distresses.

IV. And be it enacted by the authority aforesaid, That from and after the first day of May next, it shall not be lawful for any person or persons residing in the several towns of York, Niagara, Queenston, Amherstburgh [Amherstburg], Sandwich, Kingston, or New-Johnstown, to have any Swine going at large in the said towns; and if any Swine belonging to any such person or persons, shall be found at large in any of the towns aforesaid, such person or persons shall for every such Swine forfeit and pay the sum of ten shillings, to and for the use of His Majesty, his Heirs and Successors, to be accounted for unto His said Majesty through the Commissioners of His Majesty's Treasury, for the time being, in such manner and form as His Majesty shall direct, to be recovered in a summary way, before any one of His Majesty's Justices of the Peace, either upon the confession of the party complained of, or upon the oath of one credible witness, which sum after the party shall be so convicted, shall be levied by distress and sale of the offender's goods and chattels, returning the overplus, if any shall arise upon such sale, to the party complained of, after deducting the said sum of ten shillings, and the charges of the sale.