

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Monday, the Second Day of October, 1758, and in the 32nd year of His Majesty's Reign.

32 George II – Chapter 14

An Act for preventing Trespasses.

Be it enacted by His Excellency the Governor, Council, and Assembly, and by authority of the same it is hereby enacted, in order to regulate fences, and to prevent damages being done to the proprietors of inclosed lands by unruly cattle, that all fences belonging to any inclosed lands shall be built or made with stone, pickets, boards, or posts and rails, or log fence, unless the lands are bounded by ponds, unfordable rivers or the sea; and such fences shall be, at least, four feet and an half high: And if any damage be done by breaking such inclosures, and destroying any of the product thereof by horses, sheep, hogs, and neat cattle, if such inclosures shall, at the time of such damage, be inclosed by a good and sufficient fence, agreeable to this law in the judgment of the fence viewer, who is hereby appointed to view the same, the owners of such trespassing cattle, shall pay to the party injured, the value of all such damages, to be ascertained, on the appraisement thereof, by three credible persons, living in the neighbourhood, being first sworn before one of His Majesty's Justices of the Peace of the county where such lands lie, truly to value the same; and in case the owner of the said cattle or hogs, shall refuse to pay the value of such appraisement, upon notice thereof given him, the injured party may have and maintain his action therefor, before any one or more of the said Justices, or before the Inferior Court of Common Pleas, according to the value of such damage.

And whereas the owners and proprietors of fields, lying and being adjoining to other inclosed fields, do neglect to fence in their proportionable part of such fields, be it enacted by the authority aforesaid, that the proprietor of any field, adjoining to another inclosed or improved, shall build up and maintain his part or proportion of fencing, with a good and sufficient pence of four feet and an half high, on that part of such land as is adjoining to his own; and in case he neglects so to do within the space of ten days after notice given him it may and shall be lawfull, and any one of the fence viewers, upon application being made to him, in such case is hereby impowered forthwith to cause such deficient fence to be railed or made, or otherways to repair any fence already made, if, in his judgment, the same is insufficient; and the person or persons that of right ought to build and maintain the same, shall pay double the costs and charges expended for the doing thereof; and in case of refusal, such fence viewers may recover the same by action on the case, according to the value in manner aforesaid. Provided always that no fence viewer shall be allowed more than three shillings per day, in his account, for his own trouble and time expended therein. And if any fence viewer, when notified, shall neglect his duty herein, he shall forfeit forty shillings for every offence.

And be it further enacted, that no swine shall be permitted to go at large within the streets, lanes, or suburbs of Halifax. And it shall and may be lawful for the hogreaves, so often as

they shall find any swine going at large within the streets, lanes or suburbs of the said town, to impound them, and as soon as may be, cause the same to be publicly cried, for which he shall be paid two shillings and six pence per head, and three pence per day for supporting each swine whilst impounded; and if the owner thereof doth not appear, or refuses, within three days, to claim the said swine, and pay the charges, that then the hogreaves are hereby authorized to sell such swine at publick auction, and after deducting all charges, the overplus shall be paid to the owner, when demanded.

And be it further enacted, that the surveyors of highways, by this Act appointed, shall have the care and supervisal of all the streets, lanes, and highways of the town and suburbs of Halifax, and are hereby impowered to prevent the same from being obstructed or incumbred, and to cause the same to be mended, at the charge of the proprietors of land bordering thereon: And they are hereby required to present all nuisances in the said streets, lanes, and highways, within the limits abovementioned, at the next General Quarter Sessions of the Peace, which is hereby impowered to proceed against such offences according to the laws of England in such cases made and provided.

And be it further enacted, that the Committee of the Assembly, to be appointed for that end, shall and are hereby impowered to nominate suitable overseers of the poor, two persons for clerks of the market, two persons for fence viewers, two persons for hogreaves, an four persons for surveyors of highways, to serve for the town of Halifax, till the sessions of the Supream Court, Court of Assize and General Goal Delivery, to be held in October next, at which time the Grand Jury of said court are hereby impowered to choose other meet persons to serve in their room, and so from year to year; and the said persons, so nominated or chosen, shall be sworn to the faithfull discharge of the duty of their several offices; and the person or persons who shall refuse to serve in the said offices to which they are respectively nominated or chosen as aforesaid, shall forfeit and pay the sum of forty shillings each, and the said Committee or Grand Jury are hereby authorized to nominate or choose other persons to serve in their stead.