

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Tuesday the 4th day of December 1759, and in the 33^d year of His Majesty's Reign.

33 George II – Chapter 14 (Session 2)

An Act in Addition to an Act, intituled, An Act for preventing Trespasses.

Whereas by an act made and passed in the thirty-second year of His Majesty's reign, intituled, "An Act for preventing Trespasses," it was enacted, "That it should be lawful to impound any swine going at large, within the streets, lanes, or suburbs of the town of Halifax;" and whereas no provision was therein made for inclosing ground for a pound;

Be it therefore enacted by His Excellency the Governor, council, and assembly, and by the authority of the same it is hereby enacted, that a pound shall be forthwith made of forty feet square, at the public expence, and that the grand jury of the supream court [supreme court], to be held in April next, shall appoint a keeper of the same.

And be it further enacted by the authority aforesaid, that if any damage shall be done by breaking any inclosures, and destroying any of the produce thereof, by any horses, sheep, goats, swine, or neat cattle, it shall and may be lawful for the person or persons whose fence or fences shall have been so broken, and whose inclosures shall have receive such damage, to cause the said horses, sheep, goats, swine, or neat cattle, to be impounded until the owner or owners of such trespassing cattle shall claim the same; and the keeper of the pound shall cause the same to be cried as soon as may be, in order that the person or persons injured may proceed against the said owner or owners of such horses, sheep, goats, swine, or neat cattle, refusing to pay the damages done by their said horses, sheep, goats, swine, or neat cattle, as is directed in the first clause of the act intituled, "An Act for preventing Trespasses," and the owner or owners of such horses, sheep, goats, swine, or neat cattle, shall pay to the keeper of the pound, over and above the damages which shall be adjudged to have been done by the said horses, sheep, goats, swine, or neat cattle, for the support of the same, for each and every day the same shall be impounded, one shilling for every horse, and head of neat cattle, and six pence for every sheep, goat, or swine. And if the owner of such horses, sheep, goats, or swine, or neat cattle, shall refuse to pay the same to the keeper of the pound, together with the charge of crying the same, within fourteen days after the same shall be impounded, the said horse or horses, neat cattle, sheep, goats, or swine, shall be publickly sold, and the money arising from said sale, after deducting therefrom the pay of the keeper from supporting them, and the damages done by the said horse or horses, neat cattle, sheep, goats, or swine, the remainder shall be paid to the owner, and if no owner shall appear, then to the overseers of the poor, for the use of the poor of the township of Halifax.

And whereas no provision is made by the said act for preventing any rescue of swine, horses, sheep, goats, or neat cattle,

Be it therefore enacted, that if any person or persons shall rescue any swine, horses, sheep, goats, or neat cattle, from any hogreave, or other person driving such swine, horses, sheep, goats, or neat cattle to the pound, the offender shall forfeit and pay for such rescuous, the sum of twenty shillings, over and above all damages that may be sustained by the trespass of such swine, horses, sheep, goats, or neat cattle; which penalty and damages shall be recovered by the oath of one credible witness, before any one of His Majesty's justices, and to be levied by warrant of distress, and sale of the offender's goods and chattels; and if any person or persons shall make any breach of the said pound, or shall by any other indirect means, deliver any swine, horses, sheep, goats, or neat cattle, out of the same, the person so offending, being duly convicted thereof before any two of His Majesty's justice of the peace, shall forfeit and pay the sum of five pounds, to be levied as aforesaid; and the said penalties for every such rescuous, and pound-breach, shall be paid to the church-warden and overseers of the poor, for the use of the poor of the town of Halifax, after deducting the charges of repairing any breach of the pound.

And whereas by the said act it was also enacted, "That the surveyors of highways should cause the streets, lanes, and highways of the town and suburbs of Halifax, to be mended at the charge of the proprietors of lands bordering thereon," but no provision is made by the said act for rating and levying such charges;

Be it therefore enacted, that if any such proprietor shall not, within fifteen days notice from the said surveyors, cause such part of the streets, lanes, and highways, as border on his lands to be levelled and repaired according to the directions of such surveyors, such person shall forfeit and pay such sum as shall be certified on oath, by such surveyors, to be necessary for such levelling and repairs; which sum shall, on such certificate, be levied by warrant of distress and sale of such proprietor's goods and chattels, to be issued by any one of His Majesty's justices of the peace; and when no goods or chattels are to be found, then and in such case the real estate shall be liable.

Provided, that if any person shall be rated by such certificate, in any sum exceeding twenty shillings, and shall think himself aggrieved, such person may appeal to the next general quarter sessions of the peace, which is hereby impowered finally to determine the same.

And be it further enacted, that the justices in their quarter sessions of the peace, in all other counties within the province, shall be impowered, and are hereby directed, to make regulations for preventing trespasses, by horses, swine, sheep, goats, and neat cattle, going astray, in manner as shall be most agreeable to the circumstances of such county or townships therein.