

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Thursday, First day of February, 1827, in the Eighth year of the Reign of our Sovereign Lord George the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith &c. &c. being the First Session of the Thirteenth General Assembly, convened in the said Province.

8 George IV – Chapter 26

An Act relating to Common Fields.

Whereas, great inconvenience has been felt by the proprietors of common fields, from individuals, or other proprietors of common fields, marking horses and cattle with a brand or mark, similar to that previously adopted, and used by such first mentioned proprietors, for remedy thereof:

I. Be it enacted by the Lieutenant-Governor, Council and Assembly, that from and after the passing of this act, every brand or mark adopted by the proprietors of any common field, in and by their regulations concerning such common field, or otherwise, for the purpose of branding or marking the horse or cattle, turned or to be turned into such common field, before the same shall be used for that purpose, shall be entered by such proprietors in a book, to be kept by the town clerk of the township or settlement wherein such field may be situate, who shall receive, for so recording the said mark, the sum of one shilling.

II. Provided always, and be it further enacted, that such town clerk, after entry of any such brand or mark, shall not so enter any other brand, or mark, similar thereto, under penalty of ten pounds, to be recovered by any person who shall sue for the same, by bill, plaint or information, in any court of record, to be applied, one half to the use of the person who shall so sue for the same; and the other half to the use of the poor of the township, parish or settlement, in which the office of such town clerk may be situate.

III. And be it further enacted, that if any proprietor or proprietors of any common field, or any person or persons by him or them, or any of them, duly authorized or appointed, shall brand or mark any horse or horses, ox or oxen, cow or cows, or other cattle whatsoever, for the purpose of turning them, or any of them, into any common field, with any brand or mark not duly entered or recorded by the town clerk, in manner aforesaid; or if any person or persons shall imitate, counterfeit or use, any such brand or mark so entered and recorded as aforesaid, for the purpose of marking or branding a horse, ox, cow, or any other beast of the description aforesaid, except such person or persons as may be authorised and entitled so to do, under and by virtue of the regulations of the proprietors of the common field, so having adopted and entered such brand or mark, with the town clerk as aforesaid, each and every person so offending or being accessory thereto, on conviction thereof, before any two of His Majesty's justices of the peace, for the county or district wherein the offence shall have been committed, shall, at the option of such justices, be adjudged, either to be committed to the common goal of such county or district, for a term not exceeding three months, nor

less than one month, and be accordingly committed by warrant, under the hands and seals of the said justices, or shall be adjudged to forfeit and pay a sum not exceeding five pounds, nor less than three pounds, with costs of suit, to be levied by warrant of distress, and sale of the offender's goods and chattles, and to be paid, after deducting such costs, to the overseers of the poor, for the use of the poor of the township, parish or settlement, wherein such offence shall have been committed.

And whereas, from the length of time now allowed by law, after notice given to persons holding lands adjoining such common fields, to repair their fence dividing their lands from such common fields, before a fence-viewer can legally proceed to cause such deficient fence to be repaired; great injury is often done to such common fields, for remedy whereof:

IV. Be it enacted, by the Lieutenant-Governor, Council and Assembly, that, the proprietor or proprietors of any field, adjoining to any common field enclosed and improved, in case his or their part of the fence dividing his or their land from such common field, shall become deficient or out of repair, shall immediately repair such deficiency, and make the same a good and sufficient legal fence, and in case he or they neglect so to do, within the space of three days after notice, given him or them; it shall and may be lawful, and any one of the fence-viewers, upon application being made to him in such case, is hereby empowered, forthwith to cause such deficient fence to be built up and repaired, if, in his judgement, the same be insufficient; and the person or persons that of right ought to repair and maintain the same, shall pay double the costs and charges expended for the closing thereof, and in case of refusal, such fence-viewer 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 herein. And if any fence-viewer, when notified, shall neglect his duty herein, he shall forfeit two pounds for each offence, to be recovered on due proof before any justice of the peace, for the county or district in which such lands shall lie; one half to the person who shall prosecute for the same, and the other half for the poor, of the township or place where the offence shall be committed.