

Ordinances of the Lieutenant Governor and Council of His Majesty's Province of Cape Breton passed in the year 1793. National Archives of the United Kingdom CO 219/1.

33 George III – Chapter 1

An Ordinance for Preventing Trespasses.

Be it Ordained and Ordered by His Excellency the Lieutenant Governor, by and with the advice and consent of His Majesty's Council, And it is hereby Ordained and ordered by the authority of the same that all fences to any inclosed Lands shall be made with stone Pickets. Boars or Posts and rails or log fence and such fence shall be at least four feet and a half high to be deemed a Lawful fence, and if any Damage be done by breaking any inclosures and destroying any of the produce thereof by any Horse, Sheep, Goats, Swine or Neat Cattle if such Inclosures shall at the time of such Damage be inclosed by a good and sufficient fence agreeable to Law, The owners of such Trespassing Cattle shall pay to the party injured the Value of all such Damage to be ascertained on an Appraisement thereof by three Credible Persons living in the Neighbourhood being first sworn before one of His Majesty's Justices of the Peace where such lands lay truly to Value the same and the Person or Persons against whom the said Trespass shall be committed shall and may impound the said Horses, Sheep, Goats, Swine or Neat Cattle and the Keeper of the Pound shall cause the same to be [illegible word] as soon as may be and if the owner or owners of such Horses, Sheep, Goats, Swine, or Neat Cattle shall neglect or refuse to pay to the Keeper of the Pound the Damages as aforesaid for the uses of the Person suffering by such Trespasses together with one Shilling per day for the Keeping of each Horse or Neat Cattle and Six pence per day for each Sheep, Swine or Goat together with the charges of Crying the same within fourteen days after the same shall be impounded the said Horses, Neat Cattle, Sheep Goats, or Swine shall be Publicly sold and the money arising from said sale after deducting therefrom the Damages aforesaid with the charges of keeping and Crying, 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 such Township.

And Whereas the owners and proprietors of Fields and Lands lying and being adjoined to other Inclosed Lands do neglect to fence in their proportionable part of such lands.

Be it therefore Ordained and Ordered by the authority aforesaid, That the Proprietor of any Inclosed field or Lands adjoining to others inclosed or improved, shall build or maintain his part or proportion of Fencing with a good and sufficient Fence of four and a half feet high on that part of such Lands as is adjoining to his own, and in case he neglects to do so within Ten days after notice given him. It shall and may be Lawful and any one of the Fence Viewers upon application being made to him is hereby empowered forthwith to make such deficient fence to be raised or made or otherwise to repair any Fence already made if the same is insufficient and the Person or Persons that ought of Right to Build or maintain the same shall pay double the costs and charges expended for the doing thereof Provided always that no Fence Viewer shall be allowed no more than three Shillings per day 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 it is hereby further Ordained and ordered by the Authority aforesaid that if any Person or Persons shall rescue any Swine Horses, Sheep, Goats or Neat Cattle to the Pound the offender shall forfeit and Pay for such Rescue, the sum of Twenty Shillings over and above all damages that may be sustained by the Trespasses which Penalty shall be recovered by the oath of one Credible witness before any one of His Majesty's Justices of the Peace and to be levied by Warrant of Distress and Sale. And if any other Person or Persons shall by any other indirect means deliver any Swine, Horses, Sheep, Goats or Neat Cattle out of the Pound the Person or Persons so offending shall upon Conviction before any two Justices forfeit and pay the Sum of Five pounds to be levied aforesaid, The Penalties aforesaid to be applied to the use of the Poor after deducting the charges of repairing any breach the offender may have committed.

4th It shall and may be Lawful for any Person whatsoever to take and Seize all Swine and Goats that are suffered to run at Large within the Streets and Suburbs of the Town of Sydney in case they are found Trespassing and upon proff thereof on the Oath of one Credible Witness before any one of His Majesty's Justices of the Peace the same shall be by him declared forfeited one third of the Value of which to be paid to the prosecutor and the remainder to and for the use of the Poor of the Town of Sydney and shall accordingly be disposed of by the said Justice for their use.

And Whereas there will not be any Court of General Sessions of the Peace untill the first Wednesday in September next and it being expedient that there should be immediately Fence Viewers and a Hogreve appointed to act untill the said General Sessions shall meet and nominate Proper Persons for such Purposes.

Be it therefore Ordained by the authority aforesaid that untill the next meeting of the said General Sessions, Francis Jones shall be and he is hereby empowered to Act as Fence Viewer for the Settlement on the North side of the North West branch of Sydney River and Daniel Watson shall be and he is hereby empowered to Act during the time aforesaid as fence Viewer for the Settlement on the South side of the said North West arm of the Sydney River, and Mark Cordice shall be and is hereby empowered to Act during the time aforesaid as Fence Viewer for the Settlement on the Westerly and Southerly side of the South West Arm of Sydney River And Peter Grant shall be and he is hereby empowered to act during the time aforesaid as Fence Viewer for the Settlement on the Easterly and Southerly shore of the said South West Arm of Sydney River. And Thomas Buchanan shall be and is hereby empowered to act during the time aforesaid as Fence Viewer for the Town of Sydney and John Wilson shall be and he is hereby empowered to Act during the time aforesaid as Hogreve and Pound Keeper for the Town of Sydney

And be it further Ordained and Ordered by the Authority aforesaid That the Grand Jury at the Court of General Sessions of the Peace to be held at Sydney on the first Wednesday in September annually shall nominate Six fence Viewers of whom the said Court shall appoint four or more to be fence Viewers for the Town and Neighbourhood of Sydney and shall also nominate Six Pound Keepers of whom the Court shall appoint a sufficient number in their discretion to be Pound Keepers in the aforesaid Town and its Neighbourhood and shall also nominate four Hogreves of whom the said Court shall appoint two or more to be Hogreves in the aforesaid Town and its Neighbourhood who shall be respectively sworn to the faithful discharge of their duty to continue

one year from the time of their refusal to accept or being guilty of any neglect or misbehaviour in the execution of the duty of their respective offices. they shall forfeit and pay for the use of the Poor of the said Town of Sydney the sum of Forty Shillings for every such refusal neglect or misbehaviour to be recovered by the Oath of one Credible Witness before any two of His Majesty's Justices of the Peace to be levied by Warrant of Distress and sale of the offenders goods and Chattels and if any Person so nominated and chosen shall leave said Town and the Settlement or happen to Die within the period for which he was Nominated and appointed to serve in any of the said offices in such case any two of His Majesty's Justices of the Peace shall and may nominate and appoint a fit Person or Persons to serve in such Vacant office untill another shall be nominated by the Grand Jury and appointed by the said Court of General Quarter Sessions at their meeting next ensuing such Vacancy,

Ordained and Ordered accordingly in Council the Second day
of July in the Thirty Year of
His Majesty's Reign –

(signed) Wm. Macarmick.

Passed in Council
July 2nd 1793 –

Signed D. Matthews P.

By His Excellencys Command.

Signed W. McKinnon
Secretary

a true Copy
W. McKinnon Secretary