

In case of death, leaving the province or change of town, two justices to appoint others.

or misbehaviour, to be recovered upon proof of such refusal, neglect or misbehaviour, by the oath of one credible witness, before any two of his Majesty's justices of the peace for the county where such town or parish is, to be levied by warrant of distress, and sale of the offender's goods and chattels, rendering the overplus, if any, after deducting the costs and charges of prosecution to the offender. And if any person so appointed shall leave the province, change the town of his residence, or happen to die within the period for which he shall be appointed to serve in any of the said offices, in such case any two of his Majesty's justices of the peace for the county shall and may appoint a fit person, who shall be sworn as aforesaid to the faithful discharge of his duty, and shall serve in such vacant office until another shall be appointed by such court of general sessions at their meeting next ensuing such vacancy.

Surveyors, &c. of hay, to be paid one penny per hundred and four pence per mile travel, by seller.

II. *And be it further enacted*, That the surveyors and weighers of hay, shall be paid for their trouble in viewing and weighing hay at the rate of one penny per hundred weight, and four pence per mile travel; if such travel exceed one mile to be paid by the seller.

In counties where the courts of sessions have been held this year before publication of this act, justices required to call special sessions for the appointment of officers aforesaid.

III. *And be it further enacted*, That in such of the counties in this province where the said court of general sessions of the peace has been already held in this year, or shall be held before the publication of this act, it shall and may be lawful, and the justices of the said sessions are hereby required to call and hold as soon as conveniently may be after the publication of this act a special sessions for the purpose of appointing the several officers as in and by this act is directed, which officers so appointed shall in all respects act, and be liable, as if they were appointed at the general sessions of the peace as herein before directed, and shall continue in their respective offices until other persons shall be appointed in their stead at the first general sessions of the peace to be held in such counties respectively, in the year of our Lord one thousand seven hundred and eighty-seven.

## CAP. XXIX.

### An ACT for preventing TRESPASSES.

Preamble.

**W**HEREAS sundry disputes have arisen and may arise between the occupiers of lands lying adjoining to each other respecting the fences and inclosures of the same.

Division fences to be erected, on notice, at the joint expense of occupiers of adjoining improved lands.

II. *Be it enacted by the Governor, Council and Assembly*, That the fences dividing improved lands belonging to any person or persons from improved lands belonging to any other person or persons, shall be built up, made and maintained at the joint and equal

equal expence of the occupiers of the said lands lying on each side of such fence or line whereon the fence is to be erected on notice from the occupiers of any such lands, to the occupier of such adjoining lands which fence shall be a good strong and sufficient fence and not less than four feet six inches high. And in case any person or persons occupying such lands on receiving such notice shall neglect or refuse so to do, within ten days after due notice given him or them, it shall and may be lawful to apply to any one of the fence viewers, who is hereby empowered to view such fence, or place where the same is proposed to be erected, and to cause such part as is deficient to be made, or otherwise to repair any already made if insufficient, and the person or persons whose right it was to build and maintain the same, or any part thereof, and shall have refused, or neglected so to do, shall pay all the costs, or charges arising from such default.

To be four feet  
6 inches high.

Fence viewers,  
on application,  
to cause fences to  
be made or repaired  
at the cost  
and charge of the  
delinquent party.

III. *Provided always*, That no fence viewer shall be allowed more than five shillings per day for his own trouble. And if any fence viewer shall when notified neglect his duty, he shall for every such offence forfeit the sum of twenty shillings.

Fence viewers  
allowed no more  
than 5s. per day.  
For neglect of  
duty to forfeit  
20s.

IV. *And be it further enacted*, That the justices in their quarter sessions of the peace shall and are hereby empowered to make such other regulations for preventing trespasses by horses, swine, sheep, goats, and neat cattle, as shall be most expedient and agreeable to the nature and circumstances of the several counties, towns, and parishes therein.

Courts of sessions  
to make other  
regulations to  
prevent trespasses  
by horses, &c.

V. *Provided always*, That the owner, or occupier of any wood, barren, or burn'd land, and not under any improvement but adjoining to improved or cultivated lands, shall not be obliged to erect, or make, or maintain any part of the fence dividing such wood, barren, burn'd or unimproved land, from lands so improved or cultivated, any law, usage or custom to the contrary notwithstanding.

Occupiers of  
unimproved land  
not obliged to  
make division  
fence.

VI. *And be it further enacted*, That when any damage shall be done by any horses, sheep, swine, goats, or neat cattle, by breaking any field or inclosure, fenced as aforesaid, and destroying the produce thereof, the owners of such trespassing cattle shall pay to the party injured the amount of such damages to be ascertained by appraisement of three credible freeholders where such lands lie, being sworn before a justice of peace, truly and impartially to value the same; and any such person or persons sustaining such injury may impound the said horses, sheep, swine, goats or neat cattle, and the pound keeper shall cause the same to be cried as soon as may be. And if the owners thereof shall neglect to pay such damages, as also to the pound-keeper one shilling per day for keeping each horse or neat cattle, and six pence per day for each sheep

Owners of the  
Sec. breaking in-  
to inclosures, to  
pay damages to  
be appraised by  
3 freeholders.

Horses, &c.  
found damag-  
e-  
sufficient to be im-  
pounded an field  
after 14 days no-  
tice to pay  
charges, &c.

Overplus, after deducting charges, &c. paid to owner, if known, if not, to overseers of poor.

Persons rescuing horses, &c. driving to pound, to forfeit 20s. over and above damages.

Persons convicted of pound breach or delivering horses, &c. impounded, to forfeit £3.

Towns or parishes to be provided with pounds.

sheep, swine, or goats, with charges of crying the same, within fourteen days after the same shall be impounded, such horses, cattle, sheep, goats, or swine, shall be publicly sold, or so many of them as may be necessary to defray the damages and charges, and the monies arising from such sale after deducting the damages and charges, shall be paid to the owner or owners thereof, and if no person appears, then to the overseers of the poor, for the use of the poor of such town or parish.

VII. *And be it further enacted*, That if any person or persons shall rescue any horses, cattle, sheep, goats, or swine, from any hogreeve or other person whatsoever, driving such horses, cattle, sheep, goats or swine, to pound, the offender shall forfeit for such rescue twenty shillings, over and above all damages that may be sustained by the trespass, which penalty may be recovered, before any one of his Majesty's justices of the peace, on the oath of one credible witness, and to be levied by warrant of distress, and sale of the offender's goods. And if any person or persons shall make a breach of any pound, or shall by any indirect means deliver any horses, cattle, sheep, goats or swine, so impounded, the person or persons so offending and every of them shall upon conviction before any two justices *quorum unus*, forfeit for every such offence three pounds, which said penalties shall be applied to the use of the poor after deducting damages, charges, and expense of repairing such pound breach.

VIII. *And be it further enacted*, That every town or parish shall be provided with a sufficient pound, or pounds, as shall be thought necessary for such town or parish or place, to be fix'd in the most convenient situation, as the justices in their general sessions shall think fit, and at the expense of the inhabitants of such town or parish, to be assessed and collected, as other town or parish charges are.

## CAPXXX.

### An ACT to prevent the BURNING Woods, by carelessly or wantonly FIRING the same.

Preamble.

I. **W**HEREAS the inhabitants of this province have frequently left fires burning which by communicating to the woods have done great damage not only to the proprietors of certain lands but also to the greater damage of the unlocated lands.

Persons convicted of kindling fires in

II. For prevention whereof, *Be it enacted by the Governor, Council and Assembly*, That from and after the publication of this

act