

CAP. VI.

An ACT to render Justices of the Peace more safe in the execution of their duty. Passed the 5th of March, 1807.

WHEREAS it is expedient that Justices of the Peace in this Province, who by virtue of divers Statutes and Acts of Assembly are authorized and required to convict persons of sundry offences in a summary way, should be rendered more safe in the execution of such their duty, Preamble.

I. *Be it therefore enacted by the PRESIDENT, Council and Assembly,* That in all actions whatsoever, which shall at any time after the passing of this Act be brought against any Justice or Justices of the Peace in this Province, for or on account of any conviction by him or them had or made, under or by virtue of any Statute or Act of Assembly in force in this Province, or for or by reason of any Act, matter or thing whatsoever, done or commanded to be done, by such Justice or Justices, for the levying of any penalty, apprehending any party, or for or about the carrying of any such conviction into effect, in case such conviction shall have been quashed, the Plaintiff or Plaintiffs in such action or actions, besides the value and amount of the penalty or penalties which may have been levied upon the said Plaintiff or Plaintiffs, in case any levy thereof shall have been made, shall not be intitled to recover any more or greater damages than the sum of *Two Pence*, nor any costs of suit whatever, unless it shall be expressly alledged in the declaration in the Action wherein the recovery shall be had, and which shall be in an Action upon the case only, that such Acts were done maliciously, and without any reasonable or probable cause. In actions against Justices of the Peace for or on account of any conviction, Or by reason of any thing done for carrying the same into effect. In case the conviction shall have been quashed, Plaintiff shall recover above the penalty, only *Two Pence* damages without costs, unless malice and want of probable cause be alledged.

II. *And be it further enacted,* That such Plaintiff shall not be intitled to recover against such Justice any penalty which shall have been levied, nor any damage or costs whatsoever, in case such Justice shall prove at the Trial that such Plaintiff was guilty of the Offence whereof he had been convicted, or on account of which he had been apprehended, or had otherwise suffered, and that he had undergone no greater punishment than was assigned by Law to such offence. Plaintiff shall recover nothing if it be proved at the trial that he was guilty of the offence for which he was convicted and had only suffered the legal punishment.

CAP. VII.

An ACT to prevent divers Misdemeanors in idle and disorderly Persons. Passed the 5th of March, 1807.

WHEREAS the unlawful cutting or taking away of corn and grain growing, robbing of orchards, gardens and other plantations, digging up, taking away or injuring fruit trees, breaking of pales or other fences, cutting or spoiling of woods or underwoods standing or growing, and such like offences, are now more commonly committed than in former times, and the said offences are Preamble.

great causes of the maintaining of idleness, and the persons who commit the same are for the most part unable to make satisfaction, for remedy whereof,

Persons unlawfully cutting and carrying away grain growing,

robbing orchards, gardens, or other plantations, or entering inclosures in the night with intent to rob, or cutting, breaking or throwing down fences, &c. or destroying or taking away materials prepared for erecting fence and their procurers, &c.

on conviction to forfeit not exceeding Five Pounds with costs of prosecution.

Half to the complainant, remainder to the Overseers of the Poor.

I. *Be it enacted by the PRESIDENT, Council, and Assembly,* That all and every person and persons who, from and after the passing of this Act, shall cut and unlawfully take away any corn or grain of any kind whatsoever, growing, or shall rob any orchards, gardens or other plantations of the fruit, vegetables, or other things therein growing, or in the night shall enter into any garden or other inclosure with intent to rob the same, or break or cut any hedge, pales, rails, or fence, or shall wantonly throw down the same, or cut up, destroy or take away any logs, rails, or other materials prepared for erecting any fence and their procurer and procurers, receiver and receivers, knowing the same, being thereof lawfully convicted by the confession of the party or by the testimony of one sufficient witness upon oath before any one of His Majesty's Justices of the Peace in and for the County, City or place where the offence shall be committed or the offender be apprehended, shall forfeit and pay such sum not exceeding *Five Pounds*, and within such time as such Justice shall order and appoint, together with costs of such prosecution, one moiety thereof to the party complaining and prosecuting the same to effect, and the other moiety to the Overseers of the Poor where the conviction shall be had.

Persons wilfully injuring fruit trees or cutting or spoiling woods, &c. or carrying away wood, or digging or carrying away stone without permission,

on conviction to make satisfaction at the discretion of a Justice.

II. *And be it further enacted,* That all and every person and persons, who shall hereafter dig, pull up, take away, or wilfully break or otherwise injure any fruit tree or fruit trees in any orchard, garden or elsewhere, or shall cut or spoil any woods, underwoods, poles, or trees standing, or shall take and carry away any wood that may have been felled, or may have been blown down, without the consent of the owner or owners thereof; or shall come upon the land of any person or persons and dig, quarry or carry away any Stone, being fit for building or other purposes, without the consent of the owner or owners thereof, and all and every person and persons aiding or procuring the same to be done, and being thereof lawfully convicted in manner aforesaid, before any one of His Majesty's Justices of the Peace as aforesaid, shall give to the party and parties complaining, such recompence and satisfaction for his and their damages, and within such time as such Justice shall order and appoint, together with costs and charges of prosecution.

Persons unable or refusing to make payment to be committed to gaol.

III. *And be it further enacted,* That when any person or persons convicted of any of the offences herein before mentioned shall be thought in the discretion of the Justice before whom such offender shall be convicted, to be not able or sufficient, or shall neglect or refuse to pay such sum or make such recompence and satisfaction in manner and form above mentioned, such Justice shall commit all and every such offender and offenders to the common Gaol or House of Correction of the County, City or place, there to remain without bail or mainprize, for a term not exceeding Thirty days, nor less than Five days.

Parents, guardians, and masters, made responsible for offenders underage.

IV. *And be it further enacted,* That the parents, guardians, or masters of all persons under age, who may be convicted of any of the offences aforesaid, shall be and hereby are made respectively liable to make good the damages and penalties adjudged to be paid by such offender or offenders, and in case of refusal or neglect, such offender or offenders, shall be committed as aforesaid.