

*Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1821.* Fredericton, NB: George K. Lugin, Printer to the King's Most Excellent Majesty, 1821.

2 George IV – Chapter 14

**An Act to amend the Laws now in force relating to Trespasses, and to make further regulations to prevent the same. Passed the 20th of March, 1821.**

Whereas the fifth and sixth sections of an Act made and passed in the forty-first year of the Reign of His late Majesty King George the Third, intituled "An Act to repeal all the Acts now in force relating to Trespasses, and for making new regulations to prevent the same," have been found ineffectual for the purposes intended thereby, and it is necessary to make new and further regulations for preventing trespasses:

I. Be it therefore enacted by the Lieutenant- Governor, Council, and Assembly, That the said fifth and sixth sections of the said herein before recited Act, be, and the same are hereby repealed.

II. And be it further enacted, That when any horses, sheep, swine, goats, or neat cattle, shall break into any field or inclosure under lawful fence, or into any of the islands or low lands in the respective Counties, contrary to any regulations made or to be made by the Justices of the Peace, in their General Sessions, under and by virtue of the third Section of the said herein before recited Act, or shall be found trespassing therein, the owner or owners of any such beast so trespassing, shall forfeit and pay to the use of the Poor of the Town or Parish where the lands lie, a fine of ten shillings per head for horses or neat cattle, and a fine of five shillings for each swine or goat, and a fine of one shilling for each sheep, so breaking or found trespassing as aforesaid, to be recovered, with costs of prosecution, before anyone of His Majesty's Justices of the Peace, and shall also pay to the party injured, the amount of any damages sustained by such trespass, to be ascertained by appraisement of three credible Freeholders where such lands lie, being sworn before a Justice of the Peace, truly and impartially to value the same, and the party injured may impound each and every such beast so trespassing, and the pound keeper shall cause the same to be advertised as soon as may be, in two of the most public places in the neighbourhood of the pound, and if the owner or owners thereof shall neglect to pay such fine, costs, and damages, and also to the pound keeper two shillings per day for each head of horses or neat cattle, and sixpence per day for each sheep, swine, or goat, with charges of advertising the same, within fourteen days after the same shall be impounded, such beast or beasts shall be publicly sold, or so many of them as may be necessary to defray the said fine, costs, damages, and charges, and the monies arising from such sale, after deducting the fine, costs, damages, and charges, shall be paid to the owner or owners thereof, and if the owner does not appear, then to the Overseers of the Poor, for the use of the Poor of such Town or Parish.

III. And be it further enacted, That if any person or persons shall rescue any beast or beasts so found trespassing as aforesaid, from any Hog-Reeve or other person whatsoever, driving such beast or beasts as aforesaid to pound, each and every offender shall forfeit, for such rescue, the sum of five pounds, over and above all damages that may be sustained by the trespass, which

penalty may be recovered before anyone of His Majesty's Justices of the Peace, on the oath of one credible witness, and levied by warrant of distress and sale of the offender's goods; and in case sufficient distress cannot be found whereon to levy the same, then such offender or offenders shall be committed to the common Gaol, or House of Correction of the County, there to remain, without bail or mainprize, for a term not exceeding fifteen days; and if any person or persons shall make a breach of any pound, or if any pound keeper or any other person or persons shall unduly or by any indirect means deliver or set at large any beast so impounded, such pound keeper or other person or persons so offending, and every of them, shall upon conviction before any two Justices Quorum Unus, forfeit for every such offence, ten pounds; and in case sufficient distress cannot be found whereon to levy the same, such offender or offenders shall be committed to the Common Gaol or House of Correction of the County, there to remain, without bail or mainprize, for a time not exceeding thirty days; and that the several penalties in this section mentioned, shall, upon recovery, be paid and applied, one half to the person prosecuting, and the other half to the use of the Poor, after deducting the charges and expenses of repairing such pound breach.

IV. And be it further enacted, That all good, strong, and sufficient fences, four feet six inches in height, shall be deemed and adjudged lawful fences under this Act. Provided always, that nothing in this Act contained shall prevent the provisions of this Law from taking effect in any case where it shall appear that the breach into any field has been made in a place where the fence is lawful. And provided also and be it further enacted, that in cases where it shall be made to appear that the trespass has been committed by breaking through that part of a division fence which the owner of the trespassing cattle or swine ought to keep in repair, the want of reparation or defect of such fence shall not be deemed, taken, or considered to be any excuse for such trespass; any thing herein, or in the herein before recited Act, to the contrary notwithstanding.

V. And be it further enacted, That the said herein before recited Act and all other Acts relating to trespasses, shall remain in full force, except as herein before altered and amended.