

CHAPTER 31.

AN ACT ascertaining the height of Fences, to prevent the evil occasioned by the multitude of horses, and restraining horse-rangers within this province, and to redress the great evil accruing to this province by the multiplicity of useless horses, mares and colts that run in the woods.

SEC. 1. *Be it enacted, by the King's most excellent majesty, by and with the advice and consent of his majesty's Governor, Council and Assembly of this province, and the authority of the same,* That all enclosures by fences or otherwise, within the intention of this act hereinafter mentioned, shall be five foot high; and from and after the first day of May till the next tenth day of November next, and so yearly and every year, all owners of any horse or horses, mares, colts and geldings, shall and are hereby obliged to keep all such horse or horses, mares, colts or geldings, within good and sufficient enclosures, fenced grounds or pastures, upon the pains and penalties hereafter following.

Enclosures to be five feet high, &c.

SEC. 2. *And be it further enacted, by the authority aforesaid, by and with the advice and consent aforesaid,* That if the owner or owners of any such horse or horses, mares, colts or geldings as aforesaid, shall omit to take up, drive in, and keep up all such horses, mares, colts or geldings, and that such horses, mares, colts or geldings, shall break into the pastures, corn fields, or other enclosures of any inhabitants within this province, within the time by this act limited as aforesaid, the said owner or owners thereof having notice or warning thereof given him, her or them, two several times by the party grieved, and notwithstanding the owner or owners of such horse or horses, mares, colts or geldings as aforesaid, neglecting to perform what is by this law enjoined and required, that then it shall and may be lawful for the person grieved and damnified, to shoot, kill or destroy any such horse or horses, mares, colts or geldings as aforesaid.

After notice horses may be shot, &c.

SEC. 3. *Provided always,* That no person whatsoever, though grieved or damnified, shall presume to shoot, kill or destroy, any such horse or horses as aforesaid, except upon his, her or their proper enclosed grounds, within his, her or their lawful possession, by lease for years, yearly rent, or other lawful tenure, upon the penalty of paying the owner thereof the full value of such horse, gelding, mare or colt so killed or destroyed, to be recovered by action of trespass, or action on the case, in any county court of this province.

Proviso.

SEC. 4. *And be it further enacted, by the authority aforesaid, by and with the advice and consent aforesaid,* That whenever any horse, mare or gelding, shall break into any corn-field, or other enclosure, and the owner be not known, that then, and in all such cases, it shall and may be lawful for the party aggrieved

Stray horses, how to be taken up, &c.