

A C T S

OF THE

General Assembly of Pennsylvania.

Passed at a Session which commenced October 14th, 1762,
and ended September 30th, 1763.

JAMES HAMILTON, LIEUTENANT GOVERNOR.

1763.

CHAPTER CCCCXC.

An ACT concerning cattle, horses and sheep, trespassing within this province.

WHEREAS the laws of this province heretofore made to prevent horses, cattle and sheep, from trespassing and breaking into lawful inclosures, have proved ineffectual: For remedy whereof, *Be it enacted*, That if any horse, mare, colt, cattle or sheep, after the publication of this act, shall trespass, by breaking into the inclosure of any person or persons within this province, the same being made according to the act, entitled, *An Act for erecting pounds in each township of this province*, every such person, being injured by such trespass, may seize and distrain such horse, mare, colt, cattle or sheep, and the same, so seized and distrained, may retain, until he shall recover and receive the damages sustained by such trespass, together with the costs of advertising, and reasonable charges for keeping such distress, in manner herein after directed.

Horses, &c.
trespassing:
to be dis-
trained.

II. *And be it further enacted*, That every person or persons, making such distress, shall, within the space of forty-eight hours after the same shall be made, give notice thereof to the owner or owners of such horse, mare, colt, cattle or sheep, if he; she or they can be conveniently found; but if not, then such person or persons, seizing or distraining such creature, shall, within three days after such distress taken as aforesaid, cause an advertisement of the marks, brands, stature and colour thereof, and of the place where the same may be found, to be affixed at the most frequented and

Method of
proceeding
with the
horses, &c.
distrained.

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public place of his, her or their township: And if, upon such notice or advertisement, such owner or owners shall appear, but neglect or refuse to make or tender a reasonable satisfaction to the party injured, for the damages sustained by such trespass, and in keeping the said creature, or if the said person or persons, so making such distress, shall not accept the said satisfaction, it shall and may be lawful for either of the parties aforesaid to complain and apply to any Justice of the Peace of the county, where such creature shall be seized and distrained as aforesaid, who shall, upon such complaint and application, issue his warrant, directed to two reputable and honest freeholders of the neighbourhood, commanding and enjoining them forthwith to view the said trespass, and to value, appraise and ascertain the injury and damage done to or within the inclosure aforesaid, having regard to the lawfulness of said fence, with the expense and costs of keeping the said creature, and to make report thereof to him, the said Justice, with all convenient speed; which said valuation and appraisement, and return, they, the said freeholders, are hereby enjoined and required to make accordingly. And if the said valuation and appraisement shall not amount to more than the sum of money tendered to the party injured, as a recompence for the damage done as aforesaid, before such complaint made, then the said Justice shall give judgment for the same only to the party refusing such tender, and award reasonable costs and charges to the other party, for the unjust vexation; but if the said valuation shall amount to more than the sum tendered, or if no such tender be made, then, and in that case, the said Justice shall award and give judgment for the valuation aforesaid to the party injured, with reasonable costs and charges for keeping the said creature so trespassing, against the other party, and shall award execution upon every such judgment, with costs of suit accordingly.

If no owners appear for trespassing creatures, they are to be advertised in the Pennsylvania Gazette, &c.

III. *And be it further enacted,* That if no owner or owners shall appear and make out his or their property in the said creatures, within two weeks after such advertisements shall be published in the townships aforesaid, the person or persons making such distress shall forthwith, under the penalty of five pounds, publish the like advertisement as aforesaid three times in the Pennsylvania Gazette, and shall and may make application, at the expiration of two months after the publication of the same advertisements, to the said Justice of the Peace, who is hereby authorized and required to issue his warrant to two honest and reputable freeholders, and cause them, upon their oath or affirmation, which he is hereby empowered and required to administer to them, to view, value and appraise the creature or creatures so distrained, and to ascertain the damage so done as aforesaid, with reasonable charges for keeping the said creature, and to make return thereof to him as aforesaid; upon which valuation and return, the property of and in the said creatures so valued shall become, and be held and taken to be, and is hereby vested in the person so making such distress; but so nevertheless, that he shall be answerable and accountable to the owner or owners aforesaid for the valuation money aforesaid, at any time afterwards, within the space of one year next after the publication of such advertisements last aforesaid, having first deducted thereout the costs of such pro-

ceedings, advertisements, and charges of keeping the said creature, with the damages so ascertained; but if the said owner or owners shall not appear, and demand the same, within the time limited last aforesaid, then the said person or persons so making such distress shall, upon demand made, pay all such overplus money to the Overseers of the poor of the township where he, she or they shall reside, for the use of the poor thereof, under the penalty of double the sum detained in his, her or their hands, contrary to the direction of this act. 1763.

IV. *And be it further enacted*, That if any such person or persons so distraining shall neglect to give such notice, as herein before is directed, or shall neglect to set up and publish such advertisements in the most public place of his, her or their township, he, she or they shall forfeit and lose all right or title, or pretence of right, to a recovery of any sum or sums of money for such trespass, or any recompence for the same; but shall deliver up the said creature so distrained to the owner or owners thereof, without any recompence, fee or reward whatsoever; and that one half of all the fines imposed by virtue of this act, shall be to the use of the owner or owners of such creature, and the other half thereof to the Overseers of the poor of the said township, for the use of the poor thereof, to be recovered by them, or either of them, in a summary way, as debts not exceeding five pounds are by law directed to be recovered.

Forfeiture on persons neglecting to give notice of creatures distrained &c.

V. *And be it further enacted*, That if any person or persons shall, knowingly and wittingly, keep and retain any horse, mare, colt, cattle or sheep, within his, her or their inclosures, for the space of forty-eight hours, without giving the notice, and publishing the advertisements aforesaid, every such person or persons shall forfeit and pay the sum of five pounds for every such offence, to be recovered and applied in manner aforesaid.

Penalty on keeping horses, &c. forty-eight hours without advertising them.

Passed 4th March, 1763.—Recorded A. vol. IV. page 407. (i)

(i) See the Notes to chap. 56, ante. pa. 14, and to chap. 158, ante. pa. 71.

CHAPTER CCCXC VIII.

An ACT for erecting a house of correction in the county of Lancaster.

WHEREAS it hath been represented to this House, by petition from a considerable number of the inhabitants of the borough and county of Lancaster, that they now, and for a long time, have suffered most grievously, as well by unruly disobedient servants, as by idle strolling vagrants from divers parts, who have taken shelter in that county and borough; that drunkenness, profane swearing, breach of the Sabbath, tumults, and other vices, so much prevail, that it is not in the power of the magistrates to suppress them, and preserve peace and good order, having no house of correction for the punishment of such offenders: And whereas the said county and borough of Lancaster have been erected and established since the