

oath, of all tea, coffee and china-ware by him or her sold or consumed after the tenth day of January next, and also to pay to said farmer, or his deputy, the duties by said act set on said commodities so sold or consumed, be the weight or value of what is sold more or less; anything in the first recited proviso of the before-mentioned act notwithstanding. And every person licen[s][c]ed as aforesaid, who shall presume to sell any of the before-mentioned commodities, and shall refuse or neglect to account with the farmer, and pay the duties required by this act, shall be subject for each offence to the penalty as if he or she should sell without licen[s][c]e, and shall be rendered incapable of renewing his or her licen[s][c]e to sell the same for the future; the penalty to be recovered shall be one half to the informer, and the other half to the farmer, and the manner of conviction shall be the same as of persons selling strong liquors without licen[s][c]e.

1754-55, chap. 16,
§ 6.

Provided, nevertheless,—

[SECT. 2.] That if any licen[s][c]ed person shall have purchased any of the commodities so sold by him or her, of any other licen[s][c]ed person who shall have paid, or secured to pay, the excise thereon, such licen[s][c]ed person so purchasing shall be exempted from paying any further excise thereon, provided he produce a certificate that the excise thereof is paid, or secured to be paid, as aforesaid.

Proviso.

And be it further enacted,

[SECT. 3.] That from and after the tenth day of January next, and during the continuance of said act, every person who shall apply to the court of general sessions of the peace in any county for licen[s][c]e to sell all or any of the said commodities, shall, before such licen[s][c]e be granted to him or her, be obliged to give bond, with sufficient sureties, for their well and truly paying the duties by said act set on said commodities, which by this act all licen[s][c]ed persons are obliged to pay. [*Passed January 2; published January 13, 1755.*]

Persons applying for licenses, to give bond.

CHAPTER 20.

AN ACT TO PREVENT DAMAGE TO ENGLISH GRAIN, ARISING FROM BARBERRY-BUSHES.

WHEREAS it has been found, by experience, that the blasting of wheat and other English grain, is often occasioned by barberry-bushes, to the great loss and damage of the inhabitants of this province,—

Preamble.

Be it therefore enacted by the Governour, Council and House of Representatives,

[SECT. 1.] That whoever, whether community or private person, hath any barberry-bushes standing or growing in his or their land within any of the towns in this province, he or they shall cause the same to be extirpated or destroyed on or before the tenth day of June, Anno Domini one thousand seven hundred and sixty.

Barberry-bushes to be extirpated on or before June, 1760.

Be it further enacted,

[SECT. 2.] That if there shall be any barberry-bushes standing or growing, in any land within this province, after the said tenth day of June, it shall be lawful, by virtue of this act, for any person whomsoever, to enter the lands wherein such barberry-bushes are (first giving three months' notice of his intention so to do, to the owner or occupant thereof), and to cut them down, or pull them up by the roots, and then to present a fair account of his labour and charge therein to the owner

Liberty after that time for any person to cut them down, provided, &c.

Provision in case owners or occupants neglect, &c.

or occupant of the said land; and if such owner or occupant shall neglect or refuse, by the space of two months next after the presenting said account, to make to such person reasonable payment as aforesaid, then the person who cut down or pulled up such bushes, may bring his action against such owner or occupant, owners or occupants, before any justice of the peace, if under forty shillings; or otherwise, before the inferior court of common pleas in the county where such bushes grew; who, upon proof of the cutting down or pulling up of such bushes, by the person who brings the action, or such as were employed by him, shall and is hereby, respectively, impowered to enter up judgment for him to recover double the value of the reasonable expence and labour in such service, and award execution accordingly.

Be it further enacted,

Actions may be brought as in cases of the like nature.

[SECT. 3.] That if the lands on which such bushes grow are common and undivided lands, that then an action may be brought, as aforesaid, against any one of the proprietors, in such manner as the laws of this province provide in such cases where proprietors may be sued.

Be it further enacted,

Surveyors of highways empowered to extirpate barberry-bushes standing in highways.

[SECT. 4.] That the surveyors of the highways, whether publick or private, be and hereby are impowered and required, *ex officio*, to destroy and extirpate all such barberry-bushes as are or shall be in the highways in their respective wards or districts; and if any such shall remain after the aforesaid tenth day of June, *Anno Domini* one thousand seven hundred and sixty, that then the town or district in which such bushes are, shall pay a fine of two shillings for every bush standing or growing in such highway, to be recovered by bill, plaint, information, or the presentment of a grand jury, and to be paid, one half to the informer, and the other half to the treasurer of the county in which such bushes grew, for the use of the county.

Be it further enacted,

Provision if such bushes grow in stone wall, or fence.

[SECT. 5.] That if any barberry-bushes stand or grow in any stone wall, or other fence, either fronting the highway, or dividing between one propriety and another, that then an action may be brought, as aforesaid, against the owner of said fence, or the person occupying the land to which such fence belongs; and if the fence in which such bushes grow is a divisional fence between the lands of one person or community and another, and such fence hath not been divided, by which means the particular share of each person or community is not known, then an action may be brought, as aforesaid, against either of the owners or occupants of said land.

Be it further enacted,

Owner or proprietor to pay for pulling up or destroying said bushes.

[SECT. 6.] That where the occupant of any land shall eradicate and destroy any barberry-bushes growing therein, or in any of the fences belonging to the same (which such occupant is hereby authorized to do, and every action to be brought against him for so doing shall be utterly barred), or shall be obliged, pursuant to this act, to pay for pulling them up or cutting them down, that then the owner or proprietor of such land shall pay the said occupant the full value of his labour and cost in destroying them himself, or what he is obliged to pay to others as aforesaid; and if the said owner or owners shall refuse so to do, then it shall be lawful for said occupant or occupants to withhold so much of the rents or income of said land as shall be sufficient to pay or reimburse his cost and charge arising as aforesaid.

Limitation.

[SECT. 7.] This act to continue and be in force until[1] the tenth day of June, one thousand seven hundred and sixty-four. [*Passed December 26, 1754; published January 13, 1755.*]