

and maintains the whole fence, together with his damage sustained by such neglect or refusal as aforesaid; saving always to every person and persons any particular agreement or agreements touching the making and maintaining of such divisional fence between their lands.

[SECT. 5.] All fines, penalties, forfeitures or payments accruing by virtue of this act from time to time, to be had, sued for and recovered in any court proper to try the same: *provided*, this act shall not extend to house-lots not exceeding ten acres, but if the owner or owners of such lots shall improve, his neighbour shall be compellable to make and maintain one-half of the fence between them, whether he improve or not.

Fines and penalties, where to be recovered.

Proviso for house-lots not exceeding ten acres.

Provided, also, that it shall and may be lawful, to and for the major part of the interests or propriety in any common or general field, to dissolve and lay down the same at pleasure; all the proprietors being first duly warned, and there being six months' time given before any such field is laid down. [*Passed June 21; published June 27.*]

Major part of the propriety in any general field to lay down the same at pleasure.

CHAPTER 13.

AN ACT TO PREVENT DEFAULT IN THE APPEARANCE OF JURORS.

WHEREAS the issues or fine set upon jurors for default of appearing and attending the service of the several courts of justice within this province whereto they are respectively summoned is by law limited unto twenty shillings, whereby persons most able and sufficient oft-times decline the service, choosing rather to incur and undergo so small a penalty, which may prove a general inconvenience, and tend greatly to the damage of particular persons, in cases of the greatest moment and concerne; for remedy whereof,—

Be it declared and enacted by the Lieutenant-Governour, Council and Representatives in General Court assembled, and by the authority of the same,

That it shall and may be lawful to and for the justices of the superior court of judicature, court of assize and general goal delivery, and the justices of the general sessions of the peace, and of the inferior court of common pleas respectively, to set reasonable fines upon jurors duely returned to serve in the said several courts, and making default, at the discretion of the said justices, not exceeding the sum of forty shillings each, and to cause the same to be levied, any law, usage or custom to the contrary notwithstanding. [*Passed June 22; published June 27.*]

CHAPTER 14.

AN ACT ESTABLISHING OF SEAPORTS WITHIN THIS PROVINCE, AND FOR ASCERTAINING THE FEES FOR ENTRING AND CLEARING OF VESSELS INWARD AND OUTWARD BOUND.

FOR the better preventing of undue and unlawful trading, and of frauds and abuses in the duties and impositions that are or shall be laid upon all goods, wares or merchandizes, wines, liquors, or other commoditys that shall be imported or exported out of this province, as also for the remedying and preventing the demanding and taking of excessive and unallowed fees,—

Disallowed by the privy council Oct. 22, 1700.