

to take up such horse, mare or gelding so trespassing, and the same to carry before the next magistrate, who shall be obliged to take an account of the marks of such beasts, both natural and artificial, which the person aggrieved shall set up in the most public places in the same county; and, until the owner shall be known, it shall and may be lawful for such injured person to use and employ such horses, mares and geldings, without incurring the penalties in this act hereinafter imposed, not injuring such beast by any careless or wilful means, which beast shall be delivered in good order to the person owning the same, proving his property, by the testimony of one witness, before any magistrate.

See 1769, ch. 18, and 1830, ch. 56, how estrays are to be advertised.

Penalty for taking, &c. other men's horses, &c.

SEC. 5. *And be it further enacted, by the authority aforesaid, by and with the advice and consent aforesaid,* That whosoever shall unlawfully, and without the knowledge and consent of the owner, take another man's horse, mare or gelding, and the same keep one hour in his possession, (except such horse, mare or gelding, be found a trespassing as aforesaid, and the owner not known,) and such horse, mare or gelding, shall, without consent aforesaid, occupy in any labour or travel, shall not only pay damages to the owner, but shall forfeit and pay the sum of five hundred pounds of tobacco, one half to the informer, the other half to the party grieved, to be recovered in any county court of this province by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law to be allowed.

SEC. 6. Inoperative, as the constitution recognizes no such officer.

SEC. 7, 8, 9, 10, 11. See preceding note.

Stoned horses to be kept in enclosures, &c.

SEC. 12. *And, whereas the extravagant multitude of useless horses, mares and colts, that run in the woods, are found very pernicious and burthensome to the inhabitants of this province, it is thought necessary that some suitable remedy be provided in that behalf; and therefore, Be it enacted, by the authority aforesaid, by and with the advice and consent aforesaid,* That from and after the end of this present session of assembly, all stoned horses shall be kept within good sufficient enclosures; and in case any stoned horse or horses that have been taken up and broke fit for use shall happen to be found loose, and out of such enclosures, it shall and may be lawful for any person or persons whatsoever to take up and impound, or cause to be taken up and impounded, in some open pound, and there to detain him, on the risk of the owner thereof, or cause him to be so detained, until the owner or owners of such horse, having speedy and convenient notice of such impounding, shall satisfy unto the person so impounding, or causing such horse to be