

shall be and are hereby declared to be the two other commissioners for the said county of Bucks, the said Simon Butler for the space of one year and the said Joseph Kirkbride [Junior] for the space of three years next ensuing the first day of October last, the not returning their or any of their names to the justices at their general quarter-sessions of the peace or any mistake or defect in their election or the manner thereof to the contrary in anywise notwithstanding.

Provided always, That nothing herein contained shall be deemed or understood to prevent the said Simon Butler from being elected a commissioner for the said county of Bucks on the first day of October next or at any other time in the manner directed by the said act for raising county rates and levies if the persons qualified to elect shall see fit so to do. And that in case of death or misbehavior of any of the said commissioners it shall and may be lawful to and for the other commissioners and assessors for the time being to elect another person to serve instead of the person so dying or misbehaving himself in the same manner as by the aforesaid act of assembly is directed, and that Benjamin Taylor, Richard Mitchell, Nathan Watson, John Dawson, Joseph Lupton and David Wilson, of Bucks county, yeomen, be and are hereby declared to be the assessors legally elected for the said county of Bucks, to serve as assessors for the year ensuing from the first day of October last, any neglect or defect in their election to the contrary in anywise notwithstanding.

Passed March 29, 1735. See Appendix XII, Section I, and note to the Act of Assembly passed March 20, 1724-25, Chapter 284.

CHAPTER CCCXXXVIII.

AN ACT TO PREVENT THE DAMAGES WHICH MAY HAPPEN BY FIRING OF WOODS.

Whereas by an act of the general assembly of this province passed in the twelfth year of the reign of King William the Third¹ it is enacted that whosoever shall presume to set on

¹ Passed November 27, 1700, Chapter 59.

fire any woods, lands or marshes in this province or territories before the first day of the first month yearly or after the first day of the third month shall make good all damages that shall thereby happen to any the inhabitants thereof. And whereas it hath on experience been found that the setting the woods on fire at any time hath proved rather hurtful than beneficial to this province and great losses have happened by occasion of such fires:

For prevention thereof:

[Section I.] Be it enacted by Patrick Gordon, Esquire, Lieutenant-Governor with the King's royal approbation under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the act of assembly hereinbefore recited and every clause and article therein be and is hereby repealed to all intents, constructions and purposes whatsoever.

[Section II.] And be it further enacted by the authority aforesaid, That whosoever shall presume at any time or times hereafter to set on fire or cause to be set on fire any woods, land or marshes whatsoever within this province, so as thereby to occasion any loss, damage or injury to any other person or persons, every such person or persons so offending shall be and are hereby declared liable to make satisfaction for the same in any action or actions on the case to be brought by the party or parties grieved in the court of common pleas in the county where the offense was committed.

[Section III.] Provided always, and be it further enacted by the authority aforesaid, That where the party injured shall not demand above forty shillings for his loss or damage, it shall and may be lawful to and for such person or persons to apply to any justice of the peace of the county where the offense is committed, who is hereby empowered and required by warrant under his hand and seal to cause the party offending to be brought before him or some other justice of the peace of the

same county, and if upon examination it shall appear to such justice by the testimony of one or more credible witnesses that the defendant is guilty of the charge exhibited against him, then the said justice shall issue forth his warrant to two or more substantial freeholders of the neighborhood, thereby commanding them in the presence of the defendant (if he will be present) to view the place or thing damnified or inquire into the loss sustained by the plaintiff, and to certify to the said justice upon their oath or affirmation what damage in their judgment the plaintiff hath sustained by occasion of the premises; and that upon return of such certificate to the said justice he is hereby empowered to grant execution for the recovery of the said damages, together with such costs of prosecution as is usual in the recovery of debts under forty shillings.

Provided also, That no costs of suits shall be paid to any plaintiff in any suit to be brought for any matter or thing in this act mentioned if the jury who shall try the cause do not assess above forty shillings damages, any law, custom or usage to the contrary in anywise notwithstanding.

Provided also, That where any offense shall be committed against the tenor of this act by any servant, negro or slave without the direction of his, her or their master or mistress respectively, and such offender be thereof duly convicted by the oath or affirmation of one credible witness before any justice of the peace of the respective counties, such offender or offenders, unless his or her master or mistress will pay the damages sustained with costs of suit, shall be whipped with any number of stripes not exceeding twenty-one on his or her bare back at the discretion of the justice before whom the party shall be convicted and further shall be committed to the workhouse of the county where the offense is committed, there to remain until the costs of prosecution shall be paid.

Passed March 29, 1735. See Appendix XII, Section I. Repealed by the Act of Assembly passed April 18, 1794, Chapter 1743.