

At the GENERAL-ASSEMBLY of the Province of *Nova-Scotia*, begun and holden at HALIFAX, on the Sixth Day of *June*, Anno Domini 1770, in the Tenth Year of the Reign of our Sovereign Lord GEORGE the Third, of *Great-Britain, France, and Ireland*, King, Defender of the Faith, &c. and there continued by several Prorogations until the Fifth Day of *June*, Anno Domini 1771, in the Eleventh Year of His said Majesty's Reign, being the Second Session of the Fifth GENERAL-ASSEMBLY convened in the said Province.

C A P. I.

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An ACT in Addition to an Act, made in the Thirty Second Year of His late Majesty's Reign, intituled *An Act relating to Wills, Legacies, and Executors, and for the Settlement and Distribution of the Estates of Intestates.*

32d. Geo. 2. Cap. 11.

**HEREAS** it is necessary that the Governor, Lieutenant Governor, or Commander in Chief, *W* as Judge of Probate of Wills and Testaments, and granting Letters of Administration, or their Commissaries or Judges of Probate appointed by them for that Purpose, should be armed with Authority to punish those Persons who refuse or neglect to attend at their Courts upon due Citation.

Preamble.

I. Be it Enacted, by the Governor, Council, and Assembly, That the Governor, Lieutenant Governor, or Commander in Chief as Judge of Probate or their Commissaries, or Judges of Probate by them appointed for that Purpose, be and are hereby fully authorised to call before him or them, and to require and administer an Oath unto any Person or Persons probably suspected by any Executor or Administrator, Heir, Creditor, Legatary, or other Person, having lawful Right or Claim to, or in such Estate to have concealed, imbezzled, or conveyed away, any Money, Goods, or Chattles left by the Testator or Intestate, for the Discovery of the same, and in Case any such suspected Person was intrusted by the Deceased, attended upon, or was otherwise conversant with, or near unto him

Judges of Probate authorised to call before them all Persons suspected of having Effects belonging to Testator or Intestate.

at the Time of his Sickneſs, or left in the Poſſeſſion of the Eſtate, where by to ſtrengthen and make the Suſpicion more violent, and ſhall reſuſe to acquit him or herſelf upon Oath, it ſhall and may be lawful for the ſaid Judge of Probate, or his Commiſſary, or Surrogate, to commit ſuch Perſon to reſuſing to ſwear unto the Goal of the County, there to remain until he or ſhe ſhall comply to diſcharge himſelf or herſelf upon Oath as aforeſaid, or otherwiſe be releaſed by Conſent of the Executors or Adminiſtrators, Heir, Creditors, Legatary, or other Perſon, having Right or Claim to, or in ſuch Eſtate.

may commit to  
Goal ſuch as reſuſe.

When Eſtate inſolvent, Diſtribution to be made as far as Effects will extend.

Appraiſement to be made.

Commiſſioners to be appointed to examine Claims of Creditors.

Notice given to all Perſons to bring in their Claims.

Saving unto the Widow Right of Dower.

II. And whereas great Difficulties have attended the Diſtribution of inſolvent Eſtates; in Order to remedy the ſame, Be it Enacted, That when the Eſtate of any Perſon deceaſed, ſhall be inſolvent, or inſufficient to pay all juſt Debts, which the Deceaſed owed, the ſame ſhall be ſet forth and diſtributed to and among all the Creditors, in Proportion to the Sums to them reſpectively owing, ſo far as the ſaid Eſtate will extend, ſaving that the Debts due to the Crown, the Expence of Sickneſs and neceſſary Funeral Charges of the Deceaſed are to be firſt paid, and the Executor or Adminiſtrator appointed to any ſuch inſolvent Eſtate, before Payment to any be made (except as aforeſaid) ſhall repreſent the Condition and Circumſtances thereof unto the Judge of Probates, who ſhall nominate and appoint two or more fit Perſons to make a true and equal Appraiſement of ſuch Eſtate, and adminiſter an Oath unto them for that Purpoſe; and appoint two or more fit Perſons to be Commiſſioners with full Power to receive and examine all Claims of the ſeveral Creditors, and how they are made out, and ſuch Commiſſioners ſhall cauſe the Times and Places of their Meeting to attend the Creditors for the receiving and examining of their Claims to be made known and publiſhed, by poſting up the ſame in ſome publick Places in the Shire Town of that County, where ſuch deceaſed Perſon laſt dwelt, or publiſhing the ſame in the publick News Papers, Three, Six, Twelve, or Eighteen Months (as the Circumſtances of any Eſtate may require) ſhall be allowed by the Judge unto the Creditors for bringing in their Claims, and proving their Debts; at the End of which limited Time ſuch Commiſſioners, ſhall make their Report, and preſent a Liſt of all the Claims unto the ſaid Judge, who ſhall order them meet Recompence out of the Eſtate for their Care and Labour in that Affair, and the Debts due to the Crown, Expence of Sickneſs, and neceſſary Funeral Charges as is herein before provided, being firſt deducted, ſhall order the Reſidue and Remainder of the Eſtate to be paid, and diſtributed to and among the other Creditors, that ſhall have made out their Claims in due Proportion to the Sums unto them reſpectively owing, according as the Eſtate will bear. Saving unto the Widow if any be, her Right of Dower according to Law in the Houſes and Lands of the Deceaſed. The Widow's Dower at the Expiration of her Term

to be also distributed among the Creditors in a-like Proportion; and no Judgement of Law (except for Debts due to the Crown, Expence of Sickness and Funeral Charges) shall be allowed against the Executors or Administrators of any insolvent Estate, so long as the same shall be depending; and if any Creditor shall not make out his or her Claim, before such Commissioners within the limited Time, such Person shall be for ever after debarred of his or her Debt, unless he or they can find some further Estate of the Deceased not before discovered and put into Inventory.

Saving unto any Person aggrieved at any Sentence, Order, or Decree made by the Commissary or Judge of Probate, Liberty of Appeal unto the Governor and Council, such Appellant giving Bond in a reasonable Sum with sufficient Security to prosecute his Appeal with Effect, and to abide and perform the Determination, that shall be made thereupon.

III. And be it further Enacted, That when the Goods and Chattels belonging to the Estate of any Person deceased, shall not be sufficient to answer the just Debts, which the Deceased owed, upon Representation thereof, certified under the Hand of the Judge of Probate with his Seal of Office to the Supreme Court, the said Court are hereby empowered to license, and authorize the Executors or Administrators of such Estate to make Sale of all, or any Part of the Houses and Lands of the Deceased, so far as shall be necessary to satisfy the just Debts, which the Deceased owed at the Time of his Death, and Legacies bequeathed in and by the last Will and Testament of the Deceased, and every Executor and Administrator being so licensed and authorized as aforesaid, shall and may by virtue of such Authority make, sign, and execute in due Form of Law, Deeds and Conveyances of such Houses and Lands, as they shall so sell, which Instruments shall make a good Title to the Purchaser, his Heir and Assigns for ever.

IV. Provided always, That the last Clause touching the Sale of real Estate, and Application to the Supreme Court, shall not be in Force 'till His Majesty's Pleasure therein is known.

No Judgment of Law to be allowed, except for Debts due the Crown, &c.

If Creditor does not make out Claim within limited Time, they are debarred.

Appeal by any Person aggrieved to the Governor & Council.

When Goods and Chattels not sufficient to answer Debts, Representation to be made to the Supreme Court for Licence to sell Lands.

## C A P. II.

An ACT in Amendment to an Act, made in the Thirty Second year of His late Majesty's Reign, intituled *An Act declaring what shall be deemed a Publication of the Province Laws.*

37 Geo. 2. Cap. 22.

It is Enacted by the Governor, Council and Assembly, That for the Future, Notice being given in the Nova Scotia Gazette, or other publick News Paper, or by affixing such Notice on the Church Door at Halifax, that any

Notice given in the Nova-Scotia Gazette or other News Paper, or affixing on Church Door the Title.