

An ACT for confirming Titles to Lands, and quieting Possessions.

*BE* it enacted by his Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby enacted, That all Persons claiming or deriving any Right or Title to any Lands or Tenements, by Virtue of any Grants or Deeds, entered in the publick Registry of this Province, or by Virtue of any Last Will or Testament, shall have, hold, and enjoy such Lands and Tenements, according to the Tenor and Effect of such Grants or Deeds registred, and of such Last Will and Testament, whether the Estate be in his or their own Right, or in Right of, or in Trust for another; and that all Possessions by Virtue thereof shall be, and are hereby confirmed, any want of legal Form in such Grants, Deeds or Wills, notwithstanding.

*Provided*, That no Papist hereafter shall have any Right or Title to hold, possess, or enjoy, any Lands or Tenements, other than by Virtue of any Grant or Grants from the Crown, but that all Deeds or Wills, hereafter made, conveying Lands or Tenements to any Papist, or in Trust for any Papist, shall be utterly null and void: And such Lands or Tenements shall not revert to the Persons granting the same to any Papist, or in Trust for any Papist, but such Lands or Tenements shall, upon Conviction of such Papist, be vested in His Majesty, His Heirs and Successors forever.

*And it is hereby enacted*, That before the Registry of any Grant or Deed of any Lands or Tenements, other than by Virtue of any Grant or Grants from the Crown, the Person or Persons to whom, or for whose Use such Grant or Deeds are made, shall take the Oaths appointed to be taken instead of the Oaths of Supremacy and Allegiance, and make and subscribe the Declaration before the Register of the Province or his Deputy, who are hereby impowered to administer the same: And if any Person shall refuse to take the said Oaths, and subscribe the said Declaration, the Grants or Deeds made to such Persons, shall be null and void to all Intents and Purposes whatsoever.

*And it is hereby further enacted*, That all Deeds of Sale of any Lands or Tenements, made by the Provost-Marshal, under Writs of Execution to him issued, for the Satisfaction of any Judgments, shall be and are hereby confirmed.

*Provided nevertheless*, That it shall and may be lawful for any Person or Persons, whose Lands have been taken in Execution, and sold as aforesaid,

said, his, her, or their Heirs, within Twelve Months from the Second Day of *October*, 1758, to sue for and recover, by Action in nature of an Action of Account, from the Person or Persons to whom the Persons intitled to such *Lands or Tenements* were indebted, and for Satisfaction of whose Debts the said *Lands or Tenements* have been sold as aforesaid, upon Payment in manner hereinafter directed, of the principal Money due, with Interest for the same, at the Rate of *Six Pounds* in the Hundred for each Year, and all Costs and Damages awarded or sustained by the said Judgments, and also for all Improvements of the said *Lands or Tenements*, and the Provost-Marshal's Proceedings thereon, with like Interest for the principal Money expended in such Improvements, upon a just Account to be taken of the same on any Trial for the Recovery of said *Lands or Tenements*, wherein a View, if required, shall be directed. And if upon such Trial, it shall appear in Evidence, that such Person or Persons to whom the *Lands* have been sold and conveyed as aforesaid, have committed wilful Waste thereon, or have received Rents or Profits from the said *Lands or Tenements*, the said Rents and Profits, and the Value of such Waste, shall be allowed in Account to the Person so suing for the Recovery of the said *Lands or Tenements*, and upon Payment of said principal Money and Interest, and of all Damages and Costs, for and on Account of such Debts and Improvements, or upon taking such Account of Rents and Profits, or the Value of such Waste, and Payment of the Ballance due thereon, before any Writ of Execution shall issue upon any Judgment upon such Trial, to the Clerk of the Court where such Trial shall be had; that then and in such Case it shall and may be lawful to award such Writ of Execution for delivering Possession of such *Lands or Tenements* to the Persons so suing for the same: *Provided*, That if upon such Trial it shall appear that the Rents and Profits received, or the Value of such Waste committed, or both of them do exceed the Value of the Debt, Interest, Costs, and Damages, and the Value of the Improvements, that Execution shall issue for recovering the said Sum so received in Rents and Profits, or the Value of such Waste committed, beyond the Value of such Debt, Interest, Costs, and Damages, together with the Possession of the *Lands and Tenements* so taken in Execution as aforesaid.

*Provided nevertheless*, That any Debtor or Debtors, or his or her Heirs, upon Payment or Tender of Payment, within Twelve Months after said Second Day of *October*, 1758, of the Consideration-Money really and *bona fide* paid by the last Purchaser or Purchasers under the Provost-Marshal's Deeds, of any *Lands or Houses*, with all Charges for necessary Repairs, or Alterations, shall and may be entitled to recover such *Lands and Houses*, so taken in Execution and sold by the Provost-Marshal as aforesaid.

*Provided also*, That it shall and may be lawful nevertheless, to and for any Debtor or Debtors, or his or her Heirs to have and prosecute an Action of Account, against his or her Creditor or Creditors *notwithstanding*.

*Provided also*, That all subsequent Deeds and Conveyances, made and executed by any subsequent Purchaser or Purchasers under the Provost-Marshal's Deeds, since the said Second Day of *October*, 1758, within the Space of One Year only, for any greater Sum than is expressed in such Purchaser or Purchaser's Deed of Assignment, shall and are hereby declared to be null and void to all Intents and Purposes whatsoever.

*Provided*

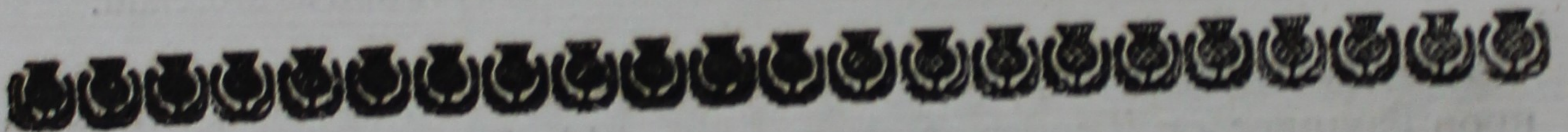
*Provided also,* That no Sale shall hereafter be made of any *Lands* or *Tenements*, by the Provost-Marshal, by Virtue of any Writ of Execution.

*Provided also,* That neither this Act, nor any Thing herein contained, shall extend, or be construed to extend, to bar the Title of any *Feme Covert*, or Person *non compos mentis*, *imprisoned*, or *in Captivity*; who shall be intitled to sue for and recover any such *Lands* or *Tenements* to which they are intitled, within One Year after such Impediment shall be removed.

*And be it further enacted by the Authority aforesaid,* That a Resolution or Act of the Governor and Council, dated the Third of February, 1752, concerning the Registry of *Lands* in this Province, and that all Registers, and all Proceedings thereon, shall be, and the same are hereby ratified and confirmed.

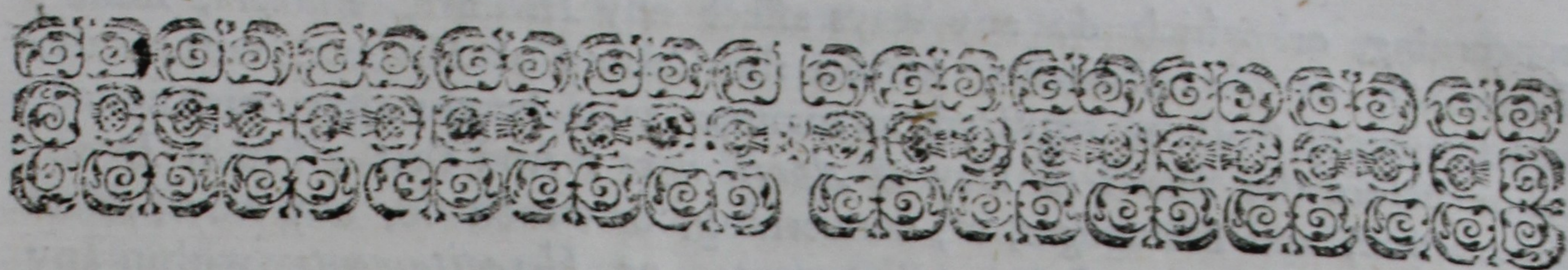
*Provided,* That the Register of Deeds and Conveyances in this Province shall, for the future, in lieu of any Memorial, register all Deeds and Conveyances in Words at full Length; for which he shall demand and receive such Fees for registering, as in like Manner hath heretofore been allowed: And that upon Proof of one credible subscribing Witness, to the due Execution of such Deed or Conveyance, the same shall accordingly be registered, without any other Ceremony, or Form heretofore used; any former Use or Custom to the contrary in any wise notwithstanding.

*And be it further enacted by the Authority aforesaid,* That if any Original Deed shall be lost, and Proof thereof in Court being made, that then the Registry or Record of such Deed or Deeds, shall be allowed to be good Evidence in any Court of Law or Equity, within this Province.



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The Resolution or Act referred to and confirmed in the foregoing Act, is as follows.

*I* N Council the 3<sup>d</sup>. February 1752, Resolved, That a Memorial of all *Deeds, Conveyances, and Mortgages*, which from and after the *First Day of March* next ensuing, shall be made and executed, of, or concerning, or whereby any *Honours, Manors, Lands, Tenements, or Hereditaments*, in the Province of *Nova-Scotia*, may be any ways affected in Law or Equity, shall be registred in such manner as is herein after directed, and that every such *Deed and Conveyance* that shall, at any Time, after the said *First Day of March*, in the Year of our Lord *One Thousand, Seven Hundred and Fifty Two*, be made and executed, shall be adjudged fraudulent and void, against any subsequent Purchaser for valuable Consideration, unless such Memorial thereof shall have been registred as by this Act is directed, before the registring the Memorial of the *Deed or Conveyance*, under which such subsequent Purchaser or Mortgagee shall claim.

That a Memorial of all *Deeds, Conveyances and Mortgages*, which shall have, before the *First Day of March* aforesaid, in the Year of our Lord *One Thousand Seven Hundred and Fifty Two*, been, at any Time, made and executed, of or concerning, or whereby any *Honours, Manors, Lands, Tenements, or Hereditaments*, within the Province of *Nova-Scotia*, may be any ways affected in Law or Equity, shall be registred in such manner, as is herein after directed, and all such *Deeds, Conveyances, and Mortgages*, which shall be omitted to be so registred, shall be null and void against any subsequent Purchaser for valuable Consideration.

That all such *Deeds, Conveyances, and Mortgages*, which shall have been made and executed before the said *First Day of March*, in the Year of our Lord *One Thousand, Seven Hundred, and Fifty Two*, (and which have not been already registred in the *publick Registry* of the Province) of,

concerning

concerning, or which do any ways affect any *Honours, Manors, Lands, Tenements, or Hereditaments*, within the County of *Halifax*, within the said Province, shall be registred in manner as is herein after mentioned, on or before the *Thirtieth Day of April next*: And that all such *Deeds, Conveyances, and Mortgages*, of, concerning, or which do, any ways, affect any *Honours, Manors, Lands, Tenements, or Hereditaments*, within any other Part of the said Province of *Nova-Scotia*, shall be registred in manner as herein after expressed, on or before the *Thirtieth Day of September next* ensuing.

*Provided always*, That in Case any Person or Persons, possessed of any such *Deed, Conveyance, or Mortgage*, made and executed before the aforesaid *First Day of March next*, shall not be within the said Province, before the Expiration of the respective Terms before-mentioned, such further reasonable Time shall be allowed for the Registring thereof, as the Governor and Council of the said Province shall think fit.

That the Memorials of the *Deeds, Conveyances, and Mortgages*, before-mentioned, shall be registred in the Office of the *public Register* of the Province at *Halifax*.

That all Memorials so to be entered and registred, shall be put into writing, and brought to the said Office, under the Hand and Seal of some or *One* of the *Grantors*, or of some or *One* of the *Grantees*, his or their *Heirs, Executors, or Administrators, Guardians, or Trustees*, attested by *two* Witnesses, *One* whereof to be *One* of the Witnesses to the Execution of such *Deed, Conveyance, or Mortgage*, which Witness shall, upon Oath before the Register for the said Province for the Time being, or his Deputy, prove the Signing and Sealing of such Memorial, and the Execution of the *Deed, Conveyance, or Mortgage*, mentioned in such Memorials, (which Oath the said Register for the Time being, or his Deputy, are hereby impowered to administer) and the said Register, or his Deputy, shall indorse a Certificate thereof, on every such Memorial, and sign the same.

*Provided nevertheless*, That if it shall so happen that both or all the Witnesses to any *Deed, Conveyance, or Mortgage*, by this Act required to be registred, shall be dead, or gone out of the Province, before the Expiration of the Time hereby directed for the Registring such *Deeds, Conveyances, and Mortgages*, then the said Memorial to be registred, shall be executed by some or one of the *Grantors or Grantees* named in the Original *Deed, Conveyance or Mortgage*, his or their *Heirs, Executors or Administrators*, in the Presence of *Two* other credible Witnesses, *One* of which Witnesses to such Memorial shall, on his Oath, before the said Register or his Deputy prove the Signing such Memorial by some or one of such *Grantors or Grantees*, his or their *Heirs, Executors or Administrators*, (which Oath the said Register or his Deputy are hereby impowered to administer,) and the said Register or his Deputy shall indorse a Certificate thereof, on such Memorial and sign the same.

That

*That every Memorial of any Deed, Conveyance, or Mortgage, shall contain the Day of the Month, and the Year when such Deed, Conveyance, or Mortgage, bears Date; the Names and Additions of all the Parties to such Deed, Conveyance, or Mortgage, and the Places of their Abode; and shall express or mention the Honours, Manors, Lands, Tenements, or Hereditaments, contained in such Deed, Conveyance, or Mortgage, and the Names of the Parishes, Townships, Hamlets, Precincts, or extra Parochial Places, within the said County, where any such Honours, Mannors, Lands, Tenements or Hereditaments, are lying or being, that are given, granted, or conveyed, or any way affected or charged by any such Deed, Conveyance, or Mortgage, in such manner as the same are expressed or mentioned in said Deed, Conveyance, or Mortgage, or to the same Effect.*

*And every such Deed, Conveyance, or Mortgage, of which the Memorial is to be so registred, shall be produced to the said Register or his Deputy, at the Time of entering such Memorial, who shall indorse a Certificate on every such Deed, Conveyance, or Mortgage, and therein mention the certain Day, Hour and Time, on which such Memorial is so entered, which Certificate, so indorsed, shall also be signed by the said Register or his Deputy.*

Which Certificates shall be taken and allowed as Evidence of such respective Registries in all Courts of Record in the said Province, and every Page of such Registry Books, and every Memorial that shall be entered therein, shall be numbered, and the Day of the Month, and the Year, and Hour or Time of the Day, when every such Memorial is registred, shall be entered in the Margins of the said Registry Books, and in the Margins of the said Memorials. And the Register or his Deputy shall keep an Alphabetical Calendar of all Parishes, extra Parochial Places and Townships, within the said County, with Reference to the Number of every Memorial that concerns the *Honours, Manors, &c.* in every such Parish, extra Parochial Place, or Township respectively, and of the Names of the Parties mentioned in such Memorial. And the Register or his Deputy shall duly file every such Memorial in order of Time, as the same shall be brought to the said Office, and enter or register the said Memorials in the same order as they respectively come to his Hands.

*That the Register for the Time being, or his Deputy, shall be allowed, for the Entry of every such Memorial, as is by this act directed to be registred, the Sum of One Shilling, and no more, in Case the same do not exceed Two Hundred Words; and if more, then after the Rate of Sixpence an Hundred for all the Words contained in such Memorial, over and above the first two Hundred Words: And the like Fees for the like Number of Words contained in every Certificate or Copy given out of the said Office, and no more; and for every Search in the said Office, one Shilling and no more.*

*That if any Person or Persons shall, at any Time, forge or counterfeit*

any Entry of the Acknowledgment of any such Memorial, Certificate or Indorsement, as is herein mentioned or directed to be made, and be thereof lawfully convicted, such Person or Persons shall incur and be liable to such Pains and Penalties, as in and by an Act of Parliament made in the Fifth Year of Queen Elizabeth, (intituled *An Act against Forgers of false Deeds and Writings*) are imposed upon Persons for forging and publishing of all false Deeds, Charters or Writings sealed, Court Rolls, or Wills, whereby the Freehold or Inheritance of any Person or Persons of, in, or unto any Lands, Tenements or Hereditaments, shall or may be molested, troubled or charged. And that if any Person or Persons shall, at any Time, forswear him or themselves, before the said Register for the Time being, or his Deputy, in any of the Cases herein mentioned, and be thereof lawfully convicted, such Person and Persons shall incur, and be liable to the same Penalties, as if the same Oath had been made in any Court of Record within this Province.

*That* in Case of Mortgages whereof Memorials shall be entered in the Register's Office as before mentioned pursuant to this Act, if at any Time afterwards, a Certificate shall be brought to the said Register or his Deputy, signed by the Mortgagee or Mortgagees, his, her, or their Executors, Administrators or Assigns, and attested by *Two* Witnesses, whereby it shall appear that all Monies, due upon such Mortgage, have been paid or satisfied in discharge thereof, which Witnesses shall, upon their Oaths before the said Register or his Deputy, (who are hereby respectively impowered to administer such Oath) prove such Monies to be satisfied or paid accordingly, and that they saw such Certificate signed by the said Mortgagee or Mortgagees, his, her, or their Heirs, Executors, Administrators, or Assigns, that then and in such Case, the said Register or his Deputy shall make an Entry in the Margin of the said Registry Books, against the Registry of the Memorial of such Mortgagee, that such Mortgage is satisfied and discharged, according to such Certificate to which the same Entry shall refer, and shall afterwards file such Certificate, to remain upon Record in the said Office.

*That* this Act shall be taken and allowed in all Courts within this Province, as a publick Act, and all Judges, Justices, and other Persons therein concerned, are hereby required to take such Notice thereof, without special pleading of the same.

