

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Monday, the Second Day of October, 1758, and in the 32nd year of His Majesty's Reign.

32 George II – Chapter 18

An Act for preventing Frauds and Perjuries.

Be it enacted by His Excellency the Governor, Council, and Assembly, and by the authority of the same it is hereby enacted, that from and after the first day of May in this present year, one thousand seven hundred and fifty nine, all leases, estates, interests of Freehold, or terms of years, or any uncertain interests of, in, or out of any messuages, lands, tenements, or hereditaments, made or created by livery and seisin only, or by parol, and not put in writing and signed by the parties so making or creating the same, or their agents thereunto lawfully authorized by writing, shall have the force and effect of leases, or estates at will only, and shall not, either in law or equity, be deemed or taken to have any other or greater force or effect, any consideration for making any such parol leases or estates, or any former law or usage to the contrary notwithstanding. Except nevertheless, all leases not exceeding the term of three years from the making thereof, whereupon the rent reserved to the landlord, during such term, shall amount unto two third parts at least, of the full improved value of the thing demised.

And be it also enacted, that no leases, estates, or interests, either of freehold, or term of years, or any uncertain interest of, in, to or out of any messuage, lands, tenements, or hereditaments, shall, at any time after the first day of May, be assigned, granted, or surrendered, unless it be by deed or note in writing, signed by the party so assigning, granting, or surrendering the same, or their agent thereunto lawfully authorized by writing, or by Act and operation of law.

And be it further enacted, that from and after the said first day of May, no action shall be brought whereby to charge any executor or administrator upon any special promise, to answer damages out of his own estate, or whereby to charge the defendant upon any special promise, to answer for the debt, default or miscarriages of another person, or to charge any person upon any agreement made upon consideration of marriage, or upon any contract or sale of lands, tenements, or hereditaments, or any interest in, or concerning them, or upon any agreement that is not to be performed within the space of one year from the making thereof, unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized.

And be it further enacted, that no contract for the sale of any goods, wares, and merchandizes for the price of ten pounds or upwards, shall be allowed to be good, except the buyer accept part of the goods so sold, or actually receive the same, or give something in earnest to bind the bargain or in part of payment, or that some note or memorandum in

writing of the said bargain be made, and signed by the parties to be charged by such contract, or by their agents thereunto lawfully authorized.

And be it further enacted, that from and after the said first day of May, all declarations or creations of trusts or confidences of any lands, tenements, or hereditaments, shall be manifested and proved by some Writing signed by the party who is, by law, enacted to declare such trust, or by his last will in writing, or else they shall be utterly void and of none effect. Provided always, that where any conveyance shall be made of any lands or tenements, by which a trail or confidence shall or may arise or result by the implication or construction of law, or be transferred or extinguished by an act or operation of law, then and in every such case, such trust or confidence shall be of the like force and effect, as the same would have been, if this Act had not been made; any thing herein before contained to the contrary notwithstanding.

And be it further enacted, that all grants and assignments of any trust or confidence, shall likewise be in writing, signed by the party granting or assigning the same, or by such last will or devise, or else shall be utterly void and of none effect.

And be it further enacted, that it shall and may be lawfull for every sheriff or other officer, to whom any precept or writ shall be directed, upon any judgment or recognizance, to do execution of all such lands, tenements, and hereditaments, as any other persons be seized or possessed of in trust for him against whom execution is sued, as if the party against whom execution shall be sued, had been seized of such lands, tenements, and hereditaments, of such estate as they be seized of in trust for him at the time of the execution sued, which lands, and tenements, and hereditaments, shall be accordingly held, freed from all incumbrances of such persons seized or possessed in trust. And if any ceflui que trust, shall die leaving a trust in fee simple to descend to his heirs, such trust shall be assets by descent, and the heir shall be chargeable with the obligation of his ancestor, as if the estate in law had defended to him. Provided that no heir, who shall be chargeable by reason of any estate or trust made assets by this law, shall by reason of any plea, confession of the action, or suffering judgment by nient de dire, or other matter, be chargeable to pay the condemnation cut of his own estate, but execution shall be sued of the whole estate so made assets, in whose hands soever it shall come after the writ purchased, in the same manner as by the commom law, where the heir pleading a true plea, judgment is prayed against him thereupon.

And be it further enacted, that any estate purauter vie, shall be deviseable by a will in writing signed by the party devising the same, or by some other person in his presence and by his express direction, attested and subscribed in the presence of the devisor by three or more witnesses; and if no such devise thereof shall be made, the same shall be chargeable in the hands of the heir, if it shall come to him by reason of a special occupancy, as Act is by descent, as in case of lands in fee simple; and in case there be no special occupant thereof, it shall go to the executors or administrators of the party that had the estate thereof by virtue of the grant, and shall be assets in their hands, and shall be subject to the payment of

legacies, and be distributable, after payment of debts, in the same manner as other estates of intestate persons are distributable by the laws of this Province.

And be it further enacted, that the first judge on the bench in any of His Majesty's Courts, shall sign every judgment without fee, and fee down the day of the month and year of his so doing, upon the paper or docket, which he shall sign; which day of the month and year, shall be also entered upon the margin of the record, where the said judgment shall be entered, and such judgments as against purchasers bona fide for valuable considerations of lands, to be charged thereby, shall, in construction of law be judgments only from such times as they shall be so signed, and shall not relate to the first day of the term whereof they are entered, or to the day of the return of the original or filing the bail.

And be it also enacted, that no satisfaction shall, at any time, be entered on the record of any judgment, upon the motion of any attorney, except the said attorney shall prove his warrant for acknowledging such satisfaction, by affidavit of one credible witness in writing, to be filed in the office where such judgment is entered.

And be it further enacted, that no Writ of Execution, shall bind the property of the goods of the party, against whom such Writ of Execution is sued forth, but from the time such Writ shall be delivered to the sheriff, undersheriff or coroner, to be executed; and the sheriff, undersheriff and coroners shall, upon the receipt of any such Writ, without fee, indorse thereon the of the month and year whereon they received the same.