

*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 32<sup>nd</sup> year of His Majesty's Reign.*

32 George II – Chapter 24

**An Act for Limitation of Actions, and for avoiding Suits of Law.**

Be it enacted by His Excellency the Governor, Council, and Assembly, and by the authority of the same it is hereby enacted, that all actions or suits, either in law or equity, at any time hereafter to be sued or brought, of or for any lands, tenements, or hereditaments, within this Province, whereunto any person or persons now hath or have any title, or cause, to have or pursue any such actions or suits, shall be sued and taken within twenty years next after the end of this present session of the General Assembly; and after the said twenty years expired, no person or persons, or any of their heirs, shall have or maintain any such action or suit, of or for any of the said lands, tenements, or hereditaments; and that all actions or suits, either in law or equity, of or for any lands, tenements, or other hereditaments whatsoever, at any time hereafter to be sued or brought by occasion or means of any title or cause hereafter happening, shall be sued and be taken within twenty years, next after the title and cause of action first descended or fallen, and at no time after the said twenty years, and that no person or persons that now hath any right or title of entry into any lands, tenements or hereditaments, now held from him or them, shall thereunto enter, but within twenty years next after the end of this present session of the General Assembly or within twenty years next after any other title of entry accrued.

And that no person or persons shall at any time hereafter, make any entry into any lands, tenements, or hereditaments, but within twenty years next after his or their right or title, which shall hereafter first descend or accrue to the same, and in default thereof, such person so not entering, and their heirs, shall be utterly excluded and disabled from such entry after to be made.

Provided nevertheless, that if any person or persons that is or shall be intitled, to such actions or suits, or that hath or shall have such right or title of entry, be, or shall be at the time of the said right or title first descended, accrued, come or fallen within the age of twenty one years, feme covert, non compos mentis, imprisoned, or beyond the seas, that then such person and persons, and his and their heirs, shall or may, notwithstanding the said twenty years be expired, bring his action or suit, or make his entry, as he might have done before this Act; so as such person and persons, or his or their heirs, shall within ten years next after his and their full age, discoverure, coming of sound mind, enlargement out of prison, or coming into this Province, or death, take benefit of, and sue for the same, and at no time after the said ten years.

And be it further enacted, that all actions of trespass quare clausum fregit, all actions of trespass, detinue, action of trover, and replevin for taking away of goods and cattle, all actions of account and upon the case, (other than such accounts as concern the trade of

merchandise, between merchant and merchant, their factors and servants) all actions of debt, grounded upon any lending or contract without specialty; all actions of debt for arrearages of rent, and all actions of assault, menace, battery, wounding, and imprisonment, or any of them which shall be sued or brought, at any time after the end of this present session of General Assembly, shall be commenced and sued, within the time and limitation hereafter expressed, and not after; (that is to say) the said actions upon the case, (other than for slander) and the said actions for account, and the said actions for trespass, debt, detinue, and replevin for goods or cattle, and the said action of trespass quare clausum fregit, within three years next after the end of this present session of General Assembly, or within years next after the cause of such action or suits, and not after: And the said actions of trespass, of assault, battery, wounding, imprisonment, or any of them, within six months next after the end of the present session of General Assembly, or within one year next after the cause of such actions or suit, and not after; and the said action upon the case for words, within three months after the end of the present session of General Assembly, or within six months next after the words spoken, and not after.

And be it further enacted, that if in any of the said actions or suits, judgment be given for the plaintiff, and the same be reverted by error, or a verdict pass for the plaintiff, and upon matter alledged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing by his plaint, writ, or bill; or if any the said actions shall be brought by original, and the defendant therein be outlawed, and shall after reverse the outlawry, that in all such cases the party plaintiff, his heirs, executors, or administrators, as the case may require, may commence a new action or suit from time to time, within one year after such judgment reversed or such judgment given against the plaintiff, or outlawry reversed, and not after.

And be it further enacted, that in all actions of trespass quare clausum fregit, hereafter to be brought, wherein the defendant or defendants shall disclaim, in his or their plea, to make any title or claim to the land in which the trespass is, by the declaration, supposed to be done, and the trespass be by negligence or involuntary, the defendant or defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntary, and a tender or offer of sufficient amends for such trespass before the action brought, whereupon, or upon some of them, the plaintiff or plaintiffs shall be enforced to join issue, and if the said Issue be found for the defendant or defendants, or the plaintiff or plaintiffs shall be non suited, the plaintiff or plaintiffs shall be clearly barred from the said action or actions, and all other suits concerning the same.

And be it further enacted, that in all actions of trespass, actions for assault and battery, and all actions for slanderous words, to be sued or prosecuted by any person or persons after the end of this present session of the General Assembly, if the jury, upon the trial of the issue in such action, or the jury that shall enquire of the damages, do find or assess the damages under forty shillings, then the plaintiff or plaintiffs in such action, shall have and recover only so much costs as the damages so given or assessed, amount unto, without any further increase of the same: And if more costs in any such action be awarded, the judgment shall be void, and the defendant acquitted from the same. Provided that if the judge at the

trial of any action of assault and battery, or action of trespass, shall certify under his hand upon the back of the record, that the assault was sufficiently proved, or that the freehold and title of the land, mentioned in the plaintiff's declaration, was chiefly in question, or that the trespass was voluntary and malicious, the plaintiff, in such case, shall recover his full costs, though the jury should find damages to be under forty shillings.

Provided nevertheless, that if any person or persons that is or shall be intitled to any such action of trespass, detinue, action of trover, replevin, actions of account, actions of debt, actions of trespass for assault, menace, battery, wounding or imprisonment, actions upon the case for words, be or shall be at the time of any such cause of actions given or accrued, fallen or come within the age of twenty one years, feme covert, non compos mentis, imprisoned or beyond the seas; that then such person or persons shall be at liberty to bring the same actions, so as they take the same within such times as are before limited, after their coming to, or being of full age, discoverd, of sane memory, at large, and returned from beyond the seas, as by other persons having no such impediment, should be done.

And be it further enacted, that if any person or persons, against whom there is or shall be any cause of suit or action of trespass, detinue, actions of trover or replevin, for taking away any goods or cattle, or of action of account, or upon the case, or of debt, grounded upon any lending or contract without specialty, of debt for arrearages of rent, or assault, menace, battery, wounding, and imprisonment, or any of them be or shall be, at the time of any such cause of suit or action given or accrued, fallen or become beyond the seas, that then such person or persons who is or shall be intitled to any such suit or action, shall be at liberty to bring the said actions against such person and persons after their return from beyond the seas, so as they take the same after their return from beyond the seas, within such times, as are respectively limited for the bringing of the same, by this Act.