

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 2

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 empowered 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, 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 intituled to such lands or tenements were indebted, and for satisfaction of whole 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 of 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 alignment, shall and are hereby declared to be null and void to all intents and purposes whatsoever.

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 registred, 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 loft, 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.