

*At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Tuesday the 4<sup>th</sup> day of December 1759, and in the 33<sup>d</sup> year of His Majesty's Reign.*

33 George II – Chapter 5 (Session 2)

**An Act to enable Proprietors to divide their Lands held in common and undivided.**

Be it enacted by His Excellency the Governor, council and assembly, and by the authority of the same it is hereby enacted, that the proprietors of any tracts of land within this province, held by them in common and undivided, shall and are hereby impowered (according to each stated proportion) to order, improve by fencing and diking [dyking], or divide in such way and manner as shall be concluded and agreed on by the major part of the interested present.

And be it further enacted, that when and so often as any five or more of the proprietors of such common lands shall judge a proprietor's meeting to be necessary, they may make application to a justice of the peace within the same county where such lands lie, from a warrant for the calling of a meeting, expressing the time, place, and occasion thereof; and such justice is hereby impowered to grant a warrant for meeting accordingly, directed to one of the proprietors, requiring him to notify the time and place of such meeting; which notification shall be published in the weekly news-paper, and posted upon some public place within the town or precinct where the lands lie, thirty days before the day appointed for the meeting; and such and so many of the proprietors as shall be assembled and met accordingly, shall have power, by a major vote, to choose a clerk, to enter and record all votes and orders that from time to time shall be made and passed in the proprietors meetings, or their committees; which record shall be open for the inspection of any of the proprietors or their agents, when and so often as they shall require it; and the clerk or keeper of said record, and any time refusing such inspection, shall forfeit and pay the sum of five pounds for every such refusal, to be recovered in any of His Majesty's courts of record, for the use of the poor of the township: and the said clerk shall be sworn before one of His Majesty's justices of the Peace to the faithful discharge of his office; and the said proprietors as a committee for transacting the business of the proprietors, as also to pass orders for the managing, improving by fencing and diking, or dividing such common lands; the voices always to be collected and numbered according to the interests present where the same is known: provided always, that no other affairs shall be transacted at any meeting of the proprietors, that what is expressed in the warrant or notification for such meeting.

And be it further enacted, that when and as often as such proprietors shall agree upon a division of the whole or any part of their common and undivided lands, a schedule of the same shall be fairly drawn out, expressing the number, limits, and contents of each lot, and the name of the proprietor to whom the same is allotted, which shall be subscribed by the clerk and committee of the said proprietors, and shall be registered in the public registry of this province within six months after such division shall be made; and shall thenceforward be

as effectual to confirm the title of each proprietor to the said lands so registered, as if the same had been done by deeds of partition.

Provided always, that when any lands are to be laid out and survey'd for division, by order of the proprietors, such division shall always be made by lot, and any person or persons who shall be empowered, may draw for any absent proprietor or proprietors; and in case any of the absent proprietors shall neglect to empower some person or persons for that purpose, then, in such case, it shall be lawful for the major part of the proprietors present to appoint a person or persons to draw for such absent proprietor or proprietors.

Provided also, that when the number of proprietors in any grant shall not exceed ten, then and in such case, any one or more of the said proprietors present, may make the like application to a justice of the peace within the county where such lands like, and proceeds as is directed by this act, in the case where a greater number of proprietors are concerned.