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At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Twenty Eighth Day of *May*, Anno Domini 1765, in the Fifth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Seventeenth Day of *October*, 1767, in the Seventh Year of His said Majesty's Reign; being the Fifth Session of the Fourth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT in further Addition to an Act made in the Thirty Second Year of His late Majesty's Reign, intituled *An Act for the Establishment of Religious Public Worship in this Province, and for suppressing of Popery.*

32. Geo. 2. c. 5.

W H E R E A S by an Act made in the Thirty Third Year of His late Majesty's Reign, intituled An Act in Addition to an Act, intituled "An Act for the Establishment of Religious Public Worship in this Province, and for suppressing of Popery," no Provision is made for authorising the Assessment of the Inhabitants of St. PAUL'S in Halifax, for the Payment of such Sums as may be voted by the Parishioners for any extraordinary Repairs to the Church of St. PAUL'S in the Town of Halifax, or for the Use and Ornament thereof, or for the Salaries of an Organist, a Parish Clerk and Sexton, or for an Allowance to the Clerk of the Vestry, Be it therefore Enacted, by the Lieutenant Governor, Council, and Assembly, That the Church Wardens, Vestry, and Parishioners of the Parish of *St. Paul's*, shall meet Quarterly, that is to say, on the First Mondays in December, March, June, and September, Yearly, and

Preamble.

33. Geo. 2. c. 3.

The Church Wardens, &c. of *St. Paul's*, to meet Quarterly, and vote Money for Repairs, &c. of the Church,

(a) *Burn's Eccles. Law 2. Vol. P. 477.*
At every Parish Meeting, the Minister or other Rector or Vicar presides, Id. Ibid.
 (b) 1. *Bac. Abr. 373. Burn's Eccles. Law 1 Vol. 268, 269.*
 and for the Arrears of Salaries of the Organist, &c.

such Vote to be binding on all the Parishioners, not exempted by Law, (c) *Burn's Eccles. Law 2. Vol. 477.* and to be assessed by the Church Wardens and Vestry, and collected by the Church Wardens.

The Assessors to be assessed by three Parishioners to be appointed at the Meeting. (d) *Burn's Eccles. Law 1. Vol. 273.*

Appeal allowed to Persons aggrieved.

This and the former Acts to extend to all Churches which shall be erected hereafter.

and when so met may, by a Vote of the Majority (a) of such Parishioners then present, as pay Scot and Lot (a) by being assessed for paying any Contributions for and towards the Support of the Church of England, allot and order such Sums of Money as they may judge necessary (b) for and on Account of Repairs, and for the usual Goods, Stock, Furniture, Ornaments, and Bells of the Church, and for Arrears of Salary and other Allowances to the Organist, Clerk and Sexton of the same, and to the Clerk of the Vestry, and for all other necessary future Church Repairs, Goods, and Ornaments, as other Rates are directed to be levied, collected and received, by the afore recited Act or Acts; and likewise for half yearly Assessments and Payments of the future growing Salaries to the Organist, Parish Clerk and Sexton, and Clerk of the Vestry; which Vote or Votes shall be binding on all the Parishioners belonging to the said Parish Church of *St. Paul's*, and others dwelling in the said Parish, not exempted by Law from paying towards the Support of the Church of England (c); and shall be assessed by the Church Wardens and Vestry in just and equal Proportions on every Parishioner, according to their several Abilities, and shall be collected, levied, and received, by the Church Wardens as prescribed by the said Act.

II. *Provided always, and be it Enacted*, That the said Assessors shall not tax themselves (d), but they shall be assessed by at least three of the other Parishioners, who shall be named for that Purpose by the Parish at their Meeting for voting the Sums to be assessed.

III. *Provided also*, That if any Person shall think himself overrated or otherwise aggrieved, he may appeal for Redress in Manner prescribed by the afore recited Act, in Case the said Rate shall exceed the Sum of Five Shillings, or if any Sum be unduly levied upon the said Parishioners.

IV. *And be it further Enacted*, That when, and so often, as any other Church or Churches shall be erected within the said Town of *Halifax*, or any other Town or Towns of the Province, and that Church Wardens and Vestries shall be appointed in the same, that this Act and the said former Acts, and every Clause, Direction, Authority, and Power, in the same contained, shall extend and be in Force for all such Church or Churches, as may so hereafter be erected and established, in the same Manner as if the said Church or Churches had been expressly named in this and the said Acts as aforesaid.

C A P. II.

An ACT for Partition of Lands in Coparcenary, Jointenancy, and Tenancy in Common, and thereby for the more effectual collecting His Majesty's Quit Rents in the Colony of *Nova Scotia*.

***** *HEREAS* for the more speedy Settlement of the Province,
 * *W* * it became necessary to erect Townships in divers Parts of the Preamble.
 * * * * * same, and for inducing Persons to remove into the Province
 and become Settlers and Inhabitants of the said Townships, it
 was found requisite by Grants to the several Petitioners to convey, previous
 to their Arrival in the Province, certain Shares or Rights in the re-
 spective Townships, and inasmuch as the said Rights could not, without
 greatly retarding the Progress of the Settlements, be surveyed and set
 out to each respective Grantee by Metes and Bounds in Severalty, it was
 judged expedient to convey the Lands in the said Townships to the Per-
 sons named in the respective Patents as Jointenants or Tenants in Com-
 mon. And Whereas many of the Grantees have never arrived, or by
 themselves or others taken any actual Possession of their Shares in the
 said Townships, and yet by the Terms and Periods in the said Patents
 they are intituled and will long remain intituled to the said Shares, by Rea-
 son whereof numerous Inhabitants in the respective Townships having un-
 divided Parts are greatly oppressed and prejudiced, who on account of
 such Absentees cannot proceed to divide their Rights by private Deeds
 of Partition, nor can any Summons be legally served as against such Ab-
 sentees upon Writs of Partition, and for want of dividing the said Lands,
 a considerable Part thereof is wasted and destroyed by frequent Trespasses
 and otherwise, or lie uncultivated and unmanured, so that the Profits of
 the same are totally or in a great Measure lost, to the Injury of His Ma-
 jesty's Rights in the Quit Rents respectively reserved, as to the Means of
 levying the same, and tending to the Vexation of the Inhabitants, by be-
 ing liable to Suits for an Account of Profits demandable by one Tenant in
 Common against another, For Remedy whereof, Be it Enacted by
 the Lieutenant Governor, the Council, and Assembly, That upon the
 Petition of any one or more of the Inhabitants in each Town-
 ship, to the Supream Court, praying a Division of the Lands to
 the Proprietors in Severalty, according to their Shares and
 Rights, it shall and may be lawful for the said Court to award
 a Writ of Partition in the usual Form (a), to the Provost Mar-
 shal, to be executed by him or his Deputy, in the Prefence of two
 Justices of the Peace, in Manner following, *That is to say*, that
 in assigning the Shares in Severalty, in virtue of the said Writ of
 Partition, the Lands actually occupied and improved shall be set
 off and assigned to all such Proprietors respectively, who have so
 occupied and improved the same; and that in assigning the Rights
 to Lands unimproved, after Division thereof into Shares according

Eng. Stat. 8. & 9.
 Will. 3. c. 31. made
 Perpetual by 3. & 4.
 Ann. c. 18. Sect. 2.
 Upon Petition of
 any Inhabitant of
 any Township,
 the Supream Court
 may award a Writ
 of Partition,
 (a) Regist. Brev.
 Judicial. 20. a
 F. N. B. 137. R.
 to be executed by
 the Provost Mar-
 shal, in Prefence of
 two Justices.
 Lands actually im-
 proved by any Pro-
 prietors, shall be
 set off to them.

(b) Lit. Sect. 246.
Co. Lit. 167. a. b.

Shares to be ballotted for, and the Numbers drawn expressed in the Inquisition, and confirmed by the Court.

(c) Return of the Sheriff & Jurors by the Words of the Writ must be under their Seals.

Co. Lit. 168. b.
Provoft Marshal to give 40 Days Notice to the Occupiers of the Lands, &c.

Persons duly notified, and neglecting to appear, shall be defaulted,

and final Judgment for Partition given against the Persons present; and also against the Persons defaulted, unless they shew a probable Matter in Bar, within 15 Days.

(d) Co. Lit. 169. a.

In Case of Inequality, the Court may order a new Partition,

which shall bind all Persons, except Infants, &c.

(e) Lit. Sect. 258.

Co. Lit. 171. a.

(f) Lit. Sect. 256. 257. Co. Lit. 170. b. 171. a.

who may have a new Partition, upon shewing a probable Matter in Bar.

The like Relief for Absentees.

to the Number of Grantees in each Township, each Number shall be written on separate Papers and rolled up and placed in a Box (b), from whence each Grantee present shall, in the Order wherein he is named in the Patent of Grant to the Township, draw out one of the said Papers, in the Presence of the Jury attending the Provoft Marshal or Deputy Provoft Marshal; and the Number so drawn shall be expressed in the Inquisition by the Jury, and be accordingly assigned by the Provoft Marshal or Deputy Provoft Marshal and the Justices, in their Return of the Writ of Partition (c); which shall be confirmed by the Judgment of the said Court: And the said Provoft Marshal or his Deputy are hereby required to give due Notice to the Tenants or Occupiers of the Lands, or if they cannot be found, to the Wife, Son, or Daughter, being of the Age of Twenty One Years and upwards, of the Tenant or Tenants, or to the Tenant in actual Possession by virtue of any Estate of Freehold, or for Term of Years, or uncertain Interest, or at Will, of the Lands, Tenements, or Hereditaments, whereof the Partition is demanded, Forty Days before the said Provoft Marshal shall proceed to execute the said Writ of Partition; and if it shall appear to the said Court, upon Return of the said Writ of Partition, that any of the Persons notified neglected to appear, Judgment shall be given by Default as against them, and a final Judgment for Partition shall be given against such Persons as were present at the Time of executing the Writ; and if the Persons against whom the Judgment shall be so given by Default shall not, within Fifteen Days after serving them with Notice of the said Judgment, apply themselves to the said Court by Motion, and shew a good and probable Matter in Bar of the said Partition, the said Judgment by Default shall be confirmed, and final Judgment entered (d). *Provided neverttheless*, that if the Tenants or Persons concerned shall shew to the Court any Inequality in the Partition, the Court may award a new Partition to be made in Presence of all Parties concerned, if they will appear, notwithstanding the Return and Filing upon Record the former; which said second Partition returned and filed shall be good and firm for ever against all Persons, except Infants (e), *Femes Covert*. (f), Persons of *Non sane* Memory, who shall, within One Year after the respective Disabilities shall be determined, be intitled to apply to the said Court, and shew a good and probable Matter in Bar of the said Partition, in which Case the said Judgment shall be set aside and a new Writ of Partition shall be awarded, and executed in Presence of all Parties concerned, which Partition shall be final and conclusive against all Persons whatsoever. *Provided also*, That all Persons absent may, within One Year after such Judgment of Partition, to be publickly notified in the *Nova Scotia Gazette*, or any other publick News Paper, three Weeks successively, by their Agents or Attornies apply to the said Court, and alledge any good and probable Matter against the said Partition, and such new Partition and Judgment

ment shall be had as aforesaid; which shall conclude such absent Persons, and all other Persons claiming and deriving under the Grants so passed by His Majesty's Government, for the Settlement and Improvement of the Province. *Provided likewise*, that in such second Writs of Partition, no Lands that have been builded upon, ploughed, or otherwise improved *bonâ fide*, by the Proprietor intitled under the former Judgment of Partition, shall be devested out of such Proprietor, but that the Equality of Partition shall be made out of the unimproved Lands.

in the second Partition no Proprietor shall be devested of any Lands actually improved by him, but the Equality shall be made out of unimproved Lands.

II. *And be it further Enacted*, That no Plea in Abatement shall be admitted or received in any Suit for Partition, nor shall the same be abated by Reason of the Death of any Tenant; and that in all Cases where the former Judgment shall, upon Appeal, be confirmed, the Person or Persons so appealing shall be awarded to pay Costs.

No Plea in Abatement shall be admitted in Suits for Partition. The Appellee to pay Costs when the first Judgment shall be confirmed.

III. *And be it also Enacted*, That from and out of every several Share so to be allotted and assigned to each and every Proprietor, His Majesty's Quit Rents reserved and payable by every Grantee in the respective Patents named, shall be recoverable by the usual Process, and be levied out of the Profits and other extendible Goods and Chattels of such respective Share; and that this Act nor any Thing herein contained, shall extend or be construed to extend to impeach or prejudice His Majesty's Rights to the said Quit Rents, or to any Forfeitures or other Rights in virtue of the said Grants.

His Majesty's Quit Rents to be recoverable out of every Share,

and to be levied out of the profits thereof.

