

ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TENTH DAY OF FEBRUARY, A.D. 1730-31.

CHAPTER 1.

AN ACT FULLY IMPOWERING COMMISSIONERS TO DETERMINE THE BOUNDS BETWEEN THIS HIS MAJESTY'S PROVINCE OF THE MASSACHUSET[T]S BAY, AND THE PROVINCE OF NEW HAMPSHIRE.

WHEREAS the grants or charters whereby the inhabitants of the province of the Massachuset[t]s Bay hold their lands, declare their northern bounds to be three miles to the northward of Monomack, *alias* Merrimack River, and of every part thereof, as may more fully appear by the said grants or charters, concerning which northern line there hath been a controversy, for many years past, between the inhabitants of the said Massachuset[t]s and the inhabitants of the province of New Hampshire, which hath occasioned much disquiet and great charge and expence in many lawsuits, and the controversy still lies open, notwithstanding some former attempts for an amicable decision; *and whereas* his majesty hath in his great goodness been pleased to signify to both governments his pleasure respecting the aforesaid controversy, and recommended the peaceable adjustment thereof; this court being willing and desirous that a full issue may be put to all disputes, and no more controversy arise respecting the aforesaid boundary line, but that the same may be absolutely fixed and ever remain indisputable,—

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the authority of the same,

[SECT. 1.] That the Honourable Joseph Tal[l]cot[t], Esqr., Governour of the colony of Connecticut, the Honourable Joseph Jenks, Esqr., Governour of the colony of Rho[a]d[e] Island, and the Honourable Adolph Phillips, of the colony of New York, Esqr., be and hereby are fully authorized and empowered, after having heard the proofs, pleas, arguments and records that may be produced by the committee, to be appointed for that purpose, in favour of either of the provinces, at such time and place at or near the lands controverted, as they, the aforesaid Joseph Tal[l]cot[t], Joseph Jenks and Adolph Phillips, or any two of them shall appoint, finally to agree and determine where the boundary line shall be drawn: *provided*, that no particular person's property shall be affected, or in any wise prejudiced, for or by reason of the boundar[ie][y]s being fixed and settled, as aforesaid.

And be it further enacted,

[SECT. 2.] That it shall be in the power of the aforesaid Joseph Tal[l]cott, Joseph Jenks and Adolph Phillips, to order an equivalent to be given and received by each government, in lieu of such lands as

Commissioners
for settling the
line between
this province
and New
Hampshire.

An equivalent
of lands may be
given.

either of the governments are in the possession or improvement of, by virtue of any ancient grants or patents as the said commissioners shall judge reasonable, such lands falling by the settlement of the line without the government that granted them.

And whereas the government of New Hampshire have very lately suggested that there is some controversy relating to the boundary line between that province and the late province of Main (now part of Massachusetts province), which the said province of the Massachusetts hold originally by purchase from the assigns of Sir Ferdinando Gorge,—

Line between the province of Maine and New Hampshire to be settled.

[SECT. 3.] This government are also willing that the boundary line between the late province of Main and New Hampshire province, should be made certain, determined and fixed by the aforesaid Joseph Talcott, Joseph Jenks and Adolph Phillips, in the same way, and on the same conditions and provisos upon which the other boundary is or may be agreed: *provided*, their determination and decision shall be by them reduced to writing under their hands and seals, or the hands and seals of any two of them.

Provided, also,

How a commissioner is to be appointed in case any one should fail.

[SECT. 4.] That in case it shall happen that any one of the aforesaid three gentlemen should not appear to undertake and perform the business hereby committed to them, that then the persons appointed a committee on the behalf of each government, to attend the commissioners as aforesaid, or the major part of *the* said committees agreeing, shall choose one other meet person to join the other two commissioners in ordering, settling and determining the aforesaid boundaries; and in case the persons appointed on behalf of each government shall not agree upon a third person, that then the two commissioners that may appear, shall have full power and authority to make choice of a third person; and in case it shall so happen that the two commissioners should not agree upon a third person to join them in this affair, that then His Excellency Jonathan Belcher, Esqr., his majesty's governour-in-chief over both provinces, be requested and hereby is fully authorized and empowered to nominate and appoint a discreet, indifferent person to join with the aforesaid two present commissioners; and the person so chosen, either by the persons appointed for and on behalf of each government, the two commissioners, or by His Excellency the Governour, shall have as full and ample authority to all intents as the commissioner that was first appointed, and may happen to be absent, could have had, or ought to have, if he were present.

And be it further enacted,

Names of the committee to attend the commissioners on behalf of this government.

[SECT. 5.] That Edmund Quincy, Elisha Cook, William Dudley, Benjamin Lynde, junior, Esqrs., and Mr. Samuel Well, or any three of them, be a committee for and on behalf of this government, to appear at the time and place to be appointed by the aforesaid three commissioners, to produce and enforce the proofs, arguments and allegations that may be advanced to maintain this government's right, in holding and enjoying the lands possessed or claimed by them: *provided, also*, that the government of the province of New Hampshire pass an act in substance like this.

Provided, always,

Time limited for the commissioners' determination.

[SECT. 6.] That the agreement, final issue and determination of the boundaries before in this act mentioned, shall be completed, reduced to writing under the hands and seals of the aforesaid three commissioners, or any two of them, the whole being present at the hearing the proofs, pleas and allegations of the aforesaid committees, on or before the last day of November next, and duplicates sealed up and put into the hands of the committee of each government appointed

to attend the aforesaid commissioners, or such of them as the respective committees shall appoint.

[SECT. 7.] The charge and expence that may arise in effecting this affair shall be born and discharged by each government in equal halves. [Passed April 2, 1731.]

CHAPTER 2.

AN ACT IN ADDITION TO THE ACT ENTITLED, "AN ACT FOR THE SETTLEMENT AND DISTRIBUTION OF THE ESTATES OF INTESTATES."

WHEREAS, in and by an act made and pass'd in the fourth year of the reign of King William and Queen Mary, entitled "An Act for the settlement and distribution of the estates of intestates," it is among other things provided, that the apprizement and division of the houses and lands of any person dying intestate, shall be made by freeholders, to be appointed and sworn by the judge for the probate of wills and granting administrations, which practice, by reason of the great distance of the said judge from some such estates, hath been found very burthensome and expensive; for remedy whereof,—

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the authority of the same,

That henceforward, when and so often as it shall happen that the estate of any person dying intestate shall be more than ten miles distant from the dwelling place of the judge of probate for the county where such estate shall ly[e], it shall be in the power of any one of his majesty's justices of the peace, for the several counties, to swear the persons appointed for the purpose aforesaid; and in case such estate be more than ten miles distant from a justice of the peace, such persons, as aforesaid, may be sworn by the clerk of the town where the estate lies, a certificate of such oath taken by the justice and clerk, respectively, to be given into the probate office when the persons appointed and sworn, as aforesaid, make return of their doings; any law, usage or custom to the contrary notwithstanding. [Passed April 2, 1731.]

Preamble.
1692-3, chap. 14

Persons to apprise and divide intestate estates, to be sworn by a justice of the peace, in case.

CHAPTER 3.

AN ACT FOR EXPLANATION OF, AND SUPPLEMENT TO, THE ACT REFERRING TO THE POOR, &c.

WHEREAS the law for the binding out poor children apprentices, is misconstrued by some to extend only to such children whose parents receive alms; for explanation whereof,—

Be it declared and enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the authority of the same,

[SECT. 1.] That the selectmen or overseers of the poor in any town or district within this province, or the greater part of them, shall take, order, and are hereby impowered from time to time by and with the assent of two justices of the peace, to set to work or bind out apprentice as they shall think convenient, all such children whose parents shall, by the selectmen or overseers of the poor, or the greater part of them, be thought unable to maintain them (whether they receive alms, or are

Preamble.
1720-21, chap. 7.

Children whose parents are unable to maintain them, to be bound out.