

Statutes of Upper-Canada, Passed in the fourth session of the third provincial parliament (1803). From The Provincial Statutes of Upper-Canada: Revised, Corrected, and Republished (York, R. C. Horne, 1818.)

43 George III – Chapter 4

An Act to declare the Rights of Certain Grantees of Waste Lands of the Crown. (5th March, 1803.)

Whereas several grants of Waste Lands of the Crown did, previous to the first day of July, in the year of Our Lord one thousand eight hundred, pass the Great Seal of this Province, to two or more persons and their heirs; and whereas it was His Majesty's gracious intention, and also the understanding of the Grantees, that such persons should hold their Lands under such grants as tenants in common; but such grants were erroneously so drawn and issued as to convey to the Grantees estates in Joint tenancy; and whereas the rights of many persons maybe thereby affected, and the gracious intention, of His Majesty frustrated: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper-Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That all Grants of the Waste Lands of the Crown, which, previous to the said first day of July, in the year of our Lord one thousand eight hundred, passed the Great Seal of this Province to two or more persons and then heirs, shall, from and after the day of the date of such Grants respectively, be taken and construed in all Courts of Law and Equity, to ensure and operate as giving to the several Grantees estates in common, and not in joint tenancy, unless it shall be distinctly expressed or declared in the said grant, that such Lands were to be held by, or to the use of such Grantees as joint tenants, any law to the contrary notwithstanding.

II. Provided always nevertheless, and it is hereby declared, That nothing herein contained shall extend, or be construed to extend to impeach, or in any manner to affect the rights of any bona fide purchaser, mortgagee, or other incumbrancer, for valuable consideration; provided such purchasers, mortgagees, or other incumbrancers can shew their right, claim, or title to have vested previous to the passing of this Act.