

*Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1812.* Saint John, NB: Jacob Mott, Printer to the King's Most Excellent Majesty, 1812.

52 George III – Chapter 19

**An Act to amend an Act, intituled “An Act to provide for the more easy partition of Lands in Coparcenary, Joint-Tenancy, and Tenancy in Common.” Passed the 7th of March, 1812.**

Whereas by the first Section of an Act, made and passed in the fiftieth year of His Present Majesty's Reign, intituled “An Act to provide for the more easy Partition of Lands in Coparcenary, Joint-Tenancy, and Tenancy in Common,” it is enacted that upon the petition of any one or more Coparceners, Joint-Tenants or Tenants in Common, to the Supreme Court praying a division of the lands in which they may be interested, to the proprietors in severalty according to their respective shares and rights, it shall and way he lawful for the said Court to examine the title of the Petitioners preferring such petition, and the quantity of their respective parts and purparts, and accordingly as they shall find their respective rights, parts, and purparts to be, to award a writ of Partition, as nearly as may be in the form for that purpose established in the register of Judicial writs, and whereas the said recited part of the said Act has been found to be inconvenient.

- I. Be it therefore enacted of the President, Council, and Assembly, That the same part of the said Act be, and the same is hereby repealed.
  
- II. And be it further enacted, That from and after the first day of May next, all proceedings at law for partition between Coparceners, Joint-Tenants, and Tenants in Common, shall commence by writ issuing out of the Supreme Court, as nearly as may be in the form of the writ of Partition issuing out of the Court of Chancery in England, and after such writ of Partition returned, and affidavit being made by any credible person of due notice given of the said writ of Partition to the Tenant or Tenants to the action, and a copy thereof left with the occupier or Tenant or Tenants, or if they cannot be found, to the wife, son or daughter, (being of the age of twenty-one years or 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 (unless the said Tenant in actual possession be demandant in the action) or if no such person can be found by publishing such copy in the Royal Gazette, at least thirty days before the day of the return of the said writ of Partition, if the Tenant or Tenants to such writ, or any of them, or the true Tenant to the messuages, lands, tenements and hereditaments as aforesaid, shall not in such case, on or before the first day of the term next after the return of such writ, cause an appearance to be entered, then in default of such appearance, the demandant having entered his declaration, the Court may proceed to examine the demandants title and quantity of his part and purpart, and accordingly as they shall find his right, part, and purpart to be, they shall for so much thereof give judgment by default, and award a writ to make partition, and such proceedings shall be had thereon in every respect as are directed in and by the said herein before recited Act, any thing herein before contained to the contrary thereof, in any wise notwithstanding.

III. And be it further enacted, That if such defendants of Tenants shall appear, the cause shall proceed according to due course of law, and upon judgment that Partition be made between the parties in such action, a writ to make Partition shall be in like manner awarded, and the same shall be executed in such manner and forms as are particularly mentioned and directed in and by the same Act, any thing in the same Act contained to the contrary thereof in any wise notwithstanding.

IV. And be it further enacted, That the Sheriff's respectively, shall give twenty days notice of the execution of the writ to make Partition, instead of forty days, as required by the first Section of the said in part recited Act.

V. And be it further enacted, That the said herein before recited Act, and every clause, matter and thing therein contained, not altered or amended by this Act, shall be and remain in full force, any thing herein before contained to the contrary thereof in any wise notwithstanding.