

*Laws of His Majesty's Province of Upper Canada in North America*, passed in the year 1805.  
York: John Bennet, 1805.

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**An Act to afford relief to those Persons who may be entitled to claim Lands in this Province, as Heirs to Devises of the Nominees of the Crown, in cases where no Patent hath issued for such Lands. Passed 2d March, 1805.**

I. Whereas it is expedient to afford relief to those persons, who may be entitled to claim Lands in this Province, as heirs or devisees of the nominees of the Crown in cases where no Patent hath issued for such Lands, 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 it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the government of this Province, at any time within three years after the passing of this Act, to issue such and so many Commissions under the Great Seal of this Province, to the Members of the Executive Council thereof, his Majesty's Chief Justice of the said Province, and the Justices of the Court of King's Bench therein, for the time being, as he shall think fit, which said Commissioners, or any three of them as such Commissioners, respecting Lands within the said Province, where the nominee or nominees of the Crown to these Lands, is or are dead, without having obtained his Majesty's Letters Patent for the same, in his, her, or their life times, shall, by and under the authority of such Commission or Commissions, have full power and authority in manner herein after mentioned, to ascertain, determine and declare who is, or are, the heir or heirs, devisee, or devisees of the said nominee, or nominees of the Crown to such Lands.

II. And be it further Enacted by the Authority aforesaid, That it shall and may be lawful to and for all and every person or persons, claiming any lot or lots of Land within this Province, as being the heir or heirs, devisee or devisees of the nominee or nominees of the Crown to such lands, for which said lot or lots, parcel or parcels of Land, his Majesty's letters patent have not been obtained, to come, either personally or by agent, duly authorized, before and produce to such Commissioners, or any three of them, whereof the said Chief Justice, or some one of the said Justices shall be one, all such documents and evidences as he, she, or they may possess, for the purpose of satisfying such Commissioners of the validity of such claim or claims, for which purpose of satisfying such Commissioners of the validity of such claim or claims, for which purpose such Commissioners, or any one of them are, and is hereby authorized and empowered to administer such oath or oaths, either to the party or parties claiming to be heir or heirs, devisee or devisees, of the nominee or nominees of the Crown, to the said lot or lots, parcel or parcels of land as aforesaid, or to the witness or witnesses appearing in support of such claim or claims, as shall be judged proper and expedient, and also by summons under the signature of any one of them the

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said Commissioners, to require the attendance of all and every such person or persons, whose evidence may be judged necessary, to ascertain the validity of any such claim or claims, or to explain the subject matter thereof, and in such summons, also, to order the production of all such books, papers, or documents, as shall be in the custody or power of any such person or persons whose attendance shall be so required shall be so required by such summons, all and every person or persons, to whom the same shall be directed, is and are, hereby required to obey, upon being duly served therewith, under the penalty of twenty pounds of lawful money of this Province, to be recovered in like manner as the costs and expences of witnesses are by this Act herein after directed to be recovered.

Provided always nevertheless, and it is hereby declared, that the said Commissioners, acting under such authority as aforesaid, are hereby authorized and empowered to receive such written or oral testimony as may be produced to them, whether the same be or be not consistent with the rules of evidence laid down by the laws of England, and to give and allow such force and effect to such testimony as justice in each respective case shall in their judgment require.

III. And be it further Enacted by the Authority aforesaid, that after the said commissioners shall, by virtue of the said commission, or commissions, have examined such claim or claims as aforesaid, they shall be at liberty, and they are hereby authorized either to reject such claim or claims, or to allow the same, as in their judgment, the justice and equity of the case may require, without any regard to legal forms and solemnities whatsoever, and to report on the same accordingly, which said report shall be final and conclusive, and shall be addressed to the Governor, Lieutenant Governor, or Person administering the Government of this Province, in Council, and from thenceforth it shall and may be lawful for the said Governor, Lieutenant Governor, or Person administer the Government in Council, to issue His Majesty's Letters Patent, under the Great Seal of this Province, for the lot or lots, parcel or parcels of Land specified in said report, to or in trust for, such person or persons, his, her, or their heirs and assigns, as are therein ascertained and declared by the said commissioners, to be the heir or heirs, devisee or devisees, of the nominee or nominees of the Crown to the said lot or lots, parcel or parcels of Land respectively; Provided nevertheless, that the said letters patent so to be issued as aforesaid, shall have such and none other force, operation, or effect, in Law or in equity, touching and concerning any charge, incumbrance, lien, matter or thing, upon or relating to, the said lot or lots, parcel or parcels of Land, save and except the establishing the claim or claims of the person or persons, to or in trust for whom the said lot or lots, parcel or parcels of Land by the said letters patent shall be granted and conveyed, to be the heir or heirs, devisee or devisees, of the nominee or nominees of the Crown to the same, than if His Majesty's letters patent had been obtained for the said lot or lots, parcel or parcels of Land by the said nominee or nominees in his, her, or their life times, any thing herein contained to the contrary notwithstanding. Provided also, that nothing herein contained shall extend, or be construed to extend, to the claim or claims, of any person or persons, who shall be ascertained and declared by the said commissioners to be the heir or heirs, devisee or devisees of the nominee and nominees of the Crown, to any lot or lots, parcel or parcels of Land within this Province, other than to such lot or lots, parcel or parcels, of Land, as shall by the said Commissioners be specified in their said report as aforesaid, and that all claims, of what nature or kind soever to any Lands within this Province, other than to such Lands as shall be

so specified and set forth by the said Commissioners, shall continue and remain as if this Act had never been made.

IV. And be it further Enacted by the Authority aforesaid, That where any such nominee or nominees, as aforesaid, in his, her, or their life times, and under his, her or their hand and seal, hands and seals, shall have executed any written instrument giving, or purporting to give, any charge, incumbrance or lien, on any such lot or lots, parcel or parcels of Land, so claimed and allowed as aforesaid, it shall and may be lawful for the person or persons in whose behalf such instrument may have been executed, his, her, or their heirs, executors, administrators or assigns, to cause the same to be registered in the office or offices, of the Register or Registers, for the county or counties, in which any such lot or lots, parcel or parcels of Land shall respectively lie or be situated; and such written instrument shall have the same (and no other) force, validity and effect, than if such nominee or nominees had at the time of executing the same been in possession of a patent from the Crown for such lot, or lots, parcel or parcels of Land as aforesaid.

V. And be it further enacted by the Authority aforesaid, That any person or persons, to whom any Lands have been allowed by the commissioners for the securing and ascertaining titles to Lands in this Province, under and by virtue of certain Acts of Legislature thereof, passed in the thirty-seventh, thirty-ninth, and forty-second years of his Majesty's reign, which said person or persons, is or are dead, without having obtained, his Majesty's letters patent for the same, may and shall for the purposes of this Act, be considered as the nominee or nominees of such Land, and the Commissioners to be appointed under and by virtue of this act, may and are, hereby authorized, to examine the claim or claims brought before them, by or in behalf of the heir or heirs, devisee or devisees of such person or persons as last aforesaid; and to hear and determine, such claim or claims in like manner, and under the same regulations, provisoes, and restrictions as are by this Act directed to be observed, with respect to the claim or claims brought before them, by the heir or heirs, devisee or devisees of any nominee or nominees of the Crown, and shall report thereon in like manner, and such report shall be final and conclusive, and have the same and no other force and effect; and it shall and may be lawful for the Governor, Lieutenant Governor, or Person administering the Government, in like manner to issue his Majesty's letters patent for the lot, or lots, parcel, or parcels of Land, specified in such last mentioned report, to, or in trust for, such person or persons, his, her, or their heirs or assigns as are therein ascertained, and declared by the said Commissioners, to be the heir, or heirs, devisee or devisees, of the person or persons, to whom any Lands may have been allowed by the Commissioners acting under and by virtue of any former Act or Acts of the Legislature of this Province, herein before mentioned.

VI. And be it further Enacted by the Authority aforesaid, that in case the said Commissioners, or either of them, shall, during their fitting, or within thirty days after they shall have signed the said report or reports, and before his Majesty's letters patent shall have issued in pursuance thereof, by representation from any person or persons claiming to be interested therein, be satisfied, or have reason to believe, that the said reports or either of them, so far as respects the allowance of the claim or claims, of any person or persons, to any lot or lots, parcel or parcels of Land specified therein, as being the heir or heirs, devisee or devisees as aforesaid, have been obtained by surprize, or have been erroneously made, and that justice requires, so far as respects the said

claim or claims, that the said reports or either of them should be staid, then and in such case, it shall and may be lawful, to and for the said Commissioners, or any other Commissioners who may sit in the Execution of the said Commission, or any subsequent Commission, to rehear such claim or claims, or to let in any new claim or claims, of such other person or persons as may be, or pretend to be, such heir or heirs, devisee or devisees, as aforesaid to the said lot or lots of Land, and upon such rehearing, such Commissioners shall be at liberty to report upon the claim or claims, thereupon reheared, as if no report had been made thereon, and such Commissioners shall be at liberty, if they shall judge it expedient to justice, to order such person or persons at whose instance such rehearing was obtained, to pay such sum or sums of money to the person or persons in whose favor a report shall have been first made, as they shall see just, to be recovered in like manner as the costs and expences of witnesses are by this Act herein after directed to be recovered.

VII. And be it further Enacted by the Authority aforesaid, That the said Commissioners shall hold their fittings in the Town of York twice in the year, that is to say, during the first ten days in the month of June in each year, and the ten days next succeeding each and every session of the Legislature of this Province (except the present) that shall and may be held in each and every year during the continuance of this Act: Provided always nevertheless, that when the Commissioners shall have good reason to believe, that there will not be sufficient business to require their daily attendance throughout the term limited for their sittings as aforesaid, they may be at liberty to adjourn for any time within the same that may be consistent with the dispatch of such business as may be brought before them.

VIII. And be it further Enacted by the Authority aforesaid, That the said Commissioners shall not proceed to examine any such claim or claims as aforesaid, unless notice specifying such claim or claims, and the name or names of the claimant or claimants, together with the number of the lot or lots, and the concession or concessions, with the name or names of the township, or townships in which the lands so claimed do lie, be put up in some conspicuous part of the office of the Clerk of the Peace for the district in which any such lot or lots may be respectively situated, and until a certificate shall be produced to the said Commissioners, under the hand of the Clerk of the Peace, of such district, that such notice hath been so put up for at least thirty days before the said claim or claims shall come to be heard before the said Commissioners: and for putting up such claim, and giving such certificate, it shall and may be lawful for the Clerks of the Peace to ask, and receive the sum of two shillings and six pence, and no more.

IX. And be it further Enacted by the Authority aforesaid, That in all cases in which, before the Commissioners shall have proceeded to decide upon the right to any particular lot or tract of land, two or more notices, by different persons shall have been fixed up in the office of the Clerk of the Peace, claiming adversely such particular lot or tract of land, it shall and may be lawful, to and for such Commissioners, to defer or delay the hearing of such adverse claims, or either of them, and to give to all, any, or either of such claimants, such further or enlarged time for the production of evidence, and for the decision of such claim or claims, as such Commissioners shall deem expedient to justice.

X. And be it further Enacted by the Authority aforesaid, That the said Commissioners, or any three of them, of whom the said Chief Justice, or one of the said Justices shall be one, shall have power and authority, when and so often as the nature and circumstances of the case shall require it, to issue one or more commission or commissions, for the examination of witnesses, touching any such claim or claims as aforesaid, as may be brought before them.

XI. And be it further Enacted by the Authority aforesaid, That in case any person or persons, who shall appear before the said Commissioners, to give evidence respecting any such claim or claims as aforesaid, shall wilfully or corruptly forswear him, her, or themselves, in giving such evidence, he, she, or they shall incur the like pains and penalties, as would have been incurred upon a conviction of wilful and corrupt perjury, in any evidence given in his Majesty's Court of King's Bench in this Province, in any cause there depending.

XII. And be it further Enacted by the Authority aforesaid, That in all cases in which witnesses shall have duty appeared, to give evidence before such Commissioners, either voluntarily or in obedience to such summons as aforesaid, it shall and may be lawful to and for said Commissioners, to order and direct the pay witness or witnesses, for his, her, or their loss of time and expences, such sum or sums of money as the said Commissioners in their judgment shall deem equitable and just, which order the party or parties, upon whom the same shall be made, is, and are, and he, she, and they is and are hereby required and enjoined to obey, and such sum or sums of money, shall and may be recovered, and recoverable, under and by the authority of this Act, by action or suit in any of his Majesty's Courts of justice in this Province, due regard being had to their respective jurisdictions.

XIII. And be it further Enacted by the Authority aforesaid, That the said Commissioners shall have power and authority to employ some fit and proper person as Clerk to the said Commission, and that such Clerk shall be authorized to ask and receive for letting down, for hearing any claim, and for making up a report of the same, the sum of five shillings.

XIV. And be it further Enacted by the Authority aforesaid, That this Act shall be read by the Clerk of the Peace, at the opening of every General Quarter Sessions of the Peace, which shall be held in each and every District of this Province, during the term for which it shall continue to be in force.

XV. And be it further Enacted by the Authority aforesaid, That this Act shall continue and remain in force until the first day of April in the year of our Lord one thousand eight hundred and eight and no longer.