

Proviso:
Time to be
given to par-
ties interested
in any Peti-
tion already
filed under the
said Act, to
oppose, &c.

appearance of the parties interested, and for making and exhibiting by them their claims or demands in intervention, up to and until the first day of the Term of such Court which shall be held next after the first day of May of the present year one thousand eight hundred and forty-nine; Provided nevertheless, that it shall be lawful for any such co-tenant or for any other party who may have an interest in the lands, tenements and hereditaments, referred to in such judgment or order, and who shall have made or exhibited his claim or demand in intervention upon the day appointed by any such order or judgment, to amend or extend his claim or demand in intervention, and file any Titles, Deeds, or other documents in support thereof, either before such Court sitting in Term, or in the Office of the Prothonotary of such Court in vacation, at any time on or before the said first day of the Term of such Court which shall be held next after the said first day of May of the present year one thousand eight hundred and forty-nine; and also at any time on or before the said first day of such Term, to except, answer or plead to any such Petition, or to controvert the allegations thereof, as fully and effectually as he might do or have done on the day appointed in such order or judgment for the making and filing of such claims or demands in intervention, and it shall also be lawful for any such co-tenant or for any other person who may have an interest in such lands, tenements and hereditaments referred to in such judgment or order to file his claim or demand in intervention in that behalf at any time on or before the said first day of such term, and to except, answer or plead to any such petition within the usual delays to be accounted and reckoned from the day of the filing of such claim or demand in intervention.

The Act here-
by amended
and this one,
Public Acts.

III. And be it declared and enacted, That the said Act hereby amended, and the present Act, are Public Acts, and shall be taken cognizance of as such by all Her Majesty's Courts in the Province.

Provisions of
the said Act,
inconsistent
with this, re-
pealed.

IV. And be it enacted, That all the provisions of the said Act, hereby amended, which are repugnant to or inconsistent with this Act, shall be, and are hereby repealed.

Interpretation
Act to apply
to this.

V. And be it enacted, That the Interpretation Act shall apply to this Act.

C A P. L X I I.

An Act to provide a Legal Mode of Redress in cases of Trespass committed on Lands held in Common in certain Townships in Lower-Canada.

[30th May, 1849.]

Preamble.

WHEREAS by an Act passed in the eleventh year of Her Majesty's Reign, intituled, *An Act to facilitate the Partition of Lands, Tenements and Hereditaments in certain cases in Lower-Canada*, certain provisions were made and enacted, for the purpose of enabling the co-tenants in common, seized of lands, tenements and hereditaments in the Townships therein mentioned, to effect a partition of the same; And whereas divers trespasses have been and continue to be committed on the said lands, by felling and removing large quantities of timber of great value from the same, for which trespasses, and for the recovery of the timber removed as aforesaid, no civil legal redress can be obtained by reason of the great number of the said co-tenants in common, and the impracticability of uniting them as co-plaintiffs in actions to be brought for

for obtaining such redress; And whereas it is expedient and necessary, until a partition of the said lands shall be effected, and in the mean time, to protect the rights and interest of the said co-tenants from and against the lawless depredations aforesaid, and afford them relief in the premises: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for any one or more of such co-tenants in the said Townships, or any of them, to institute and maintain, in his or their own name or names, for him or them, and his or their co-tenants in common, all possessory actions, and actions of revendication, grounded on trespasses committed or that may hereafter be committed on the said lands, and the removal of timber and wood from and off the same, without joining with him or them as co-plaintiffs in the said actions, the other co-tenants in common of and in the said lands; and the action or actions to be instituted by such co-tenant or co-tenants for him or them and his or their co-tenants in common, shall and may be prosecuted with the same effect to all intents and purposes whatsoever, as if such actions were brought in the names of all the co-tenants of and in the said lands; any law, usage or custom to the contrary notwithstanding.

Certain actions may be brought by one or more co-tenants on behalf of himself and others.

II. Provided always, and be it enacted, That all and every the damages, sum and sums of money, timber, goods and chattels, benefits and advantages, which shall or may be recovered or obtained by such co-tenant or co-tenants as aforesaid, in any such actions, to be brought as aforesaid, shall be held to have been recovered and obtained, for the benefit of all the co-tenants in common of and in the said lands, according to their respective shares, rights and interests in the same, to whom the said co-tenant or co-tenants shall be accountable accordingly; And provided also, that judgment shall not be rendered in any such action until after the plaintiff shall have given security to the satisfaction of the Court in which such action shall have been instituted, that he will duly account to his co-tenants whenever required by them or any of them so to do, for all such sums of money, timber, goods and chattels, benefits and advantages which the plaintiff shall or may recover or obtain under such judgment.

Sums or things recovered to be for the benefit of all.

Plaintiff to give security.

III. And be it enacted, That this Act shall be a Public Act.

Public Act.

CAP. LXIII.

An Act to make further provision for the Administration of Justice, by the establishment of an additional Superior Court of Common Law and also a Court of Error and Appeal, in Upper-Canada, and for other purposes.

[30th May, 1849.]

WHEREAS the establishment of an additional Superior Court of Common Law jurisdiction would facilitate the satisfactory disposal of business, and would otherwise tend to promote the public advantage by affording the means of constituting an efficient Court of Appeal within Upper-Canada: Be it therefore enacted by the Queen's

Preamble.