

Subject to certain deductions.

declared to be recoverable, subject to the deduction therefrom of all moneys which since the Royal Assent was so given to the said Act, shall or may have been paid by the said Bursar for, or on account of the said College and Royal Grammar School.

C A P . L . .

An Act for the more effectual Administration of Justice in the Court of Chancery in Upper Canada.

[ 10th August, 1850. ]

Preamble.

**W**HEREAS it is expedient to give further facilities for instituting and carrying on suits in the Court of Chancery in order as much as possible to obviate delay and diminish expense : 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 be lawful for the Judges of the said Court from time to time to appoint Masters and Deputy Registrars of the said Court, in such localities as the said Judges may consider necessary and expedient for the purpose of promoting as far as possible the local Administration of Justice : And it shall and may be lawful for the said Judges from time to time to cancel such appointments and to appoint others at their pleasure, and to make such rules and orders as may be necessary for regulating the offices of the said Masters and Deputy Registrars hereby authorized to be appointed, and for specifying the business to be transacted in the said respective offices, and for fixing the costs to be allowed in respect thereof, and from time to time to make other rules and orders amending, altering or rescinding the same or any of them ; Provided that nothing herein shall be construed to prevent the Judges of the said Court from appointing the same person to hold the offices of Master and Deputy Registrar, if they shall think it right so to do.

Judges may appoint Masters and Deputy Registrars in such localities as they think proper.

Proviso.

Such Masters and Deputy Registrars to account for and pay over one half of their emoluments.

II. And be it enacted, That the said Masters and Deputy Registrars of the Court of Chancery respectively, shall, on the first day of January, the first day of April, the first day of July and the first day of October, in each and every year, make up and render to the Inspector General of Public Accounts of the Province, accounts in writing of all the fees, dues, emoluments, perquisites and profits received by or on account of the said offices respectively, in such form and with such particulars as the said Inspector General shall from time to time require : which said accounts shall be signed by the Officer rendering the same, and shall be sworn to before the Judge of the County Court of the County in which such office is held ; and such Officers respectively shall, within ten days after the rendering of such account, pay over one-half of the amount of all such fees, dues, emoluments, perquisites and profits, to the Receiver General of the Province, and shall be respectively entitled to retain the other half as their remuneration, and if default shall be made in such payment, the amount due by the Officer making default shall be deemed a specialty debt to Her Majesty.

Master in Ordinary may appoint a Clerk.

III. And be it enacted, That it shall be lawful for the Master in ordinary of the said Court of Chancery to appoint, subject to the approval of the Judges of the said Court, one Clerk, whom the said Master on the like approval may remove at pleasure, and that there shall and may be paid and payable out of the Consolidated Revenue Fund of this Province (after paying or reserving sufficient to pay all such sums as have been directed by any former Act of the Parliament of this Province to be paid out of the same, but with preference to all other payments which shall hereafter be charged upon the same) the yearly sum of One Hundred and Twenty-five Pounds, as and for the salary of a Clerk in the Master's Office, such salary to commence from the tenth day of September last, and to be paid from the said tenth day of September up to the time of the appointment of a Clerk in pursuance of this Act to the Master of the said Court,

Salary allowed; how paid, &c.

to be by him paid to the Clerk or Clerks who may have performed the duty of Master's Clerk during such period, and such salary to be thereafter paid to the Clerk to be so appointed, quarterly, free and clear of all taxes and deductions whatsoever, on the first day of January, the first day of April, the first day of July and the first day of October, by equal portions; the first payment to be made on the first of the said quarterly days which shall occur after the appointment of such Clerk in pursuance of this Act, such first payment to be a rateable portion of the quarter's salary according to the time then elapsed since such appointment, and in case of the resignation or removal of such Clerk he shall be entitled, and in case of his death his executors or administrators shall be entitled, to a proportional part of his salary according to the time elapsed between the last quarterly payment and such death, resignation or removal.

IV. And whereas it is convenient to provide for the partition of estates by the said Court, Be it therefore enacted, That the said Court of Chancery shall have jurisdiction and possess the same power and authority in relation to the partition and sale of estates of joint tenants, tenants in common and coparceners, as by the laws of England are possessed by the Court of Chancery in England, and also as by the laws of Upper Canada are possessed by the Court of Queen's Bench and County Courts in Upper Canada respectively; and that in such cases, any Decree, Order or Report by which such partition shall be declared or effected in any Deed under the seal of and executed by the Master of the said Court of Chancery, shall respectively have the same effect at law and in equity as the Records of Returns in the Court of Queen's Bench or County Courts in Upper Canada have now by-law in matters of partition, or as Sheriffs' Deeds now have, and an office copy of any such Decree, Order or Report shall be sufficient evidence in all Courts of the partition declared thereby and of the several holdings by the parties of the shares thereby to them allotted.

Powers vested in the Court of Chancery for the partition of estates held in joint tenancy, tenancy in common or coparceners.

Legal effect of office copies of Decrees in such cases.

V. And be it enacted, That in addition to parties being at liberty to proceed as heretofore in the Court of Queen's Bench and County Courts in Upper Canada, in order to obtain a partition or sale in those Courts of estates of Joint Tenants, Tenants in Common, or Coparceners, the same may be obtained in the Court of Chancery according to the practice of the said Court of Chancery in other cases, or in such other manner and by such other proceedings as the said Court shall from time to time by general orders or otherwise direct or appoint.

Proceedings for partition in Court of Chancery.

VI. And be it enacted, That any sale or partition made or effected by the said Court of Chancery under the authority of this Act, shall be as binding and conclusive for the conveying away or apportioning the estate or interest of any married woman, infant, idiot or lunatic, party to the proceedings by which such sale or partition shall have been made or declared, as of any person fully competent to contract or act for himself.

Effect of sales or partitions made by the said Court.

VII. And be it enacted, That these provisions shall and may extend to suits already instituted in the said Court, and in which the said Court may according to such practice or orders as it shall adopt think it fit and proper to allow partition to be made, even though the specific object of the suit may not have been for partition.

These provisions to extend to existing suits.

VIII. And be it enacted, That in suits instituted in the said Court for the partition of lands held in joint tenancy, tenancy in common or coparcenery, it shall not be necessary to postpone the execution of any conveyance ordered by any decree which may be pronounced in any such suit in consequence of the infancy of any such joint tenant, tenant in common, or coparcener, but that the guardian of any such infant may be ordered by the said Court to execute such conveyance on behalf of his ward, and such guardians are hereby authorized and empowered to do and perform on behalf of their wards any act, matter or thing respecting the partition of lands which may be directed by the said Court, and every such act, matter or thing so done shall be deemed valid and effectual in law to every intent and purpose, as if the same had been done by such minor after his arrival at full age.

Guardians may execute conveyances, in suits in partition, on behalf of their wards.

IX. And be it enacted, That whenever the said Court shall be of opinion that partition cannot be made of lands so held in joint tenancy, tenancy in common, or coparcenery,

When the lands cannot be conveniently

divided, Court may order sale of the whole.

Rules may be made as to partitions under 12 V. c. 61.

coparcenery, without material prejudice to the whole, in such case it shall be competent to the Court, if it shall so think fit, to order a sale of the entire estate in such way as the Court may consider most for the benefit of all concerned; and the Judges of the said Court are hereby authorized and empowered to make rules and regulations respecting proceedings in partition, in as full and ample a manner as they are authorized to make rules and regulations in relation to the general practice of the said Court, by an Act passed in the twelfth year of Her Majesty's Reign, Chaptered sixty-four, intituled, *An Act for the more effectual Administration of Justice in the Court of Chancery of the late Province of Upper Canada.*

### C A P. L I.

An Act to confirm and give effect to certain Rules and Regulations made by the Judges of Her Majesty's Court of Error and Appeal for Upper Canada, and for other purposes relating to the powers of the Judges of the Courts of Law and Equity in that part of the Province, and the practice and decisions of certain of those Courts.

[ 10th August, 1850. ]

Preamble.

12 V. c. 63 cited.

**W**HEREAS the Judges of Her Majesty's Court of Error and Appeal for Upper Canada have, under the authority of the Act of the Parliament of this Province, passed in the last Session thereof, chaptered sixty-three, and intituled, *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*, made certain rules, orders and regulations respecting the practice of the said Court, and the costs to be allowed in the same, and the same have been laid before both Houses of the Provincial Parliament in the present Session thereof, being the Session during which such rules, orders and regulations were made: And whereas by the said Act it is provided, that no such rule, order or regulation shall have effect until six weeks after the same shall have been laid before both Houses of the Legislature; to remove therefore all doubts as to the force and effect of such rules, orders and regulations, in case Parliament should be prorogued before the expiration of the said term of six weeks, 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, 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 the said rules, orders and regulations, so made by the said Judges, shall have the like effect from the expiration of six weeks from the fifth day of July in this present year, as if the Provincial Parliament had remained in Session until after the expiration of that period.

Rules to have effect after six weeks from 5th July, 1850.

Chief Justices, Chancellor, Puisné Judges and Vice-Chancellors to be Visitors of the Law Society.

II. And be it enacted, That the Chief Justice of Upper Canada for the time being, the Chancellor of Upper Canada for the time being, the Chief Justice of Her Majesty's Court of Common Pleas for Upper Canada for the time being, and all the Puisné Judges and Vice-Chancellors of Her Majesty's Superior Courts of Law and Equity at Toronto for the time being, shall be and shall be deemed to have been Visitors of the Law Society of Upper Canada, with all the powers conferred upon the Judges of Upper Canada, with respect to such Society in and by the second section of the Act of the Parliament of that Province, passed in the thirty-seventh year of the reign of King George the Third, chaptered thirteen, and intituled, *An Act for the better regulating the Practice of the Law.*

Judges of Superior Courts of Law at Toronto may sit apart during Term for certain purposes.

III. And be it enacted, That at any time wherein Her Majesty's Superior Courts of Common Law at Toronto, may by law sit in Banc, it shall and may be lawful for any one Judge of either of such Courts to sit in Banc apart from his brethren, either while they are actually so sitting, or while their sittings within such time shall be suspended or adjourned; and every such Judge so sitting apart in Banc as aforesaid, shall have

all