

Laws of Her Majesty's Province of Upper Canada, passed in the year 1849. Montreal: Stewart Derbishire & George Desbarats, 1849.

12 Victoria – Chapter 175

Elgin and Kincardine.

An Act for the reversal of the attainder of Oliver Grace, and, for other purposes therein mentioned. 30th May, 1849.

The Queen's Most Excellent Majesty having been graciously pleased in the exercise of Her most excellent Prerogative of mercy to grant to Oliver Grace, late of Ancaster, in the County of Wentworth, in Upper Canada, Gentleman, Her Royal Pardon in certain Treasons by him committed during the late war with the United States of America, of which the said Oliver Grace stands attainted; and having moreover through His Excellency the Right Honorable James Earl of Elgin and Kincardine, Her Majesty's Governor General of this Province, signified to both Houses of Parliament Her Royal pleasure that the said attainder of the said Oliver Grace maybe reversed, all corruption of blood consequent thereupon be taken away, and such of his estates as have not been forfeited and disposed of under the authority of a certain Act of the Parliament of Upper Canada, passed in the fifty-ninth year of the Reign of Her Majesty's Royal Grandfather King George the Third, intituled, *An Act for vesting in Commissioners the estates of certain Traitors, and also the estates of persons declared aliens by an Art passed in the fifty-fourth year of His Majesty's Reign, intituled, An Act to declare certain persons therein described aliens, and to vest their estates in His Majesty and for applying the proceeds thereof towards compensating the losses which Her Majesty's subjects have sustained m consequence of the late war, and for ascertaining and satisfying the lawful debts and claims thereupon*, or in any other manner under the authority of the Crown; To the end therefore that such Her Majesty's benevolent intentions may be carried into effect in the most ample and beneficial manner for the behoof of the said Oliver Grace: Be it 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 the said attainder shall be and the same is hereby reversed, and the corruption of blood and forfeiture wrought by such attainder taken away and avoided to all intents and purposes whatsoever.

II. And be it enacted, That all and singular the estates, property and effects which immediately before such attainder were of or belonging to the said Oliver Grace and have not since then been disposed of by him, shall be and are hereby vested in the said Oliver Grace in the same manner and with the same effect to all intents and purposes, and with the same and no other consequences or effects as to the rights of third parties in, upon or with regard to the same as if the said Oliver Grace had not been so attainted; Provided always, nevertheless, that nothing herein contained shall extend or be construed to extend to or affect any goods or chattels, lands or tenements actually sold or conveyed by the said Commissioners of forfeited estates under the said

Act, or otherwise, or by any Public Officer or Minister of Justice acting on behalf of the Crown in that behalf, but all such goods and chattels, lands and tenements, shall belong to the same parties and be dealt with in all respects as if this Act had not been passed.

III. And whereas it may be that certain parties have entered either wrongfully or otherwise into the possession of certain of the estates of the said Oliver Grace not so forfeited and disposed of, but whose cases as between the Crown and such parties could not be dealt with on strict legal or equitable grounds alone, and it is therefore Her Majesty's Royal pleasure that power be reserved to Her Majesty's Governor General of this Province for the time being to deal with such cases in such manner as may appear reasonable and just in the exercise of a sound and liberal discretion— Be it therefore enacted, that in the event of the said Oliver Grace, his heirs or assigns being compelled to seek the recovery of any such last mentioned lands or tenements by proceedings in any Court of Law or equity, it shall and may be lawful for the party against whom he shall be so proceeding to apply to the Court in which such proceedings shall be pending to stay all such proceedings till Her Majesty's pleasure shall be taken whether the said Oliver Grace, his heirs or assigns, shall be at liberty to proceed for the recovery of such lands or tenements or any part thereof, and such Court upon such party establishing by affidavit or otherwise to their satisfaction that he is entitled to the benefit of this provision, shall order such proceedings to be staid till by an Order of the Governor General of this Province for the time being it shall be declared that the said Oliver Grace, his heirs or assigns may be at liberty to proceed for the recovery of such property where upon such proceedings shall be staid accordingly until His Excellency the Governor General shall, through the Provincial Secretary, declare it to be Her Majesty's pleasure that the said Oliver Grace be permitted to proceed for the recovery of such property, whereupon every such Court shall order such proceedings to be continued as if the order to stay the same had not been made; Provided always, nevertheless, firstly, that it shall and may be lawful for the Governor General in the instrument granting permission to the said Oliver Grace, his heirs or assigns, to proceed for the recovery of such property to impose any and such conditions upon the said Oliver Grace, his heirs or assigns, as in his discretion -he may think fit, and the Court in which such proceedings shall be pending shall enforce the performance of such condition before allowing such proceedings to be continued; And provided also, secondly, that nothing in this section contained shall extend or be construed to extend to any proceedings that the said Oliver Grace, his heirs or assigns, shall or may be driven to adopt after having once obtained by due process of law or otherwise the quiet and peaceable possession of any of such lands or tenements.

IV. And be it enacted, That this Act and the pardon herein referred to shall be construed and taken in the most large and beneficial sense and manner in favor of the said Oliver Grace his heirs executors, administrators and assigns.