

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

12 Victoria – Chapter 61

An Act to amend and extend certain provisions of An Act to facilitate the Partition of Lands, Tenements, and Hereditaments, in certain cases, in Lower-Canada. 1st February, 1849.

Whereas it is expedient, for the furtherance of the ends of Justice, to amend and extend the provisions of the Act passed in the Session of the Parliament of this Province, which was held in the tenth and eleventh years of the Reign of Her Majesty, intituled, *An Act to facilitate the Partition of Lands, Tenements, and Hereditaments in certain cases, in Lower-Canada*, and to repeal certain provisions thereof: 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 whenever any Petitioner claiming an interest in any lands, tenements and hereditaments, to facilitate the Partition of which provision is made by the said Act, and demanding a Partition of such lands, tenements and hereditaments, under the provisions of the said Act, shall, by *primâ facie* evidence have satisfied the Court of Queen's Bench for the District in which such lands, tenements and hereditaments are situated, that he is seized of lands and tenements held by him in common with others, in the manner mentioned in the said Act, it shall be lawful for the said Court, and the said Court is hereby required, in making, pronouncing, and rendering the judgment or order provided for by the second Section of the said Act, to order and direct that such judgment or order shall be posted up and published in the manner provided by the second Section of the said Act, at least six months before the time appointed in and by such judgment and order, for the appearance of the co-tenants of the said Petitioner, and of such other persons as may by law have a right to be maintained in possession of any portion or portions of such lands, tenements and hereditaments, or as may have an interest in the Partition thereof, for the purposes specified in the said Act.

II. And be it enacted, That all proceedings upon any Petition which, pursuant to the provisions, or under color of the said Act, may, since the passing thereof, have been presented or exhibited to any such Court, and upon which any judgment or order, such as it was lawful for such Court to pronounce, give or make under the provisions of the said second Section of the said Act, may have been pronounced, given or made, shall be suspended from and after the day, appointed in such judgment or order for the 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.

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.

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.

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