

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

12 Victoria – Chapter 62

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.

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 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.

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.

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