

action or partition, and the rules, orders and judgments, made in and touching the premises, in execution of the provisions herein contained, shall be binding as well on the co-tenants who may appear and answer the said Petition, as upon all other co-tenants or persons professing to be such, who may make default to appear and answer the said Petition, and on all other persons, in like manner as rules, orders, and judgments are binding on the parties to a suit, as well those who appear as those who, after being duly summoned, may make default, and on other persons: Provided always, that an appeal shall lie to the Provincial Court of Appeals of Lower Canada, from judgments to be rendered by the said Courts in execution of the provision herein contained, in like manner as from judgments rendered by the said Court in original actions.

Appeal may be made to the Court of appeals.

V. And be it enacted, That it shall be lawful for the said Court of Queen's Bench, upon the Petition aforesaid, and upon the claims or demands in intervention aforesaid, by and with the consent of the parties respectively, at any time before final judgment thereupon, to refer the matter in contest in and upon the Petition, and the claims or demands aforesaid, and the making of the partition aforesaid, to the award and final determination of three arbitrators, one of whom shall be named by the said Tenant or Tenants, making such Petition for partition, the second by the said Tenant or Tenants collectively, exhibiting claims or demands in intervention, and the third by the Court; which said arbitrators shall proceed to act, and shall act upon the reference submitted to them in some place in the Township or Parish in which the said lands, tenements and hereditaments, sought to be partitioned and apportioned shall be situate, as the said arbitrators, or any two of them shall appoint, and they shall have power to examine witnesses on the subject matter referred to them after the said witnesses shall have been sworn before any one of Her Majesty's Justices of the Peace, (to whom power to administer the oath on this behalf is hereby given,) and also to examine any of the parties on oath touching the said subject matter, if the said arbitrators or any two of them shall deem such examination necessary or proper, which oath any of Her Majesty's said Justices of the Peace is also hereby empowered to administer, and the award and determination of the said arbitrators, or any two of them, on all the matters referred to them shall be final and conclusive.

The Court may, with the consent of the parties, refer the matter in contest to the decision of three arbitrators: with power to examine the parties or their witnesses on oath, and the award of whom or of any two of them shall be final.

VI. And be it enacted, That any occupant of land in any of the said Townships who, having so appeared in Court shall produce a title to a specified number of acres derived from any of the said grantees, or shall by prescription according to the Common Law of Lower Canada be entitled to any number of acres, shall be maintained in possession of the land occupied by him, provided that the number of acres specified in such title and so occupied by him shall not exceed the extent of land which the grantee from whom such title shall have been derived would have had a right to, had a partition taken place before he divested himself of his title therein; and provided also, that nothing in this Act contained shall be so construed as to prevent the said tenants in common or any such occupant or occupants of any number of acres as aforesaid from availing themselves of any pleas of prescription or to deprive them of any other right vested in them by the Common Law of Lower Canada.

Any of the said Tenants in Common having a title to a specific number of acres not exceeding the quantity to which his *auteur* was entitled or having a title by prescription, shall be maintained in his possession—Nothing herein to affect any claim by prescription.

VII. And be it enacted, That the said Court in the exercise of the jurisdiction hereby vested in it, shall have the same power to award or withhold costs, upon and in respect of the several proceedings to be had before it, as well upon the Petition aforesaid, as on the claims or demands in intervention aforesaid, as might be lawfully exercised by the said Court upon and in respect of proceedings in original actions.

Costs.