

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming are checked below.

- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires: **Cover title page is bound in as last page in book but filmed as first page on fiche.**

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below /
Ce document est filmé au taux de réduction indiqué ci-dessous.

10x		14x		18x		22x		26x		30x	
										✓	
	12x		16x		20x		24x		28x		32x

No. 110.

1st Session, 8th Parliament, 27th Victoria, 1863.

BILL.

An Act to amend the Act respecting the
Partition of Township Lands held in
Common.

Received and read, first time, Tuesday, 8th
September, 1863.

Second Reading, Friday, 11th September,
1863.

Hon. Mr. Sol.-Gen. HUNTINGTON.

QUEBEC:

PRINTED FOR THE CONTRACTORS BY HUNTER,
ROSE & LEMIEUX, ST. URSULE STREET.

An Act to amend the forty-fourth chapter of the Consolidated Statutes for Lower Canada

WHEREAS it has become necessary that certain amendments should be made to the forty-fourth chapter of the Consolidated Statutes for Lower Canada, intituled, "An Act respecting the partition of Township Lands held in Common": Therefore Her Majesty by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

CLAIMS OF NON-RESIDENT PROPRIETORS.

1. The delay within which application may be made by any non-resident proprietor under the provisions of the tenth section of the above cited Act, shall be extended from the tenth day of January one thousand eight hundred and fifty-eight, (erroneously printed 1885 in the English version of the above Act) to the first day of January next after the passing of this Act.

2. Every such application hereafter to be made shall be referred to the Commissioner to be appointed as hereinafter provided, who after examination of the titles of the applicant, shall report to the Commissioner of Crown Lands the extent in acres to which the share or interest of such applicant in the said lands amounts, if it be found that he has any share therein; and if it be found he has no share therein, the Commissioner shall report accordingly.

3. The share of every such applicant shall be valued at the same rate at which the shares of other holders of similar rights have already been valued: and every such applicant shall be entitled to receive scrip for the amount thereof so valued, of the same description, in the same manner, and upon the conditions mentioned in the twelfth section of the said Act.

PROVISIONS REPEALED.

4. All that part of the twelfth section of the said Act following the word "amount" in the thirteenth line thereof is hereby repealed.

APPOINTMENT OF SECRETARY AND HIS DUTIES.

5. Within one month from the passing of this Act the Governor shall by letter under the hand of the Provincial Secretary, appoint a fit and proper person to perform the duties hereinafter mentioned, and to be designated as the "Secretary of the Bolton Commission."

1. The Secretary so appointed shall forthwith take possession of all claims, titles, documents, papers and plans relating to the partition of undivided lands in the Township of Bolton and Magog, already filed before the Commissioners appointed under the said Act, and also of all

- registers, lists, plans, and other books and papers prepared by the said Commissioners in view of the said partition, and shall deposit the same in the office for the Registration of Deeds, commonly called the Registry Office, in and for the County of Shefford, at the Village of Waterloo.
- To publish notice. 2. He shall, immediately after his appointment, cause a notice in the form given in Schedule A., annexed to this Act, or in any other form substantially the same, to be posted in some conspicuous place in the Village of Magog, and in at least two of the most frequented parts of the Township of Bolton, and also in one or more of the newspapers published in the District of Bedford. 5 10
- To receive claims, &c. 3. He shall receive all claims, petitions, and other documents and papers relating to the said Partition, whether the same be presented to him at the said Village of Waterloo, or at any place or places in the said Townships of Bolton and Magog; but all such claims, petitions, and other documents and papers shall be by him deposited and filed in the said Registry Office at Waterloo. 15
- Deposit. 4. He shall prepare a book, shewing on one side all the lands required, and on the other all the lands sold or disposed of by each of the original grantees of the Crown, and by each person holding under them respectively, in so far as he can procure the necessary information. 20
- To prepare account of lands. 5. He shall cause Diagrams of each Range of the Township of Bolton, as originally surveyed, to be prepared, on a large scale, and shall mark thereon, the names of the claimants and the Lot, Lots, or parts of Lots claimed by each; and shall, if so ordered by the Commissioner, make or cause to be made and prepared all such plans as he may deem necessary to elucidate the judgment in partition, or facilitate the proceedings of the Commissioner. 25
- To cause diagrams to be made. 6. He shall act as Secretary to the said Commissioner; he shall keep a Register in which he shall enter in a concise form the proceedings had each day when the Commissioner shall sit, and shall carry out all instructions given to him by the Commissioner. 30
- To be Secretary to Commissioners. 7. All documents and papers certified by the said Secretary as such shall be authentic. 35
- To authenticate papers.

APPOINTMENT OF COMMISSIONER, HIS DUTIES, &c.

- Appointment. 6. Upon a petition from any person alleging himself to be proprietor of a share in the said undivided lands in the said townships of Bolton and Magog, supporting such allegation by affidavit, and praying the appointment of a Commissioner to make a partition of the said lands, the Governor shall appoint an advocate of at least ten years standing at the bar of Lower Canada to act as such Commissioner. 40
- Appointment. 7. The Provincial Secretary shall refer to the said Commissioner for examination, and report as hereinbefore provided, all applications made to such Provincial Secretary, or to any of his predecessors in office, concerning the said lands, by persons claiming to be non-resident proprietors of shares in the said undivided lands. 45
- Claims to be referred to him.
- Partition of undivided lands. 8. Immediately after the said first day of January next, either at the Village of Waterloo, aforesaid, or at some place in either of the said Townships of Bolton and Magog, designated in a notice to be inserted in at least one newspaper published in the District of Bedford, and signed by the Secretary of the Commission, the said Commissioner shall proceed to make a partition of the said undivided lands between the Crown, the resident proprietors, and such of the non-resident proprietors as may not have applied for scrip in exchange for their shares in the said lands within the delay hereinbefore provided. 50

RULES FOR GUIDANCE OF COMMISSIONER.

9. The said Commissioner in reporting upon the claims of non-resident proprietors, and in making the said partition shall be guided by the provisions contained in the thirteenth section of the said Act, and also by the following rules, that is to say:—
1. He shall declare each resident claimant to be sole owner and proprietor of the lands possessed by him to the extent covered by his titles, whether such titles have been acquired by deed, will, or inheritance, or by prescription, according to the laws in force in Lower Canada, notwithstanding the fact of the said lands having been held by tenants in common.
2. He shall accept the testimony by affidavit or orally in proof of all marriages, births, and deaths, whenever such proof may be required.
3. If any deficiency be found in the lands remaining after quieting the titles of the resident proprietors, such deficiency shall be divided between the Crown and such non-resident proprietors as may not have applied within the delay herein before provided for scrip in exchange for their shares in the said lands, proportionately to the extent of land covered by their titles respectively.
4. He shall not decide upon any contested claim, or upon any matter incident to any such claims without having previously heard the parties, either personally or by counsel.
5. In deciding upon all claims founded on prescription, he shall calculate the period of occupation up to the day of the date of the filing thereof.
6. In all contested cases he shall require the evidence to be taken down in writing by the Secretary of the Commission.
- To observe Rules in sec. 13 of the said Act.*
- Further rules for his guidance sole-ownership.*
- Evidence.*
- Deficiency of land.*
- Contested claims.*
- Prescription.*
- Evidence in contested cases.*

JUDGMENT, WHERE TO BE FILED, ITS EFFECTS, ETC.

10. The judgment in partition, shall be by the Secretary of the said Commission, deposited and filed in the office of the Prothonotary of the District of Bedford and such report shall be binding upon all interested parties who shall not have appealed from it to the Court of Queen's Bench, (appeal side), sitting at Montreal, within three months from the date of the deposit thereof, and if appealed from it shall be binding as amended, from the day of the date of the last amendment made thereto, in pursuance of any judgment pronounced by the Court of Queen's Bench, altering or modifying the same, or, from the day of the date of the Commissioner's certificate, that the said judgment in so far as appealed from, has been confirmed by the said Court of Queen's Bench: Provided, that all the decisions of the said judgment of partition not specially appealed from in the manner and within the delay aforesaid, shall be binding and executory; and no such appeal shall in any way affect the validity of the said judgment in partition, or suspend the operation thereof, except as regards the particular decision from which the appeal is taken.
- Judgment to be final unless appealed from, within a certain time, &c.*
- Proviso.*

APPEALS.

11. Every such appeal shall be prosecuted in the following manner:—
1. The appellant shall serve on the adverse party personally, or at his domicile, or at his office, or upon his attorney, copy of a petition setting forth succinctly the grounds of appeal, and praying for the reversal of such part of the judgment in partition, as relates to his claim, or to any claim he may have contested, and the rendering of such judgment as the Commissioner ought to have pronounced, together with copy of a notice of the day on or after which the appeal shall be proceeded upon by the Court of Queen's Bench sitting at the City of Montreal,
- Notice to adverse party.*

on the appeal side, at least ten days before the filing of the original petition as hereinafter required :

Certificate of filing of partition and notice and transmission of papers in the case to the Court of Q. B. 2. The original petition and notice, with a certificate of service of both annexed, shall within three months from the date of the said judgment in partition be filed in the office of the said Commission, and thereupon the Secretary of the said Commission shall deliver to the appellant or his attorney, a certificate of the filing of the said petition and notice, and shall forthwith certify under his hand, and cause to be transmitted to the Clerk of the said Court of Queen's Bench at Montreal, all claims, titles, depositions, books, documents and other papers relating to the particular claim in which the party appellant is interested, together with an extract duly certified by the Prothonotary of the Superior Court in the said district of Bedford, containing the part or parts of such judgment which relates or relate to the claim concerning which such appeal is made. 5 10

Other proceeding as usual. 3. In all other respects all such appeals shall be dealt with in the same manner as appeals from the Circuit Court, except as hereinafter provided. 15

Copy of judgment to be sent to Commissioner who shall conform his judgment thereto. 12. A copy of every judgment in appeal from the said judgment in partition, shall be transmitted by the clerk of the Court of Queen's Bench (appeal side) to the said Commissioner, who shall immediately proceed to amend the judgment in partition so as to make it accord with the judgment in appeal. If the judgment in Partition be altered or modified by the said Court of Queen's Bench, and if the said judgment in partition be confirmed as far as appealed from, the Commissioner shall write a certificate to that effect at the foot of the said judgment, so soon as he shall receive a copy of the last judgment pronounced in appeal therefrom. 20 25

Extracts from judgment to serve as titles. 13. The Prothonotary of the District of Bedford, after the expiration of three months from the date of the deposit of the said judgment in partition, shall, on demand, grant copies of, or extracts from the said judgment to any person whomsoever, and every such extract, duly certified, shall serve as a title to the person therein mentioned; provided that no such copy of any part of the said judgment which shall have been appealed from as aforesaid shall be granted by the said Prothonotary to serve as such title, except upon certificate of the said Commissioner that the said judgment has been confirmed in appeal, or until after the date of the last amendment made thereto, as hereinbefore provided. And for every such extract so certified, the said Prothonotary shall be entitled to receive *fifty cents*, if the same do not contain more than one hundred words, and *ten cents* more for every additional hundred words. 20 35 40

Proviso.

Fees for such extracts.

CLAIMS FOR PREEMPTION.

Claims to be investigated by Commissioner. 14. After pronouncing the said judgment in partition, the said Commissioner shall proceed to investigate and report upon all claims filed at any time before the date of the said judgment in partition, by persons pretending to have a right of preemption to any part of the said lands occupied by them, and assigned to the Crown in such judgment of partition. 45

Report thereon. 2. The said report shall state the names of all such claimants, the extent, number and range of the said land claimed by each, the period of its occupation by him and his predecessors, and as nearly as possible the value of the improvements made thereon, together with such recommendation as the Commissioner may deem proper to make for the guidance of the Commissioner of Crown Lands in the final disposal of such lands. 50 55

3. After completing the said report, the Secretary shall deposit the original in the office of the Prothonotary of the Superior Court for the District of Bedford, and shall transmit by mail to the Commissioner of Crown Lands a copy thereof duly certified. Deposit of report.

WHERE SITTINGS ARE TO BE HELD.

5 **15.** The said Commissioner may examine and report upon all applications and titles referred to him by the Provincial Secretary as aforesaid, either at his own domicile or wherever else it may be most convenient for himself, or for the parties interested; but in proceeding to make a partition of the said lands as aforesaid, and in preparing his report upon all claims for preemption, he shall hold his sittings either at Waterloo, or at such place or places in the said Townships of Bolton and Magog as he may from time to time appoint for the convenience of the parties interested. For examination and report on claims. For making partition, and report on pre-emption claims.

10 **2.** The office of the Commissioner to be designated "The Office of the Bolton Commission," shall be held at the said Village of Waterloo. Office of Commissioner.

POWERS AND AUTHORITY.

16. All the powers and authority conferred upon the Commissioners heretofore appointed under the said Act are hereby conferred upon the said Commissioner. Powers under the said Act transferred.

EXPENSES OF COMMISSION.

17. The expenses of the said Commission shall be defrayed in the manner provided by the said Act. How paid.

2. The Commissioner shall be entitled to receive a sum not exceeding *twelve dollars*, and the Secretary a sum not exceeding *six dollars*, in Bolton scrip, for each day on which they shall be respectively engaged, or travelling or absent from their domicile upon business connected with the Commission, together with all expenses incurred on account of the said Commission, and a reasonable allowance for travelling expenses. Allowance to Commissioner and Secretary.

SCHEDULE A.

PARTITION OF BOLTON LANDS.

Public notice is hereby given to all persons interested in the partition of the undivided lands in the townships of Bolton and Magog, that the undersigned Secretary of the Bolton Lands Commission will meet claimants for partition at _____ in the County of _____ on _____ the _____ day of _____ next, then and there to receive claims, petitions, and other documents and papers relating to the said partition.

(Signed), _____ A. B.,
Secretary of the Bolton Lands Commission.