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No. 328

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2nd Session, 3rd Parliament, 12 Victoria, 1849.

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## **BILL.**

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.

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PRINTED BY LOVELL AND GIBSON.

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## BILL.

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.

**W**HEREAS 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, &c.

Preamble.

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 action 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 that 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 action or 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.

Certain actions may be brought by one or more co-tenants on behalf of himself and others.

Sums or things  
recovered to  
be for the  
benefit of all.

Plaintiff to  
give security.

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 action or 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.

Public Act.

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