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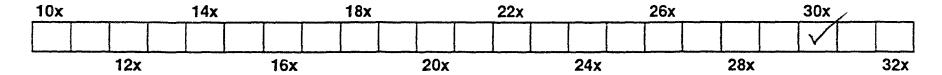
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2nd Session, 31d Parliament, 12 Victoria, 1849

BILL.

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."

Received and Read a first time, Monday, 22nd January, 1849

Second Reading. Wednesday, 24th Jan, 1849

MI. Sol. Genl. DRUMMOND.

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BILL.

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."

THEREAS it is expedient, for the fur- Preamble therance of the end of Justice 10 amend and extend the provisions of the Act, passed in the Session of the Parliament of 5 this Province, which was held in the tenth and eleventh years of the Reign of Her Majesty, intituled: "An Act to facilitate the 10 and 11 "Partition of Lands, Tenements, and Here-Viet, chap ditaments in certain cases, in Lower Cana-10 " da," and to repeal certain provisions thereof: Be it therefore enacted, &c.

And it is hereby enacted by the authority When a Petof the same, That whenever any Petitioner tioner demands to claiming an interest in any lands, tenements Partition of 15 and hereditaments, to facilitate the Partition lands, Court in rendering of which provision is made by the said Act, judgment and demanding a Partition of such lands, may order the tenements and hereditaments, under the pro-posted up for visions of the said Act, shall, by prima facre before time 20 evidence have satisfied the Court of Queen's appointed for Bench for the District in which such lands, appearance of co-tenants of tenements and hereditaments are situated, Petitioner that he is seized of lands and tenements held by him in common with others, in the 25 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 30 said Act, to order and direct that such judgment or order shall be posted up and published in the manner provided by the se-

cond 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 5 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. 10

All proceedrigs under Act hereby unended, sasneuded urtil 1st day of after I t Mas 1 - 44

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 form of Court been presented or exhibited to any such 15 Court, and upon which any judgment or order, such as it was lawful for such Court to prenounce, give or make under the provisions of the said second Section of the said Act, may have been pronounced, given or 20 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 25 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 30 this interested such co-tenants or for any other party who may have an interest in the Partition of the lands, tenements and hereditaments, referred to in such judgment or order, and who shall have made or exhibited his claim or demand 35 in intervention upon the day appointed by any such order or judgment, to amend or extend his claim or demand in intervention, and to file any Titles, Deeds, or other documents in support thereof, either before such 40 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 45

Pronsi Time to be given to parm any Petit on already ivled under the said Act, to oppose, &c

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 Peti-5 tion, 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.

III. And be it enacted, that whenever any when any portion of any such lands, tenements and portion of lands is hereditaments, for the Partition of which claimed by a provision is made by the said Act, or any descent or share, right or interest therein shall be claim- inheritance, 15 ed by any of the co-tenants of such lands, not be necestenements or hereditaments, or by any sary to prove other person interested in the lands, tene-or inheritance ments and hereditaments to be divided or unless denied partitioned under the said Act, as hereby party who 20 amended, by descent or inheritance, from or claims an interest in the through any other person whomsoever, the lands party so claiming, shall not be required to prove such descent or inheritance, but the fact of his being the lawful representative of 25 the person through whom he shall have so claimed, by descent or inheritance, shall be considered as true for all the purposes of such Partition, unless such fact be denied and controverted by some other party to the 30 said Partition, claiming, or assuming to claim an interest in such lands, tenements, or hereditaments, by descent or inheritance, through the same identical person.

IV. And be it enacted, that whenever any Party claim-35 party shall claim an interest in such Partition, in any Partiunder and by virtue of any Deed of Sale or tion, by Deed Conveyance, or under and by virtue of any executed through an other Title or Document whatsoever, pur-Ageni, not porting to have been executed through the required to prove autho-40 medium of an Agent or Attorney, the rity of Agent party so claiming shall not be required to by an other prove the authority of such Agent or Attor- party interney in that behalf, but such authority shall, Partition for all the purposes of such Partition, be

considered as undoubted, unless the authority of such Agent or Attorney in that behalf. be denied or controverted by some other party interested in the said Partition, and claiming or assuming to claim an interest 5 therein, through the person purporting to be the principal of such alleged Agent or Attorney.

The Act hereby amended and this one, Public Acts

V. And be it declared and enacted, That the said Act, hereby amended, and the pre- 10 sent Act, are Public Acts, and shall be taken cognizance of as such by all Her Majesty's Courts in the Province.

Provisions of the said Act, inconsistent with this, rerealed

VI. And be it enacted, That all the provisions of the said Act, hereby amended, 15 which are repugnant to or inconsistent with this Act, shall be, and are hereby repealed.

Interpretation o this

VII. And be it enacted, That the Inter-Act to apply pretation Act shall apply to this Act.