ANNO TRICESIMO PRIMO & TRICESIMO SECUNDO

VICTORIÆ REGINÆ.

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C A P. XL.

An Act to amend the Law relating to Partition.

[25th *June* 1868.]

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. This Act may be cited as The Partition Act, 1868. **Short Title.**

2. In this Act the Term "the Court" means the Court of Chancery in *England*, the Court of Chancery in *Ireland*, the Landed Estates Court in *Ireland*, and the Court of Chancery of the County Palatine of *Lancaster*, within their respective Jurisdictions. **As to the Term "the Court."**

3. In a Suit for Partition, where, if this Act had not been passed, a Decree for Partition might have been made, then if it appears to the Court that, by reason of the Nature of the Property to which the Suit relates, or of the Number of the Parties interested or presumptively interested therein, or of the Absence or Disability of some of those Parties, or of any other Circumstance, a Sale of the Property and a Distribution of the Proceeds would be more beneficial for the Parties interested than a Division of the **Power to Court to order Sale instead of Division.**

Property between or among them, the Court may, if it thinks fit, on the Request of any of the Parties interested, and notwithstanding the Dissent or Disability of any others of them, direct a Sale of the Property accordingly, and may give all necessary or proper consequential Directions.

Sale on Application of certain Proportion of Parties interested.

4. In a Suit for Partition, where, if this Act had not been passed, a Decree for Partition might have been made, then if the Party or Parties interested, individually or collectively, to the Extent of One Moiety or upwards in the Property to which the Suit relates, request the Court to direct a Sale of the Property and a Distribution of the Proceeds instead of a Division of the Property between or among the Parties interested, the Court shall, unless it sees good Reason to the contrary, direct a Sale of the Property accordingly, and give all necessary or proper consequential Directions.

As to Purchase of Share of Party desiring Sale.

5. In a Suit for Partition, where, if this Act had not been passed, a Decree for Partition might have been made, then if any Party interested in the Property to which the Suit relates requests the Court to direct a Sale of the Property and a Distribution of the Proceeds instead of a Division of the Property between or among the Parties interested, the Court may, if it thinks fit, unless the other Parties interested in the Property, or some of them, undertake to purchase the Share of the Party requesting a Sale, direct a Sale of the Property, and give all necessary or proper consequential Directions, and in case of such Undertaking being given the Court may order a Valuation of the Share of the Party requesting a Sale in such Manner as the Court thinks fit, and may give all necessary or proper consequential Directions.

Authority for Parties interested to bid.

6. On any Sale under this Act the Court may, if it thinks fit, allow any of the Parties interested in the Property to bid at the Sale, on such Terms as to Nonpayment of Deposit, or as to setting off or accounting for the Purchase Money or any Part thereof instead of paying the same, or as to any other Matters, as to the Court seem reasonable.

Application of Trustee Act. (13 & 14 Vict. c. 60.)

7. Section Thirty of The Trustee Act, 1850, shall extend and apply to Cases where, in Suits for Partition, the Court directs a Sale instead of a Division of the Property.

Application of Proceeds of Sale. (19 & 20 Vict. c. 120.)

8. Sections Twenty-three to Twenty-five (both inclusive) of the Act of the Session of the Nineteenth and Twentieth Years of Her Majesty's Reign (Chapter One hundred and twenty), "to facilitate "Leases and Sales of Settled Estates," shall extend and apply to Money

Money to be received on any Sale effected under the Authority of this Act.

Parties to Partition Suits.

9. Any Person who, if this Act had not been passed, might have maintained a Suit for Partition may maintain such Suit against any One or more of the Parties interested, without serving the other or others (if any) of those Parties; and it shall not be competent to any Defendant in the Suit to object for Want of Parties; and at the Hearing of the Cause the Court may direct such Inquiries as to the Nature of the Property, and the Persons interested therein, and other Matters, as it thinks necessary or proper with a view to an Order for Partition or Sale being made on further Consideration; but all Persons who, if this Act had not been passed, would have been necessary Parties to the Suit, shall be served with Notice of the Decree or Order on the Hearing, and after such Notice shall be bound by the Proceedings as if they had been originally Parties to the Suit, and shall be deemed Parties to the Suit; and all such Persons may have Liberty to attend the Proceedings; and any such Person may, within a Time limited by General Orders, apply to the Court to add to the Decree or Order.

Costs in Partition Suits.

10. In a Suit for Partition the Court may make such Order as it thinks just respecting Costs up to the Time of the Hearing.

As to General Orders under this Act. (21 & 22 Vict. c. 27.)

11. Sections Nine, Ten, and Eleven of The Chancery Amendment Act, 1858, relative to the making of General Orders, shall have Effect as if they were repeated in this Act, and in Terms made applicable to the Purposes thereof.

Jurisdiction of County Courts in Partition. (28 & 29 Vict. c. 99.)

12. In *England* the County Courts shall have and exercise the like Power and Authority as the Court of Chancery in Suits for Partition (including the Power and Authority conferred by this Act) in any Case where the Property to which the Suit relates does not exceed in Value the Sum of Five hundred Pounds, and the same shall be had and exercised in like Manner and subject to the like Provisions as the Power and Authority conferred by Section One of The County Courts Act, 1865.

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