

*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL and having this day passed as now printed is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.*

*Legislative Council,  
5th July, 1870.*

(Hon. Mr. Sewell.)

## Partition.

### ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. As to the term "the Court."</p> <p>3. Power to Court to order sale instead of division.</p> <p>4. Sale on application of certain proportion of parties interested.</p>	<p>5. As to purchase of share of party desiring sale.</p> <p>6. Authority for parties interested to bid.</p> <p>7. Application of Trustee Act.</p> <p>8. Application of proceeds of sale.</p> <p>9. Costs in partition suits.</p>
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### A BILL INTITULED

#### AN ACT to amend the Law relating to Partition.

Title.

**B**E IT ENACTED by the General Assembly of New Zealand, in Parliament assembled, and by the authority of the same as follows:—

- 5 1870." 1. The Short Title of this Act shall be "The Partition Act, Short Title.
2. In this Act the term "the Court" means the Supreme Court of New Zealand. As to the term "the Court." 31 and 32 Vict. c. 40 s. 2.
- 10 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 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. Power to Court to order sale instead of division. Ib. s. 3.
- 20 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 Sale on application of certain proportion of parties interested. Ib. s. 4.
- 25 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.  
32 and 33 Vict. c. 40  
s. 5.

**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. 5 10 15

Authority for parties  
interested to bid.  
Ib. s. 6.

**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 non-payment 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. 20

Application of  
Trustee Act.  
Ib. s. 7.  
13 and 14 Vict. c. 60.

**7.** Section thirty of "The Trustee Act 1850" adopted by "The English Acts Act 1854" shall extend and apply to cases where in suits for partition the Court directs a sale instead of a division of the property. 25

Application of  
proceeds of sale.  
Ib. s. 8.

**8.** Sections twenty-two to twenty-four (both inclusive) of "The Leases and Sale of Settled Estates Act 1865" shall extend and apply to money to be received on any sale effected under the authority of this Act.

Costs in partition  
suits.  
Ib. s. 10.

**9.** In a suit for partition the Court may make such order as it thinks just respecting costs up to the time of the hearing. 30