

BILLS BEFORE THE LEGISLATURE.

16. [Powers of Judge to compel attendance, be the same as in other courts.]

17. The enquiry to be had before the Judge as to the value of the personal estate, and the amount of the debts and funeral and testamentary expenses, shall be of such general character as may be sufficient to enable the Judge to arrive at approximate results, and shall not involve an administration of the estate; and if, upon such general enquiry, the Judge finds that there are complicated or contested matters without a determination on which he is unable to come to a conclusion as to the order to be made, he may direct that proceedings shall be taken in the proper Court for the administration of the personal estate of the deceased, and may in the meantime adjourn the application.

18. Upon the final hearing of the application for an order for the appointment of a Real Representative, and for the sale of lands, the Judge shall, if it appears to him that the personal estate is insufficient for the payment of the debts, make an order for the appointment of a real representative of the deceased, and for the sale of so much, and such part of the lands to be specified in the order, as in his judgment it may having regard to the amount of the personal estate, be necessary to sell, in order to pay the debts, funeral and testamentary expenses, and the expenses of administration, and the order shall be in the form contained in Schedule A to this Act.

19. In case the personal representative, or any one or more of the personal representatives, is or are willing to become the real representative, he or they shall have the *prima facie* right to be appointed, but it shall not be obligatory on the Judge to appoint him or them, if for any reason the Judge shall be of opinion that it would be inexpedient to do so.

20. The sale shall be by public auction, for cash, according to the standing particulars and conditions of sale contained in Schedule B to this Act, except in so far as the same may in any case be varied by the Judge.

21. Upon the same application on which the order is made, the Judge shall settle the particulars and conditions of sale, name the auctioneer, and settle the advertisement or advertisements of sale, which shall be signed by him, and which shall be published by the real representative for at least three months before the sale, in the *Ontario Gazette*, and in some newspaper to be named by the Judge in each county where the lands lie, and in such other ways, if any, as the Judge shall direct.

22. The advertisement shall contain the following particulars:—

- (1). The style of the matter.
- (2). That the sale is in pursuance of an order of the Judge.
- (3). The time and place of sale.
- (4). A short and true description of the

land to be sold, and a statement of the interest therein which is to be sold.

(5). The manner in which the land is to be sold, whether in one lot or several, and if in several, in how many, and what lots, and in what order.

(6.) Any particulars in which the proposed conditions of sale differ from the standing particulars and conditions of sale.

23. [Judge may change auctioneer.]

24. Forthwith, after the making of the order, the real representative shall procure and forward to the proper Registry Office for registration, a duplicate thereof under the seal of the Court; and each such duplicate shall be registered by the proper Registrar, against every lot within his county comprised in it, on payment of the sum of fifty cents for each lot.

25. Every instrument executed by any beneficiary, after the registration of the order for sale, or executed before, and not registered in the proper Registry Office at the time of the registration of the order for sale, and every conveyance upon a sale under any execution against the lands of any beneficiary, executed by the Sheriff after the registration of the order for sale, or executed before, and not registered in the proper Registry Office at the time of the registration of the order for sale, shall be fraudulent and void, as against the title acquired upon a sale under the order.

26. Every instrument executed by any beneficiary, and registered before the registration of the order for sale, and every conveyance made by the Sheriff upon a sale under any execution against the lands of the beneficiary, and registered before the registration of the order for sale, shall be valid, void or voidable, as against the title acquired upon a sale under the order, according as the same would under the law in force at the time of the passing of this Act, have been valid, void or voidable at law or in equity, as against the claims of creditors of the deceased.

27. In case it appears that any such instrument or conveyance as is mentioned in the last preceding clause of this Act has been registered before the registration of the order for sale, or in case it appears that the title of the deceased is disputed by some person setting up an adverse claim, the real representative, or any of the parties may apply to the Judge for an order that the Real Representative shall take proceedings to establish the right to sell; and if the Judge so orders, the Real Representative shall file a bill or present a petition, under the Act for quieting titles, in the Court of Chancery for Ontario, for that purpose; and the said Court shall have jurisdiction at his instance to decide upon the validity of the instrument or conveyance, or of the adverse claim set up, subject to the same appeal as in other cases in the said Courts, and in the meantime the Judge shall adjourn the sale