

BILL.

An Act to amend an Act passed in the twelfth year of Her Majesty's Reign, intituled, "*An Act to improve the Law of Evidence in Upper Canada.*"

WHEREAS by a proviso contained in an Act passed Preamble.
in the twelfth year of Her Majesty's reign, intituled,
"*An Act to improve the law of Evidence in Upper Canada,*"
it is provided that the said recited Act shall not render
5 competent any party to any suit, action or proceeding,
individually named in the record, or any lessor of the
plaintiff or tenant of premises sought to be recovered in
ejectment, or the landlord or any person in whose right
any defendant in *replevin* may make cognizance, or any
10 person in whose immediate or individual behalf any action
may be brought or defended either wholly or in part, or
the husband or the wife of such persons respectively, and
whereas it is desirable that in no case should there be any ex-
clusion of any person from giving evidence, but that all
15 persons should be admitted to give evidence on oath or
affirmation as the case may be:—Be it therefore, &c.

That the said proviso in the said first recited Act be and
the same is hereby repealed. A certain
proviso of 12
Vict. c. 70,
repealed.

II. And be it enacted, That whenever any person has
20 died or shall hereafter die in any of Her Majesty's pos-
sessions out of Upper Canada, having made a Will suffi-
cient to pass real estate in Upper Canada, and whereby
any such real estate shall be devised, charged or affected,
and such Will shall have been duly proved in any court
25 having the proof and issuing probate of Wills in any of
such possessions, and shall remain fyled in such court, the
production of the probate of such Will, and a certificate
of the Judge, Registrar or Clerk of such court, that the
original is fyled and remains in such court, and purports
30 to have been executed before two witnesses, shall be suffi-
cient *prima facie* evidence in any court of Law or Equity
in Upper Canada, in any proceeding concerning such
real estate, of such Will and of the same having been
executed so as to pass real estate, without the production
35 of the original Will: Provided always, that notice of the in-
tention to use such probate in the place of the original Will,
shall be given to the opposite party in any such proceed-
ing, three calendar months before the same shall be so
used; and provided also, that such probate shall not be
40 used if upon cause shewn before any such court of Law
or Equity or any Judge thereof, such court or Judge
shall find any reason to doubt the sufficiency of the exe-
cution of such Will to pass such real estate as aforesaid,
and shall make a rule or order disallowing the production
45 of such probate. Probate of a
Will made by
any person
who shall die
in Her
Majesty's
possessions
out of Upper
Canada, with
a certificate of
the fyling of
the original,
&c. to be suffi-
cient *prima
facie* evidence
in Courts of
Upper Canada
in proceedings
concerning
such will.

Proviso:
notice of
intention to
use probate, to
be given to
opposite party.