

(91)

1854.]

**BILL.**

[No. 91.]

An Act to amend an Act to abolish the rights of Primogeniture, and to afford relief to parties succeeding to the real estate of persons dying intestate, in certain cases, in Upper Canada.

**WHEREAS** it frequently happens in cases of persons dying intestate, leaving real estate in Upper Canada, that by reason of the absence therefrom or of the minority of some of the parties entitled to participate in the succession to such real estate, no title can be made to the same without great delay, expense, and inconvenience, and it is desirable to provide some remedy therefor: Be it therefore enacted, &c., as follows:

Preamble.

I. The Judge of the Surrogate Court in each of the Counties or Unions of Counties in Upper Canada, having jurisdiction within such County or Union of Counties, shall be the "Real Representative" for all real property within such County or Union of Counties in respect of or to which, any person being seized of or entitled to an estate in fee simple therein, shall die intestate.

Judge of Surrogate Court to be the Real Representative of intestates as regards lands in his County.

II. From and after the expiration of \_\_\_\_\_ months from the death of any person dying intestate, seized of or entitled to such real estate as aforesaid, it shall and may be lawful for any one or more persons entitled to a share or interest in such estate and the immediate possession thereof, being of full age, to apply to either of the Superior Courts of Common Law, or to the County Court of the County or Union of Counties, where such estate is situate, for a division or partition thereof, or for a sale thereof, if such sale shall by such Court be considered more advantageous to the parties interested.

Application may be made for a partition of such estate. By whom and to what Court.

III. The application to any Court for a partition or sale, shall particularly describe the premises sought to be divided or sold, and set forth the interest of the petitioner and the rights and titles of all persons interested therein, so far as the same are known to the petitioner, including the interest of any tenant for years, for life, by the courtesy or in dower, or in case any one or more of such parties, or the share or quantity of interest of any of the parties be unknown to such petitioner, the same shall be set forth in each petition; and the truth of such petition and the matters contained therein shall be verified by the oath or affirmation of the petitioner, to be taken before any Commissioner for taking affidavits, or before any of the Judges of the said Courts.

What the application for partition or sale must set forth.

It must be verified on oath.

IV. Every person having any such interest as aforesaid, may be made a party to such petition, and if any of the parties so interested are minors, and it shall be satisfactorily proved to the Court that at least fourteen days notice has been served on such minors as reside in this Province, of an intention to apply to such Court for an order for partition

Parties to such application.

Notice to minors and appointment of guardians to them.