

4th Session, 3rd Parliament, 14 and 15 Victoria, 1851.

J.

BILL.

An Act to afford Relief to the *Estate of the
late Alexander Wood.*

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Second Reading, Monday, 23rd June, 1851.

[200 Copies.]

HON. MR. ROSS.

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BILL.

An Act to afford Relief to the *Estate of the late Alexander Wood.*

WHEREAS the Honorable George Crookshank, as Preamble.
 Attorney for Isabella Farrell, of Woodbrunden, in the
 County of Kincardine, in that part of the United Kingdom
 of Great Britain and Ireland called Scotland, Widow, has
 5 by petition set forth that Alexander Wood, formerly of Wood-
 brunden aforesaid, Esquire, and who resided in the City of
 Toronto, Upper Canada, for many years previous to the year
 of Our Lord one thousand eight hundred and forty-two, died
 at Woodert, near Stonehaven, in Scotland aforesaid, on or
 10 about the Eleventh day of September, in the Year of
 Our Lord One Thousand Eight Hundred and Forty-four,
 intestate, and that the said Isabella Farrell claims to be the
 Heir-at-Law of said Alexander Wood, and as such entitled
 to the real estate left by the said Alexander Wood in Scot-
 15 land and in Upper Canada, and that all the witnesses to prove
 such heirship reside in Scotland aforesaid, and that for realiz-
 ing said estate in Upper Canada it is necessary that a num-
 ber of suits at Law and in Equity shall be brought, in which
 proof of the heirship of the said Isabella Farrell to the said
 20 Alexander Wood will be required; and whereas by Law it
 is necessary that a commission for the proof of such heirship
 shall be issued in every such action or suit, which will occasion
 serious expense and delay which it is desirable to prevent;

Be it therefore enacted by the Queen's Most Excellent
 25 Majesty, by and with the advice and consent of the Legislative
 Council and of the Legislative Assembly of the Province of
 Canada, constituted and assembled by virtue of and under the
 authority of an Act passed in the Parliament of the United King-
 dom of Great Britain and Ireland, and intituled "An Act to
 30 "re-unite the Provinces of Upper and Lower Canada and for
 "the Government of Canada;" And it hereby enacted by the
 authority of the same, that any Commission or Commissions
 which may have issued, or may hereafter issue, in any cause now
 depending or hereafter to be brought in Her Majesty's Court
 35 of Queen's Bench or Common Pleas or Her Majesty's High
 Court of Chancery in and for that part of Canada heretofore
 Upper Canada, for the examination of Witnesses for the
 proof of the Heirship of the said Isabella Farrell to the said
 Alexander Wood, deceased, and her consequent right to in-
 40 herit the Real Estate of which said Alexander Wood died

Commissions
 issued by Courts
 of Q. B. or C.
 P. or Court of
 Chancery for
 proof of heir-
 ship to be valid
 in other Suits
 in all Courts
 of Law or
 Equity in Up-
 per Canada.

possessed in Upper Canada, and which shall have been or shall be hereafter returned to the said Courts of Queen's Bench, or Common Pleas, or High Court of Chancery, in any such cause in which it or they shall have been so issued, and shall have been considered by any of the said Courts to afford good proper and sufficient evidence of the heirship of said Isabella Farrell, and right and title to said Real Estate in Upper Canada, which said Alexander Wood died possessed of, according to the Laws in that behalf, shall be deemed and taken to be in any Court of Law or Equity or any judicial proceeding in Upper Canada a Commission or Commissions issued in and for any cause, suit or proceeding, whatever, which may be hereafter had or commenced in any such Court of Law or Equity, or in any judicial proceeding, and in which proof of the heirship of said Isabella Farrell or her right or title to inherit the real property of which said Alexander Wood died possessed in Upper Canada shall be required in the same manner and with the same effect as if the same had been issued returned and opened in the particular cause suit or proceeding in which it or they may be so required or used as aforesaid: Provided always, that before any such Commission or Commissions shall be received in evidence in any other cause suit or judicial proceeding than that in which they shall have been or shall be taken, a certificate shall be obtained and produced, from the Judge before whom the cause was tried in which such Commission or Commissions shall have been or shall be opened, that such Commission or Commissions afforded due and sufficient evidence that the said Isabella Farrell was and is Heir-at-Law of the said Alexander Wood.

Proviso.

Defendant may obtain the issue of a new Commission, &c.

II. And be it enacted that it shall and may be lawful for any defendant or defendants in any action or actions in any Court of Law or Equity, or any judicial proceeding in Upper Canada, in which it may be necessary to give evidence of the heirship of the said Isabella Farrell to the said Alexander Wood deceased to apply to the said Court in which such action may be brought upon affidavit shewing good cause for the same of any matter tending to invalidate the claim of the said Isabella Farrell to inherit any of said Real Estate, for a Commission or Commissions to examine Witnesses in reference thereto; and upon such Commission or Commissions being granted to the said defendant or defendants, no proceedings shall be had under the first section of this Act upon any Commission or Commissions taken and returned as therein mentioned, but such action or actions shall proceed as if this Act had never been in force: Provided always, that such defendant or defendants shall proceed upon the order granting any such Commission or Commissions within one month after such order shall be made.

Proviso.