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No. 211.

3d Session, 3d Parliament, 13 & 13 Vic., 1850

BILL.

An Act for the more effectual Administration of Justice in the Court of Chancery in Upper Canada.

Received and Read a first time, Tuesday, 23rd
July, 1850.
Second Reading, Friday, 26th July, 1850.

Hon. Mr. Atty. Gen. BALDWIN.

~~FORWARDED TO THE SECRETARY OF STATE~~

Chancery Administration of Justice Bill.
(Upper Canada.)

An Act for the more effectual Administration of Justice in the Court of Chancery in Upper Canada.

WHEREAS it is expedient to give further facilities for instituting and carrying on suits in the Court of Chancery in order as much as possible to obviate delay and diminish expense; Be it therefore enacted, &c.

Preamble.

- 5 That it shall be lawful for the Judges of the said Court from time to time to appoint Masters and Deputy Registrars of the said Court, in such localities as the said Judges may consider necessary and expedient for the purpose of promoting as far as possible the local Administration of Justice: And it shall and may be lawful for the said Judges from time to time to cancel such appointments and to appoint others at their pleasure, and to make such rules and orders as may be necessary for regulating the offices of the said Masters and Deputy Registrars hereby authorized to be appointed, and for specifying the business to be transacted in the said respective offices, and for fixing the costs to be allowed in respect thereof, and from time to time to make other rules and orders amending, altering or rescinding the same or any of them; Provided, that nothing herein shall be construed to prevent the Judges of the said Court from appointing the same person to hold the offices of Master and Deputy Registrar, if they shall think it right so to do.

Judges may appoint Masters and Deputy Registrars in such localities as they think proper.

Proviso.

- II. And be it enacted, That the said Masters and Deputy Registrars of the Court of Chancery respectively, shall on the first day of January, the first day of April, the first day of July and the first day of October, in each and every year, make up and render to the Inspector General of Public Accounts of the Province, accounts in writing of all the fees, dues, emoluments, perquisites and profits received by or on account of the said offices respectively, in such form and with such particulars as the said Inspector General shall from time to time require: which said accounts shall be signed by the Officer rendering the same, and shall be sworn to before the Judge of the County Court of the County in which such office is held; and such Officers respectively shall within ten days after the rendering of such account pay over one-half of the amount of all such fees, dues, emoluments, perquisites and

Such Masters and Deputy Registrars to account for and pay over one half of their emoluments.

profits, to the Receiver General of the Province and shall be respectively entitled to retain the other half as their remuneration, and if default shall be made in such payment the amount due by the Officer making default shall be deemed a specialty debt to Her Majesty.

5

Master in Ordinary may appoint a Clerk.

III. And be it enacted, That it shall be lawful for the Master in ordinary of the said Court of Chancery to appoint, subject to the approval of the Judges of the said Court, one Clerk whom the said Master on the like approval may remove at pleasure, and that there shall and 10 may be paid and payable out of the Consolidated Revenue Fund of this Province (after paying or reserving sufficient to pay all such sums as have been directed by any former Act of the Parliament of this Province to be paid out of the same, but with preference to all other payments which 15 shall hereafter be charged upon the same) the yearly sum of *one hundred and twenty-five pounds* as and for the salary of a Clerk in the Master's Office, such salary to commence from the tenth day of September last, and to be paid from the said tenth day of September up to the time of the 20 appointment of a Clerk in pursuance of this Act to the Master of the said Court, to be by him paid to the Clerk or Clerks who may have performed the duty of Master's Clerk during such period, and such salary to be thereafter paid to the Clerk to be so appointed, quarterly, free and 25 clear of all taxes and deductions whatsoever, on the first day of January, the first day of April, the first day of July and the first day of October, by equal portions; the first payment to be made on the first of the said quarterly days which shall occur after the appointment of such Clerk in 30 pursuance of this Act, such first payment to be a ratable portion of the quarter's salary according to the time then elapsed since such appointment, and in case of the resignation or removal of such Clerk he shall be entitled, and in case of his death his executors or administrators shall 35 be entitled, to a proportional part of his salary according to the time elapsed between the last quarterly payment and such death, resignation or removal.

Salary allowed; how paid, &c.

Guardians may execute conveyances, in suits in Partition, on behalf of their wards.

IV. And be it enacted, That in suits instituted in the said Court for the partition of lands held in joint tenancy, 40 tenancy in common or coparcenery it shall not be necessary to postpone the execution of any conveyance ordered by any decree which may be pronounced in any such suit in consequence of the infancy of any such joint tenant, tenant in common, or coparcener, but that the guardian of 45 any such infant may be ordered by the said Court to execute such conveyance on behalf of his ward, and such guardians are hereby authorized and empowered to do and perform on behalf of their wards any act, matter or thing respecting the partition of lands which may be 50 directed by the said Court, and every such act, matter or thing so done shall be deemed valid and effectual in law

to every intent and purpose, as if the same had been done by such minor after his arrival at full age.

V. And be it enacted. That whenever the said Court shall be of opinion that partition cannot be made of lands
 5 so held in joint tenancy, tenancy in common, or coparcenery, without material prejudice to the whole, in such case it shall be competent to the Court, if it shall so think fit, to order a sale of the entire estate in such way as the Court may consider most for the benefit of all concerned;
 10 and the Judges of the said Court are hereby authorized and empowered to make rules and regulations respecting proceedings in partition, in as full and ample a manner as they are authorized to make rules and regulations in relation to the general practice of the said Court, by an Act
 15 passed in the twelfth year of Her Majesty's Reign, Chaptered sixty-four, intituled, "*An Act for the more effectual Administration of Justice in the Court of Chancery of the late Province of Upper Canada.*"

When the lands cannot be conveniently divided, Court may order sale of the whole. Rules may be made respecting proceedings in Partition: 12 V., c. 64.