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No. 109.

3rd Session, 5th Parliament, 20 Victoria, 1857.

BILL.

An Act to amend the practice in Criminal
Cases in Lower Canada.

Received and read, first time, Thursday, 12th
March, 1857.

Second reading, Thursday, 23th March, 1857.

MR. ALLEYN.

TORONTO:
PRINTED BY JOHN LOVELL, YONGE STREET.

An Act to amend the practice in Criminal Cases in Lower Canada.

WHEREAS it is necessary to amend the practice in certain cases, in criminal trials in Lower Canada; Therefore Her Majesty, &c., enacts as follows: Preamble.

I. In all trials for felonies or misdemeanors, after the accused or prisoner has been arraigned, it shall be the duty of the Clerk of the Crown or Peace to ascertain whether he will be tried by Jurors acquainted with English or French, and he shall then declare his option, and in the event of his not so doing it shall be the duty of the Crown prosecutor to select; and mixed Juries, except by mutual consent, shall no longer be empannelled in such cases. Jury to be all English or French.
Except by consent.

II. The right to a jury *de medietate lingue* is hereby abolished. Jury *de medietate lingue* abolished.

III. In any case where, in answer to whether any cause can be assigned why execution shall not be awarded, the plea of pregnancy shall be made, it shall be the duty of the Sheriff to summon three Physicians experienced in Obstetrics, who shall return a verdict to the Court on such plea, and the said medical men shall have the right of examining the felon, and witnesses if necessary shall be adduced before them; and the power of the Court shall be the same with regard to such medical men as over any jury, and the Court hereby is granted full power to carry out the intention of this section. Plea of pregnancy to be tried by men skilled in obstetrics.

IV. The Jury of Matrons is hereby abolished. Jury of matrons abolished.

V. On the petition substantiated by affidavit of any person committed for felony or misdemeanor, establishing to the satisfaction of a Judge of Criminal Jurisdiction where the accused is to be tried, that a necessary witness is about immediately to leave Lower Canada or is dangerously ill, whereby at the trial the accused may be deprived of such testimony, it shall be the duty of such Judge to take notes of the testimony of the said witness and the same shall avail at the trial; Provided always, that due notice shall be given to the Crown officer charged with the management of the criminal business, and in his absence to the senior Crown Counsel; And provided further, that should such witness be within the District or restored to health at the time of the said trial, such notes shall not be received, but the proof thereof shall be on the Crown, and one Judge may continue the proceedings commenced by another in virtue hereof. Witness for defence may in certain cases be examined before the trial, &c.
Proviso.
Proviso.

VI. It shall be the duty of the Sheriffs in making their next lists of Petit Jurors (provided such lists are not commenced within three months after the passing of this Act) to include, in addition to the present qualified persons, all those who are now qualified to be Grand Jurors, and any provision of Law repugnant hereto is hereby repealed. Persons qualified to be Grand Jurors to be included in lists of Petit Jurors.