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No. 47.

3d Session, 3d Parliament, 13 Victoria, 1850.

BILL.

**An Act to facilitate the admission in
evidence of foreign judgments, and
certain official and other documents.**

**Received and Read a first time, Monday, 3d June,
1850.**

Second Reading, Monday, 10th June, 1850.

Hon. Mr. CAMERON, (of Cornwall.)

47.

BILL.

An Act to facilitate the admission in evidence of foreign judgments, and certain official and other documents.

WHEREAS it would greatly diminish the expense of legal proceedings, and prove highly beneficial to the advancement of justice, if certain foreign judgments, official and public documents, and documents, by-laws, rules, regulations and proceedings, and entries in Registers and other books of Corporations, were admitted in evidence without the particularity now required by law: Be it therefore, &c. Preamble.

That from and after the passing of this Act, any judgment, decree or other judicial proceeding, recovered, made, had or taken in any of the Superior Courts of Law or Equity in England, Ireland or Scotland, or in any Court of Record in Lower Canada, shall and may be proved in any suit, action or proceeding, either at Law or Equity in Upper Canada, in which proof of any such judgment, decree or judicial proceeding shall be necessary or required, by an exemplification of the same under the seal of the said Courts respectively, without any proof of the authenticity of such seal, or other proof whatever, in the same manner as any judgment, decree, or similar judicial proceeding of any of the Superior Courts of Common Law or Equity in Upper Canada is proved by an exemplification thereof in any judicial or other proceeding in the said last mentioned Courts respectively. Judgments, &c. of certain Courts out of U. C. may be proved by exemplification.

II. And be it enacted, That any Notarial copy of any deed, obligation, contract or other instrument in writing made in Lower Canada, and which by the law of Lower Canada is required to be taken before a Notary or Notaries, and filed, enrolled or enregistered, by such Notary or Notaries, shall be receivable in evidence in any judicial or other proceeding either at law or equity in Upper Canada, in the place and stead of the original, and shall have the same force and effect as the original would have if produced and proved in any such proceeding: Provided always, that such Notarial copy may be rebutted or set aside by proof that there is no such original, or that the Notarial copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as is required by the law Instruments passed before Notaries in Lower Canada may be proved by Notarial copy. Proviso: such proof liable to be rebutted.

of Lower Canada to be taken before a Notary or Notaries, or to be filed, enrolled or enregistered by a Notary or Notaries in Lower Canada.

Judgments, &c. of certain Courts in U. C. may be proved in L. C. by exemplification.

III. And be it enacted, That any judgment, decree, or other judicial proceeding of any Court of Record in Upper Canada, shall and may be proved in any suit, action or proceeding, in any Court in Lower Canada, by the production of an exemplification of such judgment, decree or other judicial proceeding, under the seal of any such Court of Record, without any proof of the authenticity of such seal, or other proof whatever. 5 10

Copies of Official Documents, By-laws, &c., attested in a certain manner to be receivable in evidence.

IV. And be it enacted, That a copy of any official or public document in this Province, purporting to be certified under the hand of the proper officer or person in whose custody such official or public document shall or may be placed, or a copy of any document, by-law, rule, regulation or proceeding, or a copy of any entry in any Register or other book of any Corporation, created or to be created by charter or statute in this Province, purporting to be certified under the seal of such Corporation, and the hand of the Presiding Officer or Secretary thereof, shall be receivable in evidence of any particular, in any court of justice, or before any legal tribunal, or the Legislative Council or Assembly, or any committee thereof respectively, or in any judicial proceeding, without any proof of the seal of such Corporation, or of the signature or of the official character of the person or persons appearing to have signed the same, and without any further proof thereof in every case in which the original record could have been received in evidence. 15 20 25 30

Judicial notice to be taken of the signature of the Judges of certain Courts.

V. And be it enacted, That all Courts, Judges, Justices, Masters in Chancery, Masters of Courts, Clerks of Courts, Prothonotaries, Commissioners judicially acting, and other judicial officers in this Province, shall henceforth take judicial notice of the signature of any of the Judges of the superior Courts of Law or Equity in Upper or Lower Canada, provided such signature be appended or attached to any decree, order, certificate, affidavit or other judicial or official document. 35

Punishment of persons forging any such seal, signature, &c., as aforesaid.

VI. And be it enacted, That if any person shall forge the seal or signature to any such certified copy as is hereinbefore mentioned, or shall tender in evidence any such certified copy with a false or counterfeit seal or signature thereto, knowing the same to be false or counterfeit, whether the seal or signature be that relating to any corporation or office already created or established, or to be hereafter created or established; or if any person shall forge the signature of any such Judge as aforesaid to any decree, order, certificate, affidavit, or other judicial or official document, or shall tender in 40 45 50

evidence any order, decree, certificate, affidavit, or other judicial or official document, with a false or counterfeit signature of any such Judge as aforesaid thereto, knowing the same to be false or counterfeit, every such person shall be guilty of felony, and shall, upon conviction, be liable to imprisonment in the Provincial Penitentiary for any term not less than two nor more than five years: Provided also, that whenever any of the said documents hereinbefore mentioned shall be received in evidence by virtue of this Act, the Court, Judge, Commissioner or other person acting or officiating judicially, who shall have admitted the same, shall, on the request of any party against whom the same is so received, be authorized, at its or his own discretion, to direct that the same shall be impounded, and kept in the custody of the officer of the Court or some other proper person, until further order touching the same shall be given, either by such Court or the Court to which such Master or other officer belonged, or by the person or persons who constituted such Court, or by some one of the Judges of the Superior Courts of Law or Equity, on application being made for that purpose.

Proviso.
Any such Document as aforesaid may be impounded by order of the Court, &c.