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No. 61.

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4th Session, 6th Parliament, 24 Victoria, 1861.

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BILL.

An Act to amend Chapter Thirty-two of the Consolidated Statutes for Upper Canada, intituled, "An Act respecting Witnesses and Evidence."

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Received and read, 1st time, Thursday, 4th April, 1861.

Second Reading, Monday, 8th April, 1861.

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Mr. WILSON.

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QUEBEC :

PRINTED BY THOMPSON, HUNTER & CO.,  
ST. URSULE STREET,

An Act to amend Chapter Thirty-two of the Consolidated Statutes for Upper Canada, intituled, "An Act respecting Witnesses and Evidence."

**WHEREAS** it is desirable to amend the Act recited in the title of this Act, and to extend the provisions thereof; Therefore, Her Majesty, &c., enacts as follows: Preamble.

I. Sections five and eighteen of the said Act are hereby repealed.

S. S. 5 and 18 repealed.

5 II. On the trial of any issue joined, or of any matter or question, or on an inquiry arising in any suit, action, or other proceeding in a Court of Justice, or before any person having by law or by consent of parties, authority to hear, receive and examine evidence, the parties thereto, and the person or persons on whose behalf such suit, action, or other  
10 proceeding is brought or defended, and the husband or wife of every such party or person, shall [except as hereinafter mentioned] be competent and compellable to give evidence, either *viva voce* or by deposition, according to law or to the practice of the Court, on behalf of either or any of the parties to the suit, action or proceeding.

Parties to suits, &c., may be witnesses therein except as hereinafter mentioned.

15 III. In the following cases no person shall be competent or compellable to give evidence for or against himself: Exceptions.

1. In any criminal proceeding, when he is charged with the commission of an indictable offence, or with an offence punishable on summary conviction.

20 2. In any *qui tam* or penal action, when he is sued for a penalty or forfeiture.

IV. In the following cases no husband or wife shall be competent or compellable to give evidence for or against the other:—

Exceptions as to husband and wife.

25 1. In any criminal proceeding, except in those cases in which, before this Act, the one could by law give evidence against the other.

2. In any proceeding instituted by either of them against the other in consequence of adultery.

30 V. No husband shall be compellable to disclose any communication made to him by his wife during the marriage; nor shall any wife be compellable to disclose any communication made to her by her husband during the marriage.

As to communications during marriage.

VII. No person shall in any case be compellable to answer any question to criminate himself.

As to self crimination.

35 VIII. In all criminal enquiries, proceedings, or prosecutions for nuisance, simple assault, simple assault and battery, or for libel, or perjury,

Parties charged in

certain pro-  
ceedings may  
be witnesses  
by and with  
their own  
consent.

or for the violation of any Municipal By-law, and in all *qui tam* actions for a penalty or forfeiture, the party charged or defendant may, if he desire it, be sworn and examined, and give evidence in like manner as a witness; and if there be more than one party charged, or more than one defendant, the one party or defendant may call any party jointly charged, or any joint defendant, with the consent of the one to be called, to give evidence as aforesaid.