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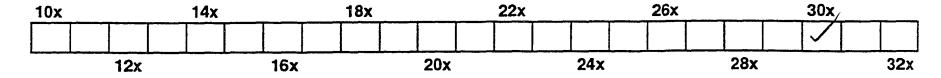
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4th Session, 6th Parliament, 21 Victoria, 1861.

BILL.

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

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

Second Reading, Monday, 8th April, 1861.

Mr. WILSON.

QUEBEC:

PRINTED BY THOMPSON, HUNTER & CO., at. Unable atreet.

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

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

I. Sections five and eighteen of the said Act are hereby repealed.

S. S. 5 and 18 repealed.

II. On the trial of any issue joined, or of any matter or question, or Parties to 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, nesses therein authority to hear, receive and examine evidence, the parties thereto, except as and the person or persons on whose behalf such suit, action, or other hereinafter 10 preceeding is brought or defended, and the husband or wife of every such party or person, shall [except as hereinafter mentioned] be comcompetent 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.

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

1. In any criminal proceeding, when he is charged with the commis-

- sion of an indictable offence, or with an offence punishable on summary conviction.
- 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 Exceptions as compellable to give evidence for or against the other:-

to husband and wife.

- 1. In any criminal proceeding, except in those cases in which, before 25 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.
- V. No husband shall be compellable to disclose any communication As to commade to him by his wife during the marriage; nor shall any wife be during compellable to disclose any communication made to her by her husband marriage. during the marriage.

VII. No person shall in any case be compellable to answer any ques. As to self tion to criminate himself.

VIII. In all criminal enquiries, proceedings, or prosecutions for nuis- Parties 35 ance, simple assault, simple assault and battery, or for libel, or perjury, charged in certain proseedings may se witnesses by and with their own sonsent. 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.

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