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No. 117.

1st Session, 21 Victoria, 6th Parliament, 1858.

B I L L .

An Act to facilitate the proof in Lower
Canada of certain Instruments exe-
cuted without the Province.

Received and read, 1st time, Tuesday, 27th
April, 1858.

Second reading, Friday, 30th April, 1858.

Mr. Sol. Genl. ROSE.

S. Derbshire & G. Desbarats, Queen's Printer.

An Act to facilitate the proof in Lower Canada of certain Instruments executed without that section of the Province.

WHEREAS it is expedient to facilitate the proof in Lower Canada of certain instruments executed beyond the limits of that section of the Province, the originals whereof are deposited with Notaries Public : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Preamble,

I. A Notarial copy of any power of Attorney, purporting to be executed out of Lower Canada, in the presence of one or more witnesses, and to be authenticated by or before any Mayor or other Magistrate, Judge of any Court of Record, British Consul or other Public Officer of the Country where it bears date, the original whereof may be deposited for any purpose with any Notary Public in Lower Canada, and which copy shall be certified in the ordinary form by the Notary having the custody of the original, shall be taken and received by and before all Courts and elsewhere in Lower Canada as *prima facie* evidence of the original and of the due execution thereof; and such power of Attorney shall be held and taken to be authentic and duly proved in the manner aforesaid, unless the authenticity thereof be specially put in issue as herein-after mentioned.

Notarial copies of powers of Attorney attested before foreign public Officers and deposited with any Notary to be *prima facie* evidence of such Instruments.

II. It shall be competent for any interested party to deny the authenticity of the original of any such copy, by filing with the plea denying such authenticity, an affidavit to the effect that he has reason to doubt, on grounds to be set forth in such affidavit, and does not believe, that the same was executed or attested by the person or persons nor in the manner it purports to be, and by entering security, to the satisfaction of a Judge, for all costs attending the execution of any commission to be issued to prove such power of Attorney; it shall then be incumbent on the party wishing to use the copy, to prove the original thereof in due form of law, to which end the Notary having the custody of such original shall be bound, on the order of any Judge, to deposit the same in Court in the cause wherein it is put in issue, first retaining a true and exact copy thereof; and it shall be the duty of all Judges and Courts to grant such order, on petition, any law or custom to the contrary notwithstanding; and the original may thereupon be annexed to any Commission to be issued for the proof thereof.

How the authenticity of such Instruments may be questioned, and ascertained by commission, &c.

III. If such power of Attorney is duly proved, all costs incurred on the proceedings for proving it shall be taxed against and payable by the party denying the authenticity of the same, whatever may be the final judgment in the cause.

Costs of proof, how payable.