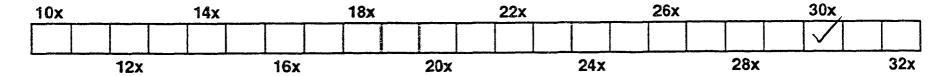
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4th Session, 3d Parliament, 14 & 15 Vict., 1851.

## BILL.

To improve the Law of Evidence in Lower Canada.

Received and read a first time, Thurday, 3rd July, 1851.

Second reading, Monday, 7th July, 1851.

Hop. Mr. BADGLEY.

## BILT.

An Act to improve the Law of Evidence in Lower Canada.

WHEREAS the inquiry after truth in Courts of Jus- Preamble. tice is often obstructed by incapacities created by or existing under the present law, and it is desirable that full information of the facts in issue, both in criminal and 5 in civil cases, should be laid before the persons appointed to decide upon them, and that such persons should exercise their judgment on the credit of the witnesses adduced. and on the truth of their testimony: Be it therefore enacted. &c...

10 That no person offered as a witness shall hereafter be No person to excluded by reason of incapacity, from crime or interest, a witness by from giving evidence according to the practice of the reason of Court, on the trial of any issue joined, or of any matter from crime or or question, or on any inquiry arising in any suit, action interest, 15 or proceeding, civil or criminal, in any court, or before any judge, jury, sheriff, coroner, magistrate, officer or person having by law or by the consent of parties authority

to hear, receive or examine evidence; but that every person so offered may and shall be admitted to give 20 evidence on oath, or solemn affirmation in those cases wherein affirmation is by law receivable, not with standing that such person may or shall have an interest in the matter in question, or in the event of the trial of any issue, matter, question or inquiry, or of the suit, action or pro-25 ceeding in which he is offered as a witness, and notwithstanding that such person offered as a witness may have been previously convicted of any crime or offence.

II. And be it enacted, That whenever any person has Probate of died or shall hereafter die in any of Her Majesty's pose of H. M. Pose 30 sessions out of Lower Canada, having made a will sessions to be sufficient according to the laws in force in such pos-evidence in session where the will is executed to pass real or personal L.C. estate as the case may be, and whereby real estate in Lower Canada, or whereby real estate in Lower 35 Canada shall be bequeathed or given, shall be devised, charged or affected, or whereby any personal estate in Lower Canada shall be bequeathed or given, and such Will shall have been duly proved in any Court having the proof and issuing of probate of Wills in any of such posses-40 sions, and shall remain fyled in such court, the production of the probate of such Will, and a certificate of the Judge, Registrar or Clerk, or proper officer of such

Court, that the original is fyled and remains in such Court, and purports to have been duly executed according to the the law of such possession, shall be sufficient primate facie evidence in any Court of Justice in Lower Canada, or before any Judge in any proceeding concerning such sestate, of such will, and of the same having been executed so as to pass such estate, without the production of the original will: Provided always that such probate shall not be used if upon cause shewn before any such Court or any Judge thereof, such Court or Judge shall find any 10 reason to doubt the sufficiency of the execution of such will to pass such estate as aforesaid, and shall make a rule or order disallowing the production of such probate.

Proviso: if the Judge doubts the sufficiency of the execution.

Wills in English form with two witnesses made valid. III. And be it enacted, That from and after the passing of this Act any Will affecting land or real estate, executed 15 in Lower Canada according to the forms prescribed by the laws of England, in the presence of and attested by two or more witnesses, shall have the same validity and effect as if executed in the presence of and attested by three witnesses, and that it shall be sufficient if the said 20 witnesses shall subscribe the said Will in presence of each other, although their names may not be subscribed in presence of the testator, any former law to the contrary notwithstanding.

Extens of Act. IV. And be it enacted, That this Act shall apply only 52 to Lower Canada.