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No. 131.

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1st Session, 4th Parliament, 16 Victoria, 1852.

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## **BILL.**

An Act to facilitate the admission in evidence of Foreign Judgments, and certain official and other documents, and otherwise to improve the Law of Evidence in Lower Canada.

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Received and Read a first time, Thursday, 30th  
September, 1852.

Second Reading, Monday, 4th October, 1852.

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**MR. STUART.**

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QUEBEC:

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

1311

**B I L L .**

**An Act to facilitate the admission in evidence of Foreign Judgments, and certain affidavits and other documents, and otherwise to improve the Law of evidence in Lower Canada.**

**W**HEREAS it would greatly diminish the expense of legal proceedings and prove highly beneficial to the advancement of justice, in Lower Canada, if certain Foreign Judgments, official and public documents were admitted in evidence without further proof thereof as now required by law; Be it therefore enacted &c.,

*Preamble.*

That from and after the passing of this Act, any Judgments, decree, or other judicial proceeding, recovered, made, or taken in any of the Superior Courts of law, equity or bankruptcy in England, Ireland or Scotland, or in any of the colonies or possessions belonging to the Crown of the United Kingdom of Great Britain and Ireland, or in any Court of Record of the United States, or of any State of the United States of America, shall and may be proved in any suit, action or proceeding in any court in Lower 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.

*Judgement obtained in certain courts out of the province proved by an exemplification of the same, under seal of the courts.*

II. And be it enacted, That the exemplification of a will and the probate thereof in the Prerogative Court of the Archbishop of Canterbury, or in any other court of competent jurisdiction in England, Ireland or Scotland, or in any of the colonies or possessions belonging to the Crown of the United Kingdom of Great Britain and Ireland, under the seal of the said Courts respectively, without any proof of the authenticity of such seal or other proof whatever, shall be sufficient in any suit, action or proceeding in any court in Lower Canada, in which proof of any such will and probate thereof shall be necessary or required, and shall also be *prima facie* evidence of the death of the testator.

*Exemplification of will and probate to be sufficient proof of such will.*

III. Provided always, and be it further enacted, That it shall be competent to any party interested in such will, whereof probate may have been so granted as aforesaid, upon the production

*Proviso. Any party interested may have the saw*

*recorded in  
Prothonotary's  
office*

of an exemplification of the same, to the Superior Court for Lower Canada, or any of the Judges thereof, to require and have the same recorded in the office of the Prothonotary of the said Court in any one of the Districts of Lower Canada; and when so recorded, a copy thereof certified by the Prothonotary under the seal of the said Court, shall have the same force and effect, and to the same extent as such exemplification in all or any of the cases in the preceding Section of this Act mentioned and referred to.

*Invalidity  
may be es-  
tablished*

IV. Provided always, That nothing herein contained shall prevent any party in any such suit, action or proceeding from establishing, by proper means of evidence, the invalidity of such will or of the probate thereof.

*Penalty of  
forgery, signa-  
tures, &c.*

V. And be it enacted, That if any person shall forge the seal or signature to any such exemplification or certified copy as is hereinbefore mentioned, or shall tender in evidence any such exemplification or certified copy, with false or counterfeit seal or signature thereto, knowing the same to be false or counterfeit; or if any person shall forge the signature of any Judge as aforesaid, to any decree, order, certificate, affidavit or other judicial or official document, or shall tender in 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: in the discretion of the Court before whom the conviction shall be had.

*Certificate of  
marriage &c.,  
duly signed to  
be authentic.*

VI. And be it enacted, That any certificate of a marriage of persons married without the limits of Lower Canada, any certificate of a baptism of a person baptized without the same limits, and any certificate of a person having been buried without such limits under the hand of the Clergyman or Minister who may have officiated at such marriage, baptism or burial, shall, in all Courts of Justice in Lower Canada, be held to be authentic, and no other evidence shall be required of the truth thereof.

*Extract from  
register of  
marriages &c.,  
duly certified  
to be au-  
thentic.*

VII. And be it further enacted, That an extract from a register of marriage, births and burials, kept without the limits of this Province shall, if certified by the Clergyman or Minister, or public officer, having the legal custody thereof, be, in like manner, held to be authentic, and no further proof of the contents thereof required.

*Proviso.  
Parties may*

VIII. Provided always, That it shall be competent to any party to a suit to deny the truth of any of the said certificates or extracts,

by doing so in writing before the close of the Enquête of the party who may produce the same, in which case it shall be incumbent upon such party to prove the contents of such certificate or extracts in the manner now required by law, but in the event of  
 5 such certificate or extract being duly proved by a commission or otherwise to be correct and true, then and in that case, the costs of proving such certificate or extract to be taxed by the Judge, shall be paid by the party who may have objected to the truth thereof as aforesaid, whatever may be the final judgment in the cause.

deny the  
 truth of certi-  
 ficates or ex-  
 tracts.

10 IX. And be it further enacted, That if any person shall forge any signature to any such certificate or extract, or shall tender in evidence any such certificate or extract knowing the signature thereto to be false and counterfeit, every such person shall be  
 15 guilty of felony, and shall, upon conviction be punishable as in the cases hereinbefore stated.

Penalty for  
 forging.