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No. 229

3d Session, 3d Parliament, 13 and 14 Vict., 1850.

BILL.

An Act to amend the law of Lower Canada as regards *Commissions Rogatoires*.

Received and Read a first time, Tuesday, 30th
July 1850.

Second Reading, Thursday, 1st August, 1850.

COL. GUGY.

TORONTO: PRINTED BY LOVELL AND GIBSON.

BILL.

An Act to amend the Law of Lower Canada as regards *Commissions Rogatoires*.

WHEREAS it is expedient to amend the Law of Lower Canada as regards the issuing or execution of *Commissions Rogatoires*; Be it therefore enacted, &c.

That, notwithstanding any thing to the contrary in the Ordinance of the former Province of Quebec, passed in the thirty-first year of the Reign of King George the Third, and intituled, "*An Act to continue and amend the Acts or Ordinances therein mentioned, respecting the Practice of the Law in Civil Causes,*" in every case where a *Commission Rogatoire*, or a Commission in the nature of a *Commission Rogatoire*, may by law issue, any Judge of the Court out of which the same is to issue may grant the application for the same, and allow or reject interrogatories to be appended thereto, in Term or in Vacation, in the name of the Court, and may in his discretion cause the same to be directed to any one Commissioner, or to any two or more Commissioners, to execute the same jointly or severally.

Preamble.
Ordinance of Quebec, 31 G. 3, c. 2, amended as regards the issuing of Com. Rog. one Judgemayact.

II. And be it enacted, That the parties to the cause in which such *Commissions* shall issue, may be present at the execution thereof in person, or by their Counsel, and may examine or cross examine *viva voce* the witnesses adduced, in the manner practised in the examination of witnesses in civil cases in Lower Canada; and if either of such parties shall declare his intention to examine the witnesses *viva voce*, it shall not be necessary that such party should fyle written interrogatories or cross-interrogatories to go with the Commission, but the evidence taken upon such *viva voce* examination shall be returned by the Commissioner or Commissioners, and shall avail as evidence in the cause: Provided always, that the Court (or the Judge acting in the name of the Court) may delegate to the Commissioner or Commissioners the power to determine what questions may or may not be put to any witness, and what answers may or may not be received, subject to the condition that all questions or answers rejected by the Commissioners shall, on the request of either party, be reduced to writing and reserved for the opinion of the Court.

Witnesses may be examined viva voce before Commissioners.

Proviso: Court may delegate certain powers to Commissioners.

III. And be it enacted, That when interrogatories and cross-interrogatories shall be transmitted with any such

Examinations by interroga-

tories not to be
 secret. Commission in the manner now practised, the examination
 upon the same shall not be secret from the parties, but
 either of them may attend thereat in person or by Counsel,
 and see that the answers of the witnesses be fairly and
 fully recorded by the Commissioner or Commissioners : 5
 but nothing herein shall authorize the attendance at such
 examination of any persons who may not now attend
 thereat other than the parties or their Counsel.

Court to make
 rules of prac-
 tice under this
 Act IV. And be it enacted, That the provisions of this Act
 shall be carried into effect in such manner as the Courts 10
 in Lower Canada may prescribe by their Rules of Practice.