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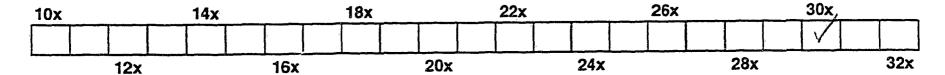
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1st Session, 4th Parliament, 16 Victoria, 1852.

BILL.

An Act to facilitate the examination of Witnesses in Civil Causes in Lower Canada.

Received and read a first time, Monday, 18th October, 1852.

Second reading, Wednesday, 20th October, 1852

MR. STUART.

QUEBEC:
PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

BILL.

An Act to facilitate the examination of Witnesses in Civil Causes in Lower Canada.

WHEREAS doubts have arisen and do exist in relation to the inter- Preamble, pretation to be given to the twelfth Section of the Ordinance passed in the twenty-fifth year of the Reign of His late Majesty King George 25 Geo. III, the III, cap. 2, intituled, "An Ordinance to regulate the proceedings in cap-5" the Courts of civil judicature, and to establish trials by Juries in actions "of a commercial nature and personal wrongs, to be compensated in "damages," and whereas it is expedient to remove those doubts and to make better provision for the examination of witnesses in civil causes in certain cases; Be it therefore enacted, &c.,

10 That the said twelfth Section of the said Ordinance shall be and is Sect. 12 rebereby repealed.

II. And be it enacted, That in case of sickness, when without the im- Mode of promediate examination of the witness, his testimony would be for ever curing the lost, and where such witness cannot attend the Court, it shall be lawful examination of witnesses, 15 for the Court wherein the cause is pending, or for any Judge thereof, whose testiupon proof by affidavit to the satisfaction of such Court or Jucige, that money would such examination is of evident necessity, to order at any time after the otherwise be issning of the Writ of Summons, the examination of such winess, at such time and place as to the Court or Judge it may seem advisable, of 20 which order notice shall be given to the party or parties adversely interested, and after such notice shall have been given, it shall be lawfu. for any Judge of the Court in which the cause is pending, to proceed at the time and place appointed, to the examination of such witness in the usual and accustomed manner, and the evidence so taken shall be re-25 ceived and fyled in the cause and shall avail as if taken in the ordinary course.

III. And be it enacted, That when any witness may be about to leave And the ex-Lower Canada, and that thereby either party in a cause might be deprived amination of a witness about of the testimony of such witness, it shall be lawful for the Court or any to leave Low. MJudge of the Court in which the cause is pending, upon proof by affida- er Canada. vit of the necessity of examining such witness, to order at any time after the issuing of the Writ of Summons, the examination of such witness. at such time and place as to such Court or Judge may seem fit, of which order notice shall be given to the party or parties adversely interested, \$\$ and after such notice shall have been given, it shall be lawful for any Judge of the Court in which the cause is pending, to proceed at the time and place appointed to the examination of such witness, in the usual and accustomed manner, and the evidence so taken shall be received and fyled as if taken in the ordinary course.

In what stage of the cause such examination may be had.

IV. Provided always, and be it enacted, That no witness shall by virtue of the foregoing Sections, be examined in any cause on the part of the plaintiff, unless the declaration containing the demand shall have been fyled, nor shall any witness be examined on the part of a defendant, until this answer or plea to the action shall have been fyled, or in 5 lieu thereof a brief statement of the facts to be relied on in his defence.

Evidence to V. And be it enacted, That any testimony received and fyled under be real to the the authority of this Act, shall, if the cause by tried by a Jury be received and read as evidence at such trial.

Extent of Act. VI. And be it enacted, That this Act shall apply only to Lower 10 Canada.