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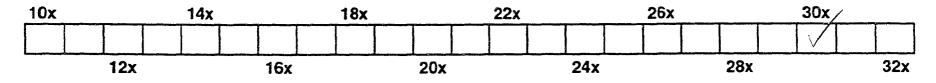
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4th Session, 3d Parliament, 14 & 15 Victoria, 1851.

BILL.

An Act to explain and amend the Act of the twelfth year of Her Majesty's Reign, relative to the Courts of original civil jurisdiction in Lower Canada.

Received and read a first time, Thursday, 26th June, 1851.

Second reading, Wednesday, 9th July, 1851.

Colonel Gugy.



BILL.

An Act to explain and amend the Act of the twelfth year of Her Majesty's reign relative to the Courts of original civil jurisdiction in Lower Canada.

THEREAS it is expedient to explain and amend the Preamble. Act passed in twelfth year of Her Majesty's Reign and intituled "An Act to amend the Laws relative to the 12 Vict. e. 38. " Counts of Original Jurisdiction in Lower Canada," and 5 the Law of Lower Canada in certain matters relative to

the practice in the said Courts; Be it therefore enacted. &c.

That it shall and may be lawful for any one or more Any one of the Judges of the Circuit Court, or of the Superior Judge may receive and 10 Court, in vacation as well as in term, to entertain act upon any Petition for the removal (destitution) of any Tutor removal of a or Curator, and in vacation as well as in term summarily Tutor, &c. to inquire into, and, according to law, to determine upon such petition, either by dismissing the same in 5 whole or in part, or by removing any Tutor or Curator, or by naming or appointing another Tutor and Curator, in the lieu and stead of the person so removed, as to law and justice may appertain.

II. And be it enacted, That whenever in any suit or Towr, &c. 20 plaint instituted or to be instituted against any Tutor or to bail in cer-Curator in which the Plaintiff shall make the oath by law min cases. prescribed and required for the arrest of any Defendant, or for the suing out of a writ of attachment against the person, or against property, and shall moreover swear 35 that such Tutor or Curator is in possession of the property or assets of the person or persons whom as such Tutor or Curator he may represent, and that such Tutor or Curator hath no immovable property, whereby or out of which the rights and claims of the person or 30 persons instituting the suit might be secured, then and in such case such Tutor or Curator may be arrested and imprisoned and held to bail, or a writ of attachment may be sued out, in every respect as if such Tutor or Curator were personally and individually indebted.

35 III. And be it enacted, That whensoever it shall be Judge may suggested to any Judge, that any person without known to take are of heirs, having any property, has departed this life within the property the jurisdiction of the Court whereof such Judge shall deceased loav-**▲**¹⁸⁸

ing no legal representations.

be a member, it shall and may be lawful for such Judge forthwith to name and appoint some person known to him, to be of integrity and capacity to secure and protect for the benefit of all the parties who may be interested, all the property and assets of the person so deceased.

Property to be Curator.

appointment of Curator.

IV. Provided always, That such property and assets of delivered up to the person so deceased shall be delivered over to the Curator, or other person duly authorised under and by Proviso: as to virtue of an order of such Judge; and provided further. that no Judge shall in any case, confirm or homologate 10 the advice of any number of persons, for the nomination of a Tutor or Curator, without fully inquiring into the facts, and ascertaining the true relation in which each of the persons offering their advice may stand to the deceased, or person whose property may be in question, 15

Compensation to Sequestre or Curator.

Certain things relative to Trials of Jury may be done at weekly sittings.

faits to be fyled.

Its effects.

Proviso

Proviso.

V. And be it enacted, That such Judge shall, in every case, assign and tax a proper compensation to be paid to such person or persons whom he may select and appoint. as Sequestre or Curator, payment whereof shall be made with a due regard to the estate of the deceased, and the 20 interest of his representatives.

VI. And be it enacted, That it shall and may be lawful for the Judges of the Superior Court, in their weekly sittings, to determine according to law upon the option and choice of either party to have and obtain a trial by 25 Jury, and in the event of their granting such application, forthwith to assign a day for the trial, and also to receive and adjudicate upon all motions consequent upon the recording of the verdict, and to grant new trials, or to pronounce the judgment of the court upon verdict, as fully 30 to all intents and purposes as it has been usual to do in term.

VII. And be it enacted, That whensoever the issue Articulation de shall be joined, each of the parties to any suit shall be held and bound to prepare and fyle a statement of facts (arti-35 culation de faits), containing a full and precise detail of every fact, admitted or denied, and that the adduction of evidence (*enquête*) shall be narrowed and restricted to such facts only as are expressly denied: Provided always, that every fact not expressly denied shall be taken 40 to have been admitted, and that the mode of procedure in this case shall be regulated by the rules of practice of the Court, so as to prevent any evasion of this statute: Provided further, whatever the issue of the suit, the cost of inquiry and making proof, as well as reasonable fees 45 to the counsel and attorney engaged therein, shall be taxed . against the party who shall have failed to prove what he alleged, or whose adversary shall have proved what such party denied.

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VIII. And beit enacted, That on every trial by Jury, upon Translator se the suggestion or at the desire of any of the parties in- be appointed on trials by terested, every Court of Justice in Lower Canada shall Jury. name and appoint an officer, who shall be styled the

- 5 Translator, and who shall have a competent knowledge both of the English and of the French tongue, and shall upon oath translate evidence in an intelligible manner, and in like manner a translator of every foreign language shall be named whenever an occasion therefor shall
- 10 occur: Provided always, that such Court shall assign and Allowance to tax to such Translator a reasonable compensation for his services, to be included in the costs of trial.

IX. And be it enacted, That the delay for fyling any Delay for exception as to form or declinatory, or dilatory exception, pleas. 15 shall hereafter be of two days instead of eight, and that the delay to plead to the merits shall not begin to run until after the disposal of the said preliminary pleas.

him.