

CAP. CXCVIII.

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.

[Assented to 14th June, 1853.]

Preamble.

WHEREAS it would greatly diminish the expense of legal proceedings and prove highly beneficial to the advancement of justice in Lower Canada, if certain Judgments and other documents were admitted in evidence without further proof thereof as now required by law: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada* and it is hereby enacted by the authority of the same, That an Exemplification of any judgment, decree or other judicial proceeding of any Court in any of Her Majesty's Dominions, or in any Foreign Country, under the seal of the Court in which such judgment or other judicial proceeding was recovered, made or taken, or under the signature of the Prothonotary, Clerk or Custodier of the record of such Judgment, decree or other judicial proceeding, shall be received whenever offered in any Court of Justice in Lower Canada, as *prima facie* evidence of such judgment, decree or proceeding, unless proof to the contrary be made.

Exemplifications of Judgments, &c., to be received as *prima facie* evidence

Exemplification and Probates of Wills to be received as *prima facie* evidence.

II. And be it enacted, That an Exemplification of any Will executed in Her Majesty's Dominions or in any Foreign Country, under the seal of any Court wherein the original Will may be of record, or under the signature of the Judge, Surrogate or Clerk of such Court, or of the Custodier of such Will, shall be taken and received, whenever offered in any Court in Lower Canada, as *prima facie* evidence of the execution of such Will; and the Probate of any such Will, under the seal of any Court of competent jurisdiction, shall be received as *prima facie* evidence of the contents thereof, and also of the death of the Testator, unless proof to the contrary be made.

Certificates of marriages, &c., out of L. C. to be received as *prima facie* evidence.

III. And be it enacted, That a Certificate of the Marriage of any person married, or of the Baptism of any person baptised, or of the Burial of any person interred beyond the limits of Lower Canada, under the hand of the Clergyman, Priest or Minister, who shall have officiated at such Marriage, Baptism or Burial, or of the Public Officer before whom such Marriage may have been contracted, or an extract from any Register kept for the registration of any such Marriages, Baptisms or Burials, certified

certified by the Clergyman, Priest, Minister or Public Officer, being the legal Custodier thereof, whenever offered in any Court of Justice in Lower Canada, shall be taken and received as *prima facie* evidence of the contents thereof.

IV. And be it enacted, That it shall not be necessary to prove any Seal or the Signature or Authority of any Officer affixed to any Exemplification, Probate, Certificate or Extract which by the foregoing Sections is made *prima facie* evidence of the facts therein stated, but the production of any such Document purporting to be sealed with such Seal and signed by such Officer, shall be *prima facie* evidence of such Seal and Signature, and of the authority of the Officer purporting to have affixed such Seal to such Document or to have signed the same.

Seal or Signature to any such Document need not be proved.

V. And be it enacted, That it shall be competent to any party interested in any such Will, upon the production of an Exemplification of the same, and of the Probate thereof, if there be any, 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 of the said Court, shall have the same force and effect as such Exemplification.

Exemplification and Probate may be recorded in L. C. and certified copies thereof shall be authentic.

VI. And be it enacted, That the Seal of any Foreign State, and the Certificate of the Secretary or any one of the Secretaries of any such State, or of the Executive Government thereof, whenever offered in any Court of Justice in Lower Canada, to establish the existence and competency of any Court, Corporate Body, Clergymen, Priest or Minister, Office or Officer, its or his identity in relation to any public document, or any other matter, shall be deemed authentic without proof thereof, and shall be taken and received as *prima facie* evidence of the fact intended to be established thereby, whether such State be a separate Sovereignty, or be one of the United States of America, or of any other Federation or Union of several States.

Seals and Certificates of Foreign States, &c., to be *prima facie* evidence.

VII. Provided always, and be it enacted, That it shall be competent to any party to a suit or proceeding to deny the truth of any of the said Exemplifications, Probates, 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 Exemplification, Probate, Certificate or Extract in the manner now required by law; but in the event of such Exemplification, Probate, Certificate or Extract being duly proved by a commission or otherwise to be correct and true, the costs of such proof to be taxed by the Judge, shall and may in the discretion of the Court or Judge before whom such suit or proceeding is had, be ordered to be paid by the party who may have denied the truth thereof as aforesaid, whatever may be the

Any party may deny the truth of the said exemplifications, &c. As to costs in such case.

Costs.

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Proviso: Security for costs to be given in such case, by the party denying the truth of such signature, &c.

final judgment in the cause; And provided further, that whenever the truth of any of the said Exemplifications, Probates, Certificates or Extracts, shall be denied as aforesaid, security for the costs attending the execution of a commission to prove the same, shall be given to the satisfaction of the Court or Judge by the party denying the truth of the same, and within the time and for such amount as the said Court or Judge shall direct.

C A P . C X C I X .

An Act to amend the Act, intituled, *An Act to define the mode of proceeding before the Courts of Justice in Lower Canada, in matters relating to the protection and regulation of Corporate Rights and to Writs of Prerogative, and for other purposes therein mentioned.*

[Assented to 14th June, 1853.]

Preamble.

12 V. c. 41.

WHEREAS it is expedient to amend the Act passed in the twelfth year of Her Majesty's Reign chaptered forty-one, intituled, *An Act to define the mode of proceeding before the Courts of Justice in Lower Canada, in matters relating to the protection and regulation of Corporate Rights and to Writs of Prerogative, and for other purposes therein mentioned*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the twentieth Section of the said Act shall be, and it is hereby repealed, provided that nothing in this Act contained shall affect any cause now pending in appeal.

Sect. 20 of said Act repealed.

Either party may inscribe on Roll de droit: giving notice to the other.

II. That in all cases in which a Writ of *certiorari* shall have been or shall be issued, and a regular return thereof shall have been made, it shall be lawful for any party interested to inscribe the cause on the roll *de droit*, on giving notice thereof to the opposite party; and the hearing of the said cause on the merits shall be proceeded with as in ordinary causes.