

Defendants in actions by Prothonotaries, for fees may plead three years' prescription.

declared and 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, intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That in all Actions brought or to be brought by the Prothonotary or Clerk of any Court of Justice in Lower-Canada, for the recovery of fees or emoluments of office, it has always been and shall be lawful for the defendant to plead three years' prescription to the demand in any such Action, dating from the date of the delivery or transmission of the papers, documents and orders which such Prothonotary or Clerk may have been required to prepare and deliver, by virtue of the duties of his office, or from the date at which it may have been lawful for such Clerk to demand the payment of any sum for the filing of actions, pleas or other judicial documents, on the filing of which a fee is granted to such Clerk, as provided by the said Ordinance, and such prescription shall be a bar (*fin de non recevoir*) to any such action.

Doubts recited.

Actions of Attornies *ad lites* for fees or disbursements also limited to five years, and of Sheriffs, &c. to three years.

II. And whereas doubts have arisen relative to the limitation of actions of Attornies *ad lites* against their clients, and of Sheriffs and other Officers of Justice for the drawing up, issuing or filing of any document, paper or order by them, or for rendering any other service in their official capacity, for which any fee or remuneration is allowed them—Be it therefore declared and enacted, That in all actions brought by Attornies *ad lites* against their clients for the recovery of fees or disbursements, accrued before the passing of this Act, it shall be lawful for the defendant to plead five years' prescription dating from the passing of this Act, and that in all actions brought by Attornies *ad lites* against their clients for the recovery of fees and disbursements which may accrue and grow due after the passing of this Act, it shall be lawful for the defendant to plead five years' prescription, dating from the day when final judgment shall have been rendered in the cause or proceeding in which the plaintiff shall have been entitled, as Attorney *ad lites* to the fees, and shall have made the disbursements for which any such action shall be brought; and that in all actions brought by Sheriffs and other Officers of Justice for the drawing up, issuing or filing of any document, paper or order by them, or for rendering any other service in their official capacity, for which any fee or remuneration is allowed them, it shall also be lawful for the defendant to plead three years' prescription, dating from the date of the rendering of such services, or of the delivery or filing of such documents, papers or orders; and such prescription shall be a bar (*fin de non recevoir*) to any such action; any law, usage or custom to the contrary notwithstanding.

#### C A P. X L V.

An Act to facilitate Actions against Persons Associated for Commercial Purposes, and against Unincorporated Companies.

[ 30<sup>th</sup> May, 1849. ]

Preamble;

**W**HEREAS difficulties exist in bringing Actions against persons associated as Partners for trading purposes, or against unincorporated Companies or Societies formed for like purposes, by reason of the difficulty for parties doing business with such Partnerships,

Partnerships, Companies or Societies, to ascertain the names, surnames, residence and addition of all the persons so associated as aforesaid, and great expense and inconvenience are thereby incurred: 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 all persons associated in Partnership for trading purposes in Lower-Canada, shall cause to be delivered to the Prothonotary of the Court of Civil Jurisdiction, in each District, and to the Registrar of each County, in which they shall carry on business, a declaration in writing, signed by the several members of the said Copartnership, when all such members shall, at the time of making the same, be in the said Province; and if any of the said members be absent at the time, then by the members present, in their own names and for their absent co-members, under their special authority to that effect, and containing the names, surnames, addition and residence of each and every Partner as aforesaid, and the name, style or firm under which they carry on or intend to carry on such business, and stating also the time during which the Partnership has existed, and declaring that the persons therein named are the only members of such Partnership; and such declaration shall be filed within Sixty days after the passing of this Act, if such Partnership shall have been or shall be formed before the time when this Act shall come into force and effect, and within Sixty days after the formation thereof if it shall be formed after the said Act shall come into force and effect; and a like declaration shall be filed in like manner when and so often as any change or alteration shall take place in the members of such Partnership, or in the name, style or firm under which they intend to carry on their business—under a penalty of Fifty pounds against each and every member of any Partnership with regard to which the requirements of this section shall not have been complied with, to be recovered before any Court having jurisdiction in civil cases to the amount of such penalty, by any person suing as well in his own behalf as on behalf of Her Majesty; and one moiety of such penalty shall belong to the Crown for the uses of the Province, and the other moiety to the party suing for the same, unless the suit be brought (as it may be) on behalf of the Crown only, in which case the whole of the penalty shall belong to Her Majesty for the uses aforesaid.

II. And be it enacted, That the said Prothonotary and Registrar shall enter each such declaration as aforesaid, in a book to be by them kept for that purpose, which shall be at all times, during office hours, open to the inspection of the public, gratuitously; and for registering each such declaration the Prothonotary and Registrar shall each be entitled to demand from the person delivering it to him the sum of Two shillings and Six pence if it shall not contain more than two hundred words, and at the rate of Six pence per hundred words, for all above the number of two hundred: and such declaration shall be in the form or to the effect of the Schedule to this Act annexed.

III. And be it enacted, That the allegations made in the declaration aforesaid, shall not be controvertible as against any party, by any person who shall have signed the same, nor as against any party not being a member of the Partnership, by any person who shall have signed the same or who was really a member of the Partnership therein mentioned

Partnerships in Lower-Canada to file a declaration as to who the partners are, &c.

When such declaration must be filed.

Also on change of partners.

Penalty.

Penalty how recovered and applied.

Prothonotary and Registrar to register such declaration. Fees.

Form of declaration.

Legal effect of the allegations in such declaration.

mentioned at the time such declaration was made; nor shall any such Signer or Partner be deemed to have ceased to be a Partner until a new declaration shall have been made and filed by him or his Copartners, or any of them, as aforesaid, stating such alteration in the Partnership; but nothing herein contained shall exempt from liability any person who, being a Partner, shall not have been mentioned in the declaration, and such person may, notwithstanding such omission, be sued jointly with the partners mentioned in the declaration, or they may be sued alone, and if judgment be recovered against them, any other Partner or Partners may be sued jointly or severally, in an action on the original cause of action, upon which such judgment was rendered—nor shall any thing in this Act be construed to affect the rights of any Partners with regard to each other, except that no such declaration as aforesaid shall be controverted by any signer thereof.

How actions may be brought against partnerships if no declaration be filed within sixty days from the passing of this Act.

Proviso: if the action be on an instrument.

Proviso as to service of process and execution against partnerships.

IV. And be it enacted, That after the expiration of sixty days from the passing of this Act, if any persons shall be or shall have been associated as Partners for the purposes of trade in Lower-Canada, and no declaration shall have been filed under this Act with regard to such Partnership, then any action which might be brought against all the members of the Partnership, may also be brought against any one or more of them, as carrying on or as having carried on trade, jointly with others, (without naming such others in the Writ or declaration) under the name and style of their said Copartnership firm; and if judgment be recovered against him or them, any other Partner or Partners may be sued jointly or severally on the original cause of action on which such judgment shall have been rendered: Provided always, that if any such action be founded on any obligation or instrument in writing in which all or any of the Partners bound by it shall be named, then all the Partners named therein shall be made parties to such action: Provided always, and be it declared and enacted that the service of any Summons or Process for any claim or demand upon any existing Copartnership liability at the office or place of business of any such existing Copartnership carrying on business within this Province, is and shall be held and deemed to have the same and equal effect as a service made upon the members of the said Copartnership, personally, and any judgment rendered against any member of such existing Copartnership, for a partnership debt or liability, shall and may be executory by Process of Execution against all and every the Partnership, Stock, Property and Effects in the same manner, and to the same extent as if such judgment had been rendered against such Copartnership.

Interpretation clause.

V. And be it enacted, That the word "Partnership" in this Act, shall include any unincorporated Society, Company, or Association for trading purposes; and the word "Action" shall include any proceeding at Law to which any such Partnership shall be a party.

Act to apply only to L. C.

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

SCHEDULE.

PROVINCE OF CANADA, }  
DISTRICT OF }

We, \_\_\_\_\_ of \_\_\_\_\_ in \_\_\_\_\_, (*Grocers*,) hereby certify that we have carried on and intend to carry on trade and business, as (*Grocers*,) at \_\_\_\_\_, in partnership under \_\_\_\_\_

under the name or firm of \_\_\_\_\_ (or, as the case may be,) I, (or we,) the undersigned, of \_\_\_\_\_, hereby certify that I (or we) have carried on and intend to carry on trade and business as \_\_\_\_\_, at \_\_\_\_\_, in partnership with C. D. of \_\_\_\_\_, E. F. of \_\_\_\_\_, and that the said partnership hath subsisted since the \_\_\_\_\_ day of \_\_\_\_\_, one thousand \_\_\_\_\_, and that we (or I or we, and the said C. D. and E. F.) are and have been since the said day, the only members of the said Partnership. Witness our (or any of our) hands at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_.  
(Or as the case may be.)

C A P. X L V I.

An Act to incorporate *The Bar of Lower-Canada.*

[30th May, 1849.]

**W**HEREAS it is important and necessary for the right administration of justice, that the profession of Advocate, Barrister, Attorney, Solicitor and Proctor at Law in Lower-Canada, should be exercised only by persons capable of performing the duties thereof with honor and integrity; And whereas it is expedient for the more certain attainment of this important object, to establish more effectual regulations, with regard to the said profession, and the interests and rights of the members thereof: 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 from and after the passing of this Act, all Advocates, Barristers, Attorneys, Solicitors and Proctors at Law in Lower-Canada, admitted as such at the time of the passing of this Act, shall be and form a Corporation under the name of *The Bar of Lower-Canada*; which said Corporation shall be divided into three sections, that is to say: one section for the District of Montreal, one for the District of Quebec, and one for the District of Three-Rivers; the Advocates, Barristers, Attorneys, Solicitors and Proctors at Law residing in the District of Saint Francis forming part of the section of the District of Three-Rivers; and those residing in the District of Gaspé forming part of the section of the District of Quebec.

Preamble.

Present Members of the Bar incorporated.  
Three sections constituted.

As to St. Francis and Gaspé.

II. And be it enacted, That the said Corporation may sue and be sued in all Courts of Justice in Lower-Canada, may acquire moveable and immoveable property by purchase, donation, bequest or otherwise, to the value of five thousand pounds; and each of the said sections may sue and be sued separately in any Court of Justice in Lower-Canada, under the name of *The Bar of Lower-Canada, Section of the District of \_\_\_\_\_*, in all matters relating to each such section respectively, and may acquire moveable and immoveable property to the value of six thousand pounds; and all suits or actions brought by or against any of the said sections respectively, shall only affect the section or sections concerned therein; and in all actions against the said Corporation or against any of the said sections, service of Process at the domicile of the Secretary of the General Council hereinafter mentioned, or at the domicile of the Secretary of the Council

Corporate powers.  
Property, name &c.

Service of process.