

Laws of Her Majesty's Province of Upper Canada, passed in the year 1849. Montreal: Stewart Derbshire & George Desbarats, 1849.

12 Victoria – Chapter 44

An Act for the limitation of Actions of Clerks of Courts of Justice and Attorneys *ad lites*, and of all other Officers of Justice, entitled to receive fees and costs. 30th May, 1849.

Whereas doubts have arisen with respect to the right of the Clerks of the several Courts of Justice in Lower-Canada, to sue for the recovery of sums due to them for fees or emoluments of office, after a certain time from the day when such fees or emoluments have become due; and whereas by an Ordinance of the King of France, of the month of June in the year One thousand five hundred and ten, it is enacted and ordained, That all Actions of Clerks of Courts of Justice, for the recovery of sums due to them by virtue of their office, shall be subject to a prescription of three years; and whereas the said Ordinance forms part of the Civil Law of Lower-Canada: Be it therefore 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.

II. And whereas doubts have arisen relative to the limitation of actions of Attorneys *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 Attorneys *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 Attorneys *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.