

there is a power of admission belonging to the Courts that power involves the power of rejection. It is the duty of the Court in a doubtful case to make inquiries as to imputations thrown upon the conduct of an applicant. In England, as the office of barrister and that of an attorney cannot be held together, it has been decided that a person who has served under articles, being at the same time a barrister, cannot claim to be admitted an attorney by virtue of such service: (*ex parte* Bateman, 6 Q. B. 853.) As the reason of this decision does not hold good in Upper Canada, the decision itself, it is apprehended, cannot be received without grave misgivings. In Upper Canada both branches of the profession are generally united in the one person. Besides our recent Act in certain cases not only authorises, but makes necessary, the service of barristers to attorneys, whereupon such persons are entitled themselves to be admitted as attorneys: (20 Vic. cap. 63, s. 5.)

*Second*—The clerk must *continue during the whole five years* to serve the attorney to whom he is articulated, and to serve him *in the proper business, practice, or employment of an attorney*. The service must not only be for five years, but be *continuous* for the *whole* of that time. A service broken by devoting a part of the time to a different employment will not suffice though the actual service rendered may be more than five years. Therefore a person who, while under articles, held a situation incompatible with his profession, as surveyor of assessed taxes, was decided to be incompetent though the business of his office did not occupy more than one-eighth of his time: (*In re* Taylor, 5 B. & Al. 538.) So where an articulated clerk, during the entire period he was under articles, was a salaried clerk attending a public office: (*In re* Ridout, T. T. 2 & 3 Vic., MS., R. & H. Dig. "Attorney," I. 4.) The court cannot, where an articulated clerk has devoted part of the five years to employments other than that of the profession, allow him for the months, weeks, and days actually served, and then allow him to re-articulate himself for the fractional part remaining: (*In re* Taylor, 4 B. & C. 341.) In such a case the service under the first articles cannot be coupled with the services under the second articles so as to make the period of five years: (*Ib.*) In some instances, where a service has been put an end to before the five years have expired, and there has been a definite and precise interval, and afterwards an additional

binding and service, it has been held that the deficiency might be in that manner supplied: (*Ib.* per Abbott, C. J.) Clerks whose masters have, during the currency of the articles, died or left off practice, may enter into fresh contracts for the residue of their term: (20 Vic. cap. 63, s. 14.) So in case the master become bankrupt or insolvent under the direction of a Court the articles may be discharged or assigned: (*Ib.* s. 13.) Occasional and unavoidable absence by illness (*ex parte* Mathews, 1 B. & Ad. 160), even for a year (*In re* Hagarty, 6 O. S. 188; *ex parte* Hodge, 2 Jur. 989), will not render the service inoperative. Nor will an absence for several months, with the master's assent, if the whole period of five years be actually served: (*ex parte* Hubbard, 1 Dowl. P. C. 438; *ex parte* Frost, 3 Dowl. P. C. 323; *ex parte* Peel, 7 Jur. 724; *ex parte* Mathews, 1 B. & Ad. 160; *ex parte* Cross, 9 Dowl. P. C. 692.) If a clerk under articles to one attorney serve a part of his five years to another attorney, even with his master's assent, this is not a service under articles such as intended by the Act (*ex parte* Angell, 4 Jur. 656; *ex parte* Hill, 7 T. R. 456; *ex parte* Rowle, 2 C. C. Rep. 54), but service for one year with the Toronto agent of his master is allowable: (*In re* Gilkeson, H. T. 7 Wm. IV. MS., R. & H., Dig. "Attorney," I; see also s. 4 of 20 Vic. cap. 63.) There is nothing to prevent a clerk from devoting his extra hours in the employment of an attorney other than his master: (*ex parte* Blunt, 2 W. Bla. 764; *ex parte* Llewellen, 2 Dowl. N. S. 701.) Where a person who had articulated himself for three years served only two months and then abandoned the contract, and after the expiration of three years mentioned in the contract his articles were assigned to another attorney with whom he served the residue of the time it was held that as the original articles had expired the assignment and service after the assignment was ineffectual: (*ex parte* Unthank, 2 M. & P. 453.) The service must not only be in the "*proper business*" (L's case Barnes 39, *the Scrivener's Co. v. the Queen*, 12 L. J., Ex. 492) of the attorney, but at the place of business where the attorney resides: (*In re* *McIntosh v. McKenzie*, M. T. 1 Vic., MS., R. & H. Dig. "Attorney," I. 2.) If the master be a lunatic during a part of the service the service during that time is inoperative: (*ex parte* Brown, 9 Dowl. P. C. 526; *ex parte* Turner, 10 L. J., Q. B. 356.)