

No. 3.

3d Session, 3d Parliament, 13 Victoria, 1850.

BILL.

An Act to amend and consolidate the
Act providing for the organization of
the Notarial Profession in Lower
Canada.

(See inside title.)

Received and Read a first time, Thursday, 16th
May, 1850.

Second Reading, Monday, 27th May, 1850.

Mr. JOBIN.

BILL.

An Act for the organization of the Notarial Profession in Lower Canada.

WHEREAS it is of the utmost importance to the peace and welfare of families, that the Notarial Profession should be exercised by well educated and duly qualified persons, and abuses are found to have crept into the exercise of those functions, for which it is expedient to provide a remedy, by constituting Boards of Notaries, and by establishing proper regulations with regard to admission to the Profession, and for the general organization of the Profession in Lower Canada: And whereas the Act now in force in Lower Canada, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, "*An Act for the organization of the Notarial profession in that part of this Province called Lower Canada,*" is defective in many respects, and it is expedient to amend and consolidate the provisions thereof: Be it therefore enacted, &c.

Preamble.

15 And it is hereby enacted by the authority of the same, That the said Act shall be and is hereby repealed; and from and after the passing of this Act, there shall be established in Lower Canada, in the manner hereinafter prescribed, three Boards of Notaries, one for the District of Quebec, including the District of Gaspé, to be called, "The Quebec Board of Notaries;" one for the District of Montreal, to be called, "The Montreal Board of Notaries;" and one for the Districts of Three Rivers and St. Francis, to be called, "The Board of Notaries for Three Rivers;" And each of the said Boards shall be a Corporate Body in itself, and as such be entitled to all the privileges vested by law in Corporate Bodies generally, and shall each have power to acquire, hold, possess and enjoy real and immovable estate not exceeding in value *five thousand pounds* currency; and in all actions instituted against any of the said Boards, service of process at the office or domicile of the Secretaries of the respective Boards shall be good and sufficient.

10 & 11 Vict. c. 21 repealed. Board of Notaries established and incorporated.

II. And be it enacted, That each Board of Notaries shall be composed of members elected in the manner hereinafter explained; and the number of such members shall be twelve for the Quebec and Montreal Boards respectively, and nine for the Board of Notaries for Three Rivers; and the quorum for the despatch of business shall be eight for the Quebec and Montreal Boards respectively, and five for the Board for Three Rivers.

Number of members of each Board.

III. And be it enacted, That the meetings of the said Boards of Notaries shall be held as follows: those of the Quebec Board of Notaries at the City of Quebec, those of the Montreal Board of Notaries at the City of Montreal, and those of the Board of Notaries for Three Rivers at the Town of Three Rivers, on such days and at such hours as shall be appointed by the said Boards, and in such places as shall be selected for the purpose; but there shall not be less than four meetings in each year for the examination of applicants for admission as Students or as Notaries; and in each year there shall be one general meeting of the Notaries within the jurisdiction of each Board, and that extraordinary

Meetings of Boards.

general meetings may be held whenever circumstances shall require them, or the Board shall deem them advisable, and such meetings shall be called by advertisements in two newspapers, and inserted in both languages at least fifteen days previously, for meetings of the Board of Notaries, and one month previously for general meetings of Notaries, and all Notaries within the jurisdiction of the Board shall be invited to attend at the said general meeting, either for the purpose of making the appointments mentioned in the fourth section or to advise together on matters of interest to the profession: And provided also, that any meeting of any Board of Notaries, or any general meeting of the Notaries within its jurisdiction, may be adjourned by consent of the majority of the Notaries present thereat, to such place, day and hour as may be agreed upon.

Proviso.

Election of members of Board.

IV. And be it enacted, That the members of each Board of Notaries shall be elected by the Notaries within its jurisdiction, at a general meeting to be held in the manner above provided, and the election shall be by majority of votes and by ballot, each ballot containing a number of names not greater than the number of members to be elected, and the first election of members of each Board shall take place during the three months next after the passing of this Act, and such first meetings shall be called by advertisements published in the manner prescribed in the third section, and within three months from the passing of this Act, by the President of each now existing Board of Notaries; and the said advertisements shall mention the day, hour and the place of the meeting, at which meeting, in the cities and towns within the jurisdiction of the said Board, the Presidents of the now existing Boards respectively shall preside, and shall draw and sign the minute of the proceedings thereat, and deliver them to the Board of Notaries, at whose election they shall respectively have presided on the first meeting of such Boards, which first meeting shall be called by the said Presidents, within the time above prescribed, by a notice served on each member of the Board, either personally or at his domicile or office, (*étude*.) informing him of his election, and of the day, hour and place of the said first meeting of the Board, at which the said Presidents of the now existing Boards shall also preside until the Board shall have elected its President of which election he shall draw up a minute and deliver the same to the President elect; and if it shall happen that the meeting cannot be held on the day appointed, the said President shall appoint a future day for holding it.

Case of failure to elect provided for.

V. And be it enacted, That if at the time appointed for the election of any Board of Notaries, such election shall not be had in conformity to this Act, it shall be lawful for the Governor of this Province to appoint the members of such Board by an instrument under his hand and seal; and any Board of Notaries so appointed by the Governor, and the members thereof, shall have the same powers and duties as if elected at a general meeting of Notaries, and the first meeting of any such Board shall be called in the manner aforesaid by the President of the now existing Boards of Notaries of the respective districts, in the manner above mentioned.

Election of President and other officers of Board.

VI. And be it enacted, That the Members of each Board of Notaries shall elect in the manner hereinafter prescribed, the President and other officers mentioned in the seventh section and such election shall be renewed yearly, (the same persons being nevertheless capable of being re-elected, and the senior in age having the preference in any case of equality of votes,) and any

Notary who shall refuse to accept the office of Member of a Board, or to perform the duties of President, Secretary, Syndic or Treasurer, shall thereby incur a penalty of _____ pounds currency, unless he shall have already filled one of the said offices; 5 and any Notary appointed a member or elected a said officer of the Board, who shall not attend regularly at the meetings of the Board, or who shall neglect to fulfil the duties of his office shall incur a penalty not exceeding _____ pounds currency, unless 10 he shall have been prevented from attending through illness or other serious causes, touching which a quorum of the said Board shall decide; and any member or officer of a Board, who shall be guilty of such refusal or neglect after having been elected and after having accepted office, shall also incur a penalty of _____ pounds currency; and the Board may by a By-law to be pre- 15 viously passed for that purpose, determine what shall be considered neglect or refusal to fulfil the duties of members or officers of the Board.

VII. And be it enacted, That the members of each Board shall elect,

What officers shall be elected.

20 *Firstly.* A President, who shall only vote when the votes are equally divided, shall call special meetings of the Board when he shall deem it expedient, or on the requisition of two members, stating the purpose of the meeting, or on that of the Syndic herein-after mentioned, and shall preserve order at all meetings.

President.

25 *Secondly.* A Secretary who shall draw up and enregister the proceedings of the Board, shall have custody of all Records and deliver copies thereof, shall collect the facts relative to any charge brought against a Notary, and report the same to the Board; and who shall be authorized to 30 appoint a Deputy to represent him in case of illness or of absence, with the approbation of the Board of Notaries for his District; and the said Deputy shall be appointed by a written instrument under the hand of the Secretary, which instrument shall be entered in the book of proceedings of the said Board.

Secretary.

35 *Thirdly.* A Treasurer, who shall have charge of the common fund hereinafter mentioned, shall receive and pay moneys upon the order of the Board, and shall account for the same as the Board shall direct.

Treasurer.

Fourthly. A Syndic, who shall be the prosecutor on any 40 charge brought against a Notary: Provided always, that in addition to the special powers hereby assigned to the officers aforesaid each of them shall, if he be a member of the Board, vote as such in the same manner as the other members, at all meetings of the Board, except that with regard to any matter relating to any 45 charge against a Notary, the Syndic conducting the prosecution shall not vote: And provided also, that in case any of the officers aforesaid shall be absent or prevented from acting, his place may be supplied by the appointment of another *pro tempore* by the majority of the members present at any meeting at which there 50 shall be a quorum.

Syndic.

Proviso.

Proviso.

VIII. And be it enacted, That the President shall always be chosen from among the members of the Board, but the other officers aforesaid may be chosen either from among the members of the Board or from among the Notaries within its jurisdiction; 55 and the Board may remove any officer at pleasure and appoint another in his stead; but no officer shall be so removed except by the vote of at least two thirds of the members of the Board.

President to be chosen from the Board.

Lots to be drawn to decide term of members who are to go out of office.

IX. And be it enacted, That at the first meeting of each Board of Notaries constituted under this Act, the Board shall draw lots to decide which third of the members of the Board shall go out of office in the month of July following, and which third shall go out in the second year; after which time that third of the members of each Board which shall have been the longest in office shall go out in every year, so that no member shall remain in office more than three years in succession, unless he be re-elected. 5

Vacancies provided for.

X. And be it enacted, That in case a vacancy shall occur in any of the said Boards of Notaries, either by the decease of one of its members or by the removal of his residence without the jurisdiction of the said Board, or the acceptance by the said Board of his resignation, or otherwise, it shall be lawful for the other members of such Board, at the next meeting thereof, to fill up such vacancy themselves, by electing another member by a majority of the votes of the members present. 10 15

Qualification of Students.

XI. And be it enacted, That from and after the passing of this Act, no person shall be admitted as a Student with any Notary, unless he shall previously have passed an examination before one of the said Boards of Notaries, as to his qualifications and ability, and have made proof of having pursued for five years a regular course of study, in some one or more of the Seminaries or Colleges named in the twelfth section of this Act, or of otherwise having received a regular classical education, including the same branches of education as are taught during five years in the said Seminaries and Colleges, and shall have obtained a certificate thereof, which shall be annexed to his articles, and an authentic copy of such articles and certificate, as well as of every assignment thereof, shall be fyled in the office of the Secretary of such Board, within thirty days from the date thereof, on pain of nullity: Provided always, that nothing herein contained shall extend or be construed to extend to any Student whose articles shall have been executed before the passing of this Act, or to affect the right of any such Student to obtain his admission as a Notary at the expiration of the term of such articles, subject nevertheless to the requirements of the laws in force at the time such articles were executed, save and except that every such Student shall cause an authentic copy of his articles to be fyled in the office of the Secretary of the Board of Notaries within whose jurisdiction his patron resides, within three months after the establishment of such Board, if the said copy shall not have been already fyled, otherwise the said articles shall be null and void: Provided also, that any candidate, whose articles of clerkship shall have been executed before the passing of the Act in the Preamble of this Act cited and repealed by this Act passed in the Session held in the tenth and eleventh years of Her Majesty's reign, and intituled, "*An Act for the organization of the Notarial Profession in that part of the Province called Lower Canada,*" and who shall not have deposited the same in the office of the Secretary of the Board of Notaries for the district in which his patron resides, within the time defined by the said Act, but who shall have since deposited the same as aforesaid, may be admitted as a Notary as if he had conformed to the law for that purpose, subject nevertheless to the other formalities prescribed by this Act. 20 25 30 35 40 45 50

Proviso.

Proviso.

Qualification of candidates for profession of Notary.

XII. And be it enacted, That from and after the passing of this Act, no person shall be admitted as a Notary in Lower Canada, unless he shall prove, before one of the said Boards of Notaries, that he has *bonâ fide* served a regular clerkship, (under articles in writing, deposited among the minutes of some practising 55

Notary,) during five consecutive years, with a Notary duly appointed, and practising as such in Lower Canada, or during four consecutive years, if such person has gone through a regular course of studies, including *belles lettres*, rhetoric and philosophy, 5 (comprising logic, ethics, mathematics and physics,) in one or more of the Seminaries or Colleges of Quebec, Montreal, St. Hyacinthe, Nicholet, or Ste. Anne de la Pocatière, or in any other College legally established in Lower Canada or elsewhere, in which the said courses of study shall be taught, and shall produce 10 a certificate to that effect from the principal of such Seminary or College; nor unless such person shall produce proof of his good conduct during his clerkship, and of his qualifications, of all which the Board shall give him a certificate, which shall not be obtained or granted until after such person shall have undergone a public 15 examination as to his knowledge of the law and of notarial practice, to which examination he shall be bound to submit, and shall draw up upon the spot, and on any given subject, any clause, instrument or contract, which shall be required of him; and in order to such examination, the applicant shall give notice to the 20 Secretary of the Board, at least one month previously, of his intention to be examined, to the end that such Secretary may advertise in both languages during three weeks, and in two newspapers, the day and hour when the examination shall take place, so that any person may then and there state any reasons he may 25 have to urge against the admission of such applicant; and on giving the said notice to the Secretary, the applicant shall pay into the hands of that officer, such sum as shall be requisite to defray the cost of publishing such advertisement as aforesaid: *Provided* always, that it shall be lawful for the Board of Notaries to sum- *Proviso.* 30 mon before it, by an order under the hand and seal of the President, and countersigned by the Secretary, any person whom the the applicant, or those opposing his admission may wish to call in support of their allegations concerning the life, morals and qualifications of the applicant, and for this purpose the President is 35 hereby authorized to administer oaths: And if the applicant shall have complied with all the requirements of the law, and be found by the Board of Notaries to be duly qualified, he shall be entitled to obtain a certificate in the form of Schedule A, which he shall cause to be registered in the office of the Registrar of this Province.

40 XIII. And be it enacted, That immediately after the passing of this Act, any Notary who shall not have made the declaration hereinafter mentioned, shall be required, under a penalty of *Declaration to be enregistered by Notaries.* currency, to transmit to and cause to be enregistered at the Board of Notaries for his District, a declaration containing his 45 name, the date of his admission to the profession, the different places where he has resided and practised since his admission (stating the period during which he has resided and practised at each place,) and the District where he now practises and intends practising.

50 XIV. And be it enacted, That after his appointment, the person who shall have obtained a certificate of admission as a Notary, shall be sworn before one of the Judges of the Superior Court in his District, for the faithful and exact performance of the func- *Notaries to take oath of office.* tions of his office; and he shall not be so sworn, except on his 55 producing the certificate of his admission; and he shall cause the whole to be registered with the Board of Notaries from which he shall have received his certificate, together with his signature, which he shall not alter thereafter, unless he be thereunto authorized by the said Court with the consent of the Board of 60 Notaries; *Provided* always, that if any person shall hereafter be

to order, or a simple censure contained in the decision itself, or a censure with a reprimand by the President to the Notaries in person at the place of meeting of the Board; or deprive any such Notary from his right to vote at the general meeting, or to interdict him
 5 from appearing at the Board during a space of time which shall not exceed three years for the first offence nor six years for a second or subsequent offence; Provided always, that if the charge brought before the Board against any Notary shall appear sufficiently serious to call for his suspension from the exercise of his
 10 functions or his removal from office in cases of fraud or corruption, the Board shall associate with it by lot, a number of Notaries equal to the number of members of the Board, from among those within its jurisdiction, who shall be bound to serve, under a penalty of currency; and the Board thus com-
 15 posed may by a majority of the whole, pronounce its opinion by simple notice as to such suspension and the duration thereof, or as to such removal from office, as the case may be, but no opinion shall be pronounced unless two thirds at least of all those summoned to attend the meeting be present, and in any such case the
 20 opinion so pronounced shall be submitted to the Courts of Justice for final Judgment thereon in the manner provided by the section of this Act: Provided also, that nothing in this section shall deprive the party injured of any remedy which he may have against the Notary: And provided also, that when the opinion
 25 pronounced by the majority of the Board shall import the guilt and punishment by fine, or suspension or removal of any Notary, a copy thereof shall be deposited in the office of the Prothonotary of the Superior Court in the District where the accused Notary shall reside.

30 XVIII. And be it enacted, That the mode of proceeding at each Board of Notaries shall be as follows, that is to say: the Syndic shall bring before the Board all infractions of discipline, and he shall be bound to do so either in writing or *ex-officio*, if the facts be within his personal knowledge, or at the instance of
 35 the parties interested, or at that of any member of the Board; and it shall be the duty of the Syndic to summon any Notary inculpated to appear before the Board within a sufficient delay, (which shall not be less than that allowed on Writs of Summons to appear before the Superior Court in the District) by a letter
 40 stating the object of the citation, to be signed by the Syndic and transmitted by the Secretary, who shall keep a note thereof, and shall prove the service of the letter upon the Notary inculpated, either in person or at his domicile or office (*étude*): and with respect to differences between Notaries and difficulties on which
 45 the Board is required to give its opinion, the Notaries may appear before the Board to support then their several interests without being previously summoned to the sittings of the Board; they may also be summoned by letters stating the object of the citation, signed by the Notaries' promovent, and transmitted in the
 50 manner above mentioned, by the Secretary, to whom they shall give duplicates thereof, or by citations, the originals whereof shall be deposited at the office of the Secretary; official citations or citations by letter, shall be made within the same delays as those of the Syndic, after having been previously
 55 submitted to the approval of the President of the Board: Provided always, that the Board shall not proceed on any matter concerning any individual, except after having heard or duly summoned as aforesaid, the Notary inculpated or interested and such other parties as shall desire to be heard, who in all cases
 60 may be represented or assisted by a Notary or Advocate: Provided also, that the minutes of the proceedings of the Board shall

- Proviso. mention the reasons on which the same are founded, and shall be signed by the President and by the Secretary, and shall contain the names of the members present, and shall be notified, if need be, to those whom they may concern, in the manner prescribed with regard to citations, and the fact of their having been so notified shall, in such case, be noticed in the margin of the minute. 5
- Notaries not to receive deeds to which his relatives are parties. XIX. And be it enacted, That hereafter no Notary shall receive any Deed in which his relatives or kindred, in any degree whatsoever, in the direct line or in the collateral line as far as the 10 degree of uncle or nephew, inclusively, shall be parties or interested; and no two Notaries being relatives or connected with each other in the said degrees, shall receive the same deed; and neither the relatives or kindred of the Notary, or of the contracting parties within the degrees above mentioned, shall be 15 capable of being witnesses to the said deeds.
- Notaries removing from one place to another to re-register a declaration thereof. XX. And be it enacted, That from and after the passing of this Act, every Notary who shall remove from one District to reside in another, shall, within one month thereafter, cause to be 20 re-registered in the manner aforesaid, with the Board of Notaries for his District, a declaration of his new place of residence, under a penalty of currency.
- Notaries to number deeds. XXI. And be it enacted. That from and after the passing of this Act, it shall be the duty of each and every Notary in Lower Canada, to continue to number consecutively all deeds, contracts 25 or instruments, which may be executed before him, and remain of record in his office (*étude*), and to note the number of each and every such deed, contract or instrument, in the margin of his repertory, opposite to the entry of such deed, contract or instrument, as well as in every copy thereof: Provided always, 30 that all discharges, ratifications and other accessory instruments, executed and entered at the end of the principal deed, as being relative thereto and forming part thereof, shall be entered in the repertory according to their dates with the other minutes, merely referring to the number of the principal deed after the entry of such 35 accessory instruments; and it shall also be the duty of each and every Notary, to keep, besides the repertory required by law, an Index to all minutes of his deeds, both principal and accessory, shewing the year, month and date, of each, together with the names and surnames of the parties, or of one of them; 40 the nature of the deed, with its number in the margin, under a penalty not exceeding currency.
- Proviso. 30
- And keep an index. 40
- Penalty in case of certain irregularities in deeds. XXII. And be it enacted, That any Notary who shall be convicted of having passed any deed, contract or instrument without entering therein the number thereof and the day, year, and place 45 on and at which it was passed, and the christian and surnames additions and places of residence of the parties and witnesses thereto, or shall use abbreviations not allowed by law, or shall neglect to insert all sums and dates in words at length, or to read over the instrument to the parties, and to make mention of his 50 having done so, and also of their having signed the same or declared themselves unable to sign, or to cause all marginal notes and additions to be approved and authenticated, or to state the number of words struck out or marginal notes added, or shall make any interlineations, erasures or additions in the body of 55 the instrument, or shall contravene or fail to observe any of the other forms prescribed by law with regard to Notarial instruments, or shall neglect to keep his minutes and repertory in proper

order and in a good state of preservation, and shall pass any instrument to which an interdicted person shall be a party without the assistance of the Curator or Counsel of such interdicted party when the interdiction shall have been duly notified, shall
 5 for each such offence incur a penalty not less than _____ nor exceeding _____ currency, over and above all damages which may be recovered by any party interested, and as the case may be, suspended for a space of time not exceeding three months, and any Notary who shall (except when authorized by
 10 law or under the order of a Judge or some other competent authority) allow any minute to go out of his possession, or shall neglect to sign any minute or complete and sign the same in presence of the parties, shall thereby incur a penalty of not less than _____ nor exceeding _____ currency, or may be
 15 suspended for any space not less than three months nor more than a year, according to circumstances, and may even be removed from office in case of forgery, fraud or corruption, over and above all damages if there be any, which may be incurred by the parties.

XXIII. And be it enacted, That any Notary who shall hereafter
 20 change his residence for the purpose of residing within the jurisdiction of another Board of Notaries shall, under a penalty of _____ currency, within one month after he shall have first established his office (*étude*) within the jurisdiction of such other Board, cause the certificate of his admission as a Notary,
 25 with that of his oath of office and the registration of the same, to be enregistered with the Board of Notaries for the District in which he shall establish his new domicile.

Notaries removing to jurisdiction of another Board to enregister certificate of admission.

XXIV. And be it enacted, That each Board of Notaries shall
 30 have power to make such Rules and Regulations as may from time to time be found necessary for the management of the matters under its control, and for carrying this Act into effect; but such Rules and Regulations shall not be in force until they shall have been approved by a General Meeting of the Notaries interested.

Boards may make rules &c.

XXV. And be it enacted, That after the passing of this Act,
 35 Notaries may when thereunto required, deliver extracts duly certified by them from their minutes and from such as shall be lawfully in their custody and possession, which extracts shall be authentic and shall be evidence of their contents until inscribed *en faux*, and may be enregistered in the same manner as copies of the
 40 said minutes; but the said extracts shall contain the date and nature of the deed, the christian and surnames, additions and place of residence of the parties, the place where the deed shall have been passed, the name of the Notary who shall have received the same, and shall contain at full length the clauses or parts of
 45 clauses required by the person demanding such extracts for the purpose of ascertaining and preserving his rights, and lastly the day on which such extract shall be delivered, mention whereof shall be made on the minute.

Notaries to deliver extracts of deeds.

XXVI. And be it enacted, That all notifications, protests and
 50 services thereof, made by any Notary at the request of a party who shall not have accompanied such Notary nor signed the deed, shall be authentic and be evidence in themselves of their contents until called into question or disavowed by the person (or any other to whom it shall appertain) in whose name such notification, protests
 55 and services shall have been made; and that notwithstanding any law or judicial decision to the contrary, Notaries shall continue in the same manner as advocates and attorneys, to sign in the name of petitioning parties, and without any other special

Notifications &c., to be evidence of their contents.

power, memorials or petitions required for the calling together of meetings of relatives and friends, (*assemblies de parents*) in cases of tutelage, curatorship, (*tutelle, curatelle,*) sale of real property of minors and interdicted persons, divisions or licitations (*partages ou licitations*) and other like matters concerning family affairs and successions. 5

Common fund. XXVII. And be it enacted, That it shall be lawful for each Board of Notaries to establish a common fund, which shall not exceed however the expenses established and approved of as necessary at any general meeting, and apportioned among the several Notaries of the district; and in order to assist in forming the said fund and to meet the expenses of each Board, there shall be paid in each year by each practising Notary, to the Treasurer of the Board for his district, a fixed contribution of *ten shillings* currency, for the recovery of which, in default of payment, the Syndic may bring an action before any Court having jurisdiction to that amount; and any Notary who shall refuse or neglect to pay his contribution, shall be liable to be censured, reprimanded, or called to order, or to be suspended from the exercise of his functions until he shall have discharged the said debt, the whole according to circumstances and after the notices prescribed and given by the Board; and if the Board shall think proper to suspend any Notary for contravening the provisions of this section, such Board need not add to its number any other Notaries within its jurisdiction as prescribed by the section of this Act; but shall nevertheless observe all other formalities prescribed by this Act as to suspension; the fixed contribution shall not prevent any Board of Notaries from submitting to the vote of the general and annual meeting of the Notaries an additional contribution to meet the expected or unforeseen expenses during the year, which contribution shall be paid by each Notary, in the same manner and under the same penalties as the fixed contribution; and a statement of the receipts and expenditure of each Board of Notaries shall be submitted in each year to the Board by the Treasurer thereof. 35

Fees of Secretary.

XXVIII. And be it enacted, That the Secretary of each Board of Notaries shall be entitled to receive and demand the sum of *ten shillings* for the certificate of capacity and qualification which he shall deliver to any candidate, besides the expenses of advertising above mentioned; *two shillings and six pence* currency on the entry of every declaration in the cases provided for by this Act; and moreover for every summons, (if any there be,) *one shilling and three pence* currency, and *six pence* for each copy thereof, and also at the rate of *six pence* currency per hundred words, and *two shillings and six pence*, currency, for the certificate to any copy delivered by him of any deed in his custody. 45

Tariff fees to Notaries.

XXIX. And whereas, it is of as great advantage to the public as to the body of Notaries to establish a tariff of fees to be paid to Notaries for notarial deeds, contracts or instruments, and for all attendances and travelling in the performance of their duties: Be it therefore enacted, That every Notary shall be entitled to demand as fees:

First.—*Two shillings* currency per hundred words for drawing up any instrument whatsoever; *six pence* currency for every hundred words in any copy; and *two shillings* for comparing and certifying the same. 55

Secondly,—*One shilling* currency for searching any deed or other document, provided the year in which the same shall have been executed, be furnished to the Notary; and if the year be not given, *one shilling* currency for every year over which the search extends.

Thirdly,—*Ten shillings* currency for each hour of time employed in hearing parties, examining titles and papers, making any inventory or sale of movables, or other duties of his profession, and for the time he shall be away from home, as well in going to any place as in returning, besides the necessary disbursements for travelling expenses and board.

XXX. And be it enacted, That every Board of Notaries may, from time to time, and as often as they shall think proper, elect from among the members thereof, or from among the other Notaries of the District, one or more Notaries not exceeding three; who after having received sufficient notice of their appointment, and after they shall have been sworn at some sitting of a Court of civil jurisdiction, to the faithful and impartial discharge of the duties imposed on them by this Act, and which they shall be bound to perform under a penalty of _____ currency, shall visit the offices, records, minutes and repertories of inculpated Notaries, whensuch inculpation shall appear so serious a to deserve to be punished by fine or by suspension or dismissal in cases of forgery, fraud or corruption; to establish whether such inculpated Notaries have conformed to the laws of this Province, and the requirements of this Act, and to obtain information on all matters and things mentioned in the instructions which they shall receive from the Board of Notaries, to whom they shall make a faithful and circumstantial report; and every Notary who shall refuse either to permit the visit of the Notary so delegated by the Board of Notaries for his district, or to grant him access to his papers, shall for every refusal incur a penalty of _____ currency, to be recovered in a summary manner before the nearest Justice of Peace: Provided always, that no Notary so delegated to make any such visit shall be required to make more than one visit in three years; and that he shall be entitled to receive, out of the common fund of the Board of Notaries in whose jurisdiction he shall be, such sum as the said Board shall think proper: Provided that such sums shall not exceed _____ for every day usefully employed in making the said visit, including daily expenses and disbursements, and including also the said report.

XXXI. And whereas it is necessary to make more effectual legislative provision with regard to the keeping, transmission and preservation of Notarial Records, Papers, and Registers: Be it therefore enacted:

First,—That every Notary who shall remove out of the District in which he resides, for the purpose of residing elsewhere, shall, as shall also his heirs or legal representatives, within fifteen days after such change of domicile, transmit to and deposit the Records and Registers of all instruments executed before him during his residence in the district he is above to leave, in the hands of one of the Notaries of the same District.

Secondly,—That in like manner the Records and Registers of any Notary who shall die or shall cease to practice, or who shall have refused to practice and to deliver copies of his Notarial instruments, or who shall have been interdicted, dismissed, or be forever removed from office, or who shall have been absent from the Pro-

vince for more than two years, shall, by him or by the person in whose hands they shall be, his heirs and legal representatives, be deposited in the hands of one of the Notaries in the County of the said Notary, or with the Board of Notaries for the District.

Thirdly,—That it shall be lawful for any Notary who may wish to retire from the practice of his profession, in like manner to deposit his minutes and repertories in the hands of a Notary residing in the same County, or with the Board of Notaries for the District. 5

Fourthly,—That in every case the Notary with whom such deposit shall be made, shall be preferably chosen from among those who shall be landholders, and shall reside in the same parish, seigniorly or township, in the County of the Notary who shall be deceased or absent, or shall have resigned, or have been removed from office, or shall be a Notary who shall have a fireproof vault or place in which to keep the minutes so deposited, according to the order to be made by a Judge of the Superior Court in the District, upon the opinion to be given, with the reasons on which it is grounded, by the Board of Notaries. 10 15

Fifthly,—That any Notary who shall remove from one County to another, or shall voluntarily cease to practice, or the heirs and legal representatives of every Notary deceased, interdicted or absent from the Province, or having otherwise ceased to practice, who shall fail or delay to comply with the requirements of this Act, shall be condemned to pay a fine of currency for every month during which he shall delay, reckoning from the day on which he shall be called upon to make such deposit: Provided, that when any Notary so interdicted, absent, or ceasing to practise, for whatsoever reason, shall be re-admitted to practise, it shall be lawful for him to resume possession of his Records; and that every Notary who shall have voluntarily ceased to practise, shall have the like right: Provided also, that any Notary who shall have been absent from the Province more than ten years, without having during that time resided within the same two years at least, shall not upon his return resume his practice until he shall have undergone an examination respecting his moral character and ability, to the satisfaction of the Board of Notaries for the District in which he intends to reside. 20 25 30 35

Sixthly.—That in all cases of deposit, a list shall be prepared of the records so deposited, and the Board, or the Notary receiving the same, shall, in writing at the foot of the list, undertake the safe keeping of them, and such list and undertaking shall be enregistered with the Board of Notaries for the District. 40

Seventhly.—That every Notary removing out of the county, or ceasing to practise, or their heirs and representatives of Notaries deceased, absent, interdicted or removed from office, shall endeavour to enter into an agreement respecting dues for instruments upon which the fees are unpaid, and respecting the fees for authentic copies, and if they cannot come to an agreement, the amount shall be estimated by two Notaries to be named by the parties, or who shall be named officially by the Board of Notaries for the District, or by a third Notary who shall be named by the two first Notaries, before commencing proceedings, or by the majority of the said three Notaries. 45 50

Eighthly,—That in case of the decease or absence of any Notary or of his refusal to deliver copies of any instrument passed by him, 55

any Judge of the Superior Court in the District may, upon petition to him and according to circumstances, order the records and registers of the Notary deceased, absent or refusing as aforesaid, to be placed under the seal of the Court, and may order that
5 they may be deposited provisionally, until further order be made in the manner hereinbefore prescribed.

Ninthly.—That all copies of minutes so deposited, signed by the Notary, or by the Secretary of the Board of Notaries with whom they are so deposited or his deputy shall be deemed authentic,
10 and shall avail in evidence in the same manner as the copies signed by the Notary by whom the minute shall have been passed.

Tenthly.—And be it enacted, That in case of the temporary absence of a Notary, and its becoming necessary to deliver an authentic copy of any instrument among his records, such copy
15 compared with the minute by two practising Notaries and signed by them, shall be as authentic as if the same had been signed by the Notary by whom the minute shall have been received; provided that mention be made in the certificate at the foot of the copy, of the day on which the same shall have been
20 compared, and of the absence of the Notary in whose custody the minute shall be deposited, and of the cause of such absence if it be known; and the same particulars shall be also entered on the minute and signed by the same Notaries.

Eleventhly.—That all minutes heretofore deposited in the
25 hands of any Notary or Prothonotary, shall continue in the hands of their present holders until it shall be otherwise ordered by competent authority.

XXXII. And be it enacted, That so much of the Ordinance of Lower Canada, made and passed in the twenty-fifth year of the
30 Reign of His late Majesty King George the Third, and intituled, "*An Ordinance concerning Advocates, Attorneys, Solicitors, and Notaries, and for the more easy collection of His Majesty's Revenues,*" or of any other law, statute or ordinance as may be inconsistent with this Act shall be and they are hereby
35 repealed; and such parts of the said Ordinance as enact that no Notary shall act as Clerk of any Court, shall be understood to apply to the office of Clerk of the Superior Court or of the Court of Queen's Bench, in Lower Canada only; that no Notary shall hereafter act as such when holding the office of Registrar of any
40 County, or shall do business as a trader, merchant or manufacturer; that every Notary now employed as a Clerk of the Superior Court, or of the Court of Queen's Bench, or doing business as a trader, merchant or manufacturer, shall choose one of the said offices or calling immediately after the passing of this Act, and
45 send his declaration to that effect to the Board of Notaries for his District; but any Notary who shall have stated his preference to continue in his office of Clerk of the Superior Court or Court of Queen's Bench, or in his calling of trader, merchant or manufacturer, may retain his minutes and repertory in his possession and
50 deliver copies of, and extracts from, instruments executed before him; but he shall not keep either in his house or elsewhere any notarial office other than for the purpose of delivering copies of his instruments; he may nevertheless resume the exercise of his functions as a Notary after ceasing to hold the said office of clerk
55 or to act as a trader, merchant or manufacturer, after having transmitted his declaration to that effect; and any Notary who shall, after the passing of this Act, contravene any of the provisions of this section, shall for the first offence incur a penalty of

Certain facts
of Ord. L. C.
25 Geo. 3 c. 4
repealed.

- currency, and double the said amount for every subsequent offence; and it shall be lawful for any of the said Boards of Notaries to suspend, for any period, or remove from his office, any Notary within their jurisdiction, who shall be lawfully convicted of having held the office of Notary, at the same time that he exercised the calling of a merchant, trader or manufacturer, or held the office of Registrar or of Clerk as aforesaid: Provided always, that no Registrar now in office shall be affected by the provisions of this section. 5
- Proviso.**
- Penalty on persons assaulting Notaries.** XXXIII. And be it enacted, That any person assaulting or otherwise obstructing a Notary in the due execution of his duty as such, shall be guilty of a misdemeanor, and may on conviction thereof be sentenced to the same punishment as if he had been convicted of an assault on a peace officer or revenue officer in the execution or his duty. 10 15
- Recovery of fines.** XXXIV. And be it enacted, That all fines imposed by this Act, except in such cases as it shall be therein otherwise provided, shall be sued for and recovered by the Syndic of the Board of Notaries for the district in which the offence shall be committed, before the Superior Court; and on the recovery thereof, the said fines shall be handed over by the said Syndic to the Treasurer of the said Board of Notaries, and shall form part of the common fund thereof; and all sentences of suspension or removal of Notaries, shall be pronounced by a civil Court of competent jurisdiction, at the suit and instance of the parties interested, or of the Syndic of the Board, acting *ex officio*. 20 25
- The Boards may have the custody of the old records as soon as they have procured vaults.** XXXV. And be it enacted, That whenever the Board of Notaries either at Montreal, Quebec or Three Rivers, shall have procured a good and sufficient place with fire-proof vaults, for the purpose of depositing therein Notarial records now in the archives of the courts of the said Districts, as well as a sufficient sum of money to defray the expenses necessary for arranging the said papers, then the Board of Notaries shall be respectively invested with the possession and keeping of the said records and registers, and also with the possession and keeping of all such records and registers as shall be transmitted to them in the cases provided by this Act; and the Secretary of each Board of Notaries shall be the especial keeper of the said papers under the inspection and superintendence of the Board; he shall take care that they be preserved in the best possible order, shall give all required communications, authentic copies and extracts, and shall be entitled to receive *one shilling* for every communication and at the rate of *six pence* currency for every hundred words in every copy or extract, and no more: 30 35 40
- Proviso.** Provided always, that the said Secretary shall keep his office open from the hour of ten in the forenoon to that of four in the afternoon, every day, Sundays and holidays excepted. 45
- Public Act.** XXXVI. And be it enacted, That this Act shall be a Public Act.

SCHEDULE A.

FORM OF A CERTIFICATE OF ADMISSION AS A NOTARY.

This is to certify to all whom it may concern, that A. B. of
 , in the District of , Esquire, hath duly
 5 passed his examination before "The Board of Notaries,"
 and hath been found qualified to fill the office and perform the
 duties of a Notary Public in and for Lower Canada, he having
 complied with all the requirements of the Law in that behalf.

Wherefore the said A. B. is admitted to the said office, and is
 10 by Law authorized to practise as a Notary Public in Lower-
 Canada.

In witness whereof, we have signed this Certificate at
 in the District of in the Province of Canada, the
 day of one thousand eight hundred and

15 (Signature of the President of the Board,)

C. D.

(Signature of the Secretary of the same)

E. F.