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No. 256.

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2nd Session, 3rd Parliament, 12 Victoria, 1849.

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## B I L L .

An Act for the limitation of Actions of  
Clerks of Courts of Justice, and of  
Attorneys *ad lites* against their clients.

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Received and Read a first time, Tuesday, 17th  
April, 1849.

Second Reading Thursday, 19th April, 1849.

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Mr. LEMIEUX.

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PRINTED BY LOVELL AND GIBSON.

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## BILL.

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.

**W**HEREAS 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 delivery by the said Clerks of the documents, papers, orders, or judicial copies, or 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 limited to three years from the date of the delivery or transmission of the documents, papers, orders and judicial copies, and whereas at the time of the introduction of the French law into this Country, the said Ordinance formed part of the Common Law of France, and like all other general laws at that time in force in that part of France subject to customary law, (*France coutumière*,) which were not repealed by any enactment of the Legislature of the Province of Lower Canada, or of the Province of Canada, the said Ordinance forms part of the Civil Law of Lower Canada; Be it therefore declared and enacted, &c.

Preamble.

Ord. King of France, June 1510, cited.

And it is hereby declared and enacted by the authority of the same, That in all Actions brought by the Prothonotary or Clerk of any Court of Justice in Lower Canada, pending at the time of the passing of this Act, or which shall be hereafter instituted or pending before any Court of Justice of Civil Jurisdiction, it 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 fying of actions, pleas or other judicial documents, on the fying of which a fee is granted to such Clerk, any law, usage or custom to the contrary notwithstanding, and such prescription shall be a bar (*fin de non recevoir*) to any such action.

Defendants in actions by Prothonotaries, &c. for fees on papers, &c. fyled, &c. may plead three years' prescription.

Actions of Attorneys *ad lites* and Sheriffs, &c. for fees and emoluments also limited to three years.

11. 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 fyling of any document, paper or order by them, or for rendering any other service in 5 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, it shall be lawful for the defendant to plead three years' 10 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 litem*, to the fees, and shall have made the disbursements for which any such action shall be brought; and 15 that in all actions brought by Sheriffs and other Officers of Justice for the drawing up, issuing or fyling 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 20 defendant to plead three years' prescription, dating from the date of the rendering of such services, or of the delivery or fyling 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 25 notwithstanding.