

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

BILL.

An Act to facilitate Actions against persons associated for commercial purposes, and against unincorporated Societies and Companies.

Received and Read a first time, Monday, 29th
January, 1849.

Second Reading, Monday, 5th February, 1849.

MR. CHAUVEAU.

BILL.

An Act to facilitate Actions against persons associated for commercial purposes, and against unincorporated Societies and Companies.

WHEREAS great difficulties exist in Lower Canada in bringing Actions against persons associated as partners for trading purposes, or against unincorporated Companies or Societies formed for like purposes, inasmuch as it is extremely difficult for parties doing business with such Partnerships, Companies or Societies, to ascertain the names, surnames, residences and additions of all the persons so associated as aforesaid, and many persons are thereby put to great expense and inconvenience: Be it therefore enacted, &c. Preamble.

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 Superior Court of original Civil Jurisdiction, in each District in which they shall carry on business, a declaration in writing, signed by some one or more of the members of such Partnership, on behalf of himself or themselves and of the other members thereof, and containing the names, surnames, additions and residences 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 fyled within six months after the passing of this Act, if such Part- Partnerships in Lower Canada to fyle a declaration as to who the partiders are, &c,

When such declaration must be fyled.

Also on
change of
partners.

Penalty.

Penalty how
recovered.

nership shall have been or shall be formed before the expiration of that period, and immediately after the formation thereof if it shall be formed after the expiration of the said period: and a like declaration shall be 5
fyled 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 10
of 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 15
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 20
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. 25

Prothonotary
to register
such declara-
tion.

Fees.

Form of decla-
ration.

Legal effects
of the allega-
tions in any
such declara-
tion.

II. And be it enacted, That the Prothonotary shall enter each such declaration as aforesaid, in a book to be by him kept for that purpose, which shall be at all times, during office hours, open to the inspection of 30
the public, gratuitously; and for registering each such declaration the Prothonotary shall be entitled to demand from the person delivering it to him, the sum of if it shall not contain more than two hundred 35
words, and at the rate of 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. 40

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 45

the partnership, by any person who shall have signed the same or who was really a member of the partnership therein 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 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 upon such judgment: 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.

IV. And be it enacted, That after the expiration of six months from the passing of this Act, if any person 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 a name and style to be mentioned; and if judgment be recovered against him or them, any other partner or partners may be sued jointly or severally upon such judgment: 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.

How actions may be brought against partnerships or members of partnerships with regard to which no declaration shall have been filed within six months after the passing of this Act.

Proviso.

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*

I (or we) A. B. of _____ in
(Grocer,) hereby certify that I (or we) have carried
on and intend to carry on trade and business, as
(Grocers,) 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 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. Wit-
ness my (or our) hands at _____ this
day of _____ one thousand
eight hundred and _____

A. B.
(Or as the case may be.)