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No. 38.

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4th Session, 8th Parliament, 29th Victoria, 1865.

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**BILL.**

**An Act to regulate the Costs of Arbitrators.**

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[No 68 of 1865—First Session.]

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Hon. Mr. Atty. Gen. MACDONALD.

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**QUEBEC:**

PRINTED BY HUNTER, ROSE & CO.,  
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## An Act to regulate the Costs of Arbitrations.

**F**OR restraint of unreasonable charges attending Arbitrations; Her Preamble.  
Majesty, by and with the advice and consent of the Legislative  
Council and Assembly of Canada, enacts as follows :

1. No Arbitrator who is not by profession and calling a Barrister, Fees to Arbitrators not  
Attorney, Engineer, Architect, or Deputy Provincial Land Surveyor, being Barristers, Archi-  
shall be entitled to demand or take for his attendance and services as tects, &c.  
an Arbitrator any greater fees than are hereinafter set down in the  
Schedule in this Act marked A.

2. No Arbitrator who is by profession and calling a Barrister, Fees to Arbitrators being  
Attorney, Engineer, Architect, or Deputy Provincial Land Surveyor, Barristers,  
shall be entitled to demand or take for his attendance and services as Architects,  
such Arbitrator any greater fees than are hereinafter set down in the &c.  
Schedule to this Act marked B.

3. No greater fees shall be taxed or allowed to any persons called Fees to wit-  
as witnesses before any Arbitrator or Umpire than would be taxed and nesses.  
allowed to the same persons in an ordinary suit before a Court having  
jurisdiction over the subject matter of reference.

4. Whenever, at any meeting of Arbitrators of which due notice has In case of ab-  
been given to the respective parties, no proceedings are taken in sence of par-  
sequence of the absence of either of the parties or because a postpone- ties or post-  
ment is made by the Arbitrators at the request of either party to some ponement at  
future day, the Arbitrators shall make up an account of the costs of their request.  
such meeting, including the proper charge for their own attendance and  
that of any witnesses, and of the Counsel or Attorney of the party  
present or not desiring such postponement, and shall charge the amount  
thereof against the party making default in attending, or at whose  
request the postponement shall have been made, and such last-named  
party shall be bound to pay the same to the other, whatever may be  
the event of the award and reference, and the Arbitrators shall in the  
award make any direction or adjudication necessary for that purpose,  
and if such sum be payable by the party in whose favor the award is  
otherwise made, it may be set off against, and deducted from, any  
amount awarded in favor of that party.

5. Either party to an Arbitration shall be entitled to have the costs Taxing of  
thereof taxed, including the fees to the Arbitrators, by the Master of costs.  
either of the Superior Courts at Toronto having jurisdiction of the  
cause; or in cases where the Arbitrators determine the amount of the  
costs, or where there is no cause in Court, by the Master to be named  
in a Judge's order, which may be granted for that purpose on a proper  
application on affidavit, setting forth the facts.

**6.** The Master shall in no case tax higher fees than are set down in this Act, but upon reasonable grounds established before him upon affidavit, he may in taxation reduce the maximum mentioned in the Schedules, but not below the minimum, having always regard to the length of the Arbitration, and to the value of the matter in dispute and the difficulty of the questions to be decided, but he shall not tax more than one Counsel fee to either party for any meeting of the Arbitrators.

**7:** The Master may tax and allow a reasonable sum for the preparation and drawing up of the award.

**8.** A revision of taxation may at any time be granted upon application to the Court or a Judge, reasonable ground being shewn.

**9.** It shall be lawful for the parties who refer any matter in difference between them to Arbitration, whether any cause, suit, or action be pending between them or not, to agree by writing signed by them, or by making such agreement a part of their submission, to pay to the Arbitrator or Arbitrators, if more than one—and for this purpose an Umpire duly appointed shall be included in the term Arbitrators—such fees or sums for each day's attendance, or such gross sums for their taking upon themselves the burden of the reference and making the award, as the said parties shall see fit, and in every such case the fees and sums so agreed upon shall be substituted for those set down and authorized in the schedules to this Act, and shall be taxed and allowed by the Master accordingly.

**10.** If any Arbitrator, after taking upon himself the burden of any reference, and after hearing the parties, their Counsel and Attorneys or evidence, as the case may be, shall refuse or delay, after the expiration of one calendar month from the close of the proceedings before him, to make, execute and deliver his award upon the matters submitted until a larger sum is paid to him for his fees than is by this Act permitted, and may be taxed or shall receive for such his award, or for his fees as Arbitrator, any such larger sum, he shall for each and every such refusal or delay forfeit and pay to the party who has demanded and was entitled to obtain the award, or who has paid to the Arbitrator any such larger sum in order to obtain, or as a consideration for having obtained, such award, treble the amount of the whole sum demanded by the Arbitrator, and to obtain payment whereof he has refused or delayed as aforesaid to make, execute or deliver his award, or treble the sum actually paid to him for his award; and received by him contrary to the provisions of this Act, such treble sum or sums to be recoverable with full costs in an action of debt to be brought in either of the Superior Courts of Common Law.

**11.** This Act shall extend only to Upper Canada.

**SCHEDULE A**

For every meeting where the cause is not proceeded with, but an enlargement or postponement is made at the request of either party, not less than ..... \$2 00  
 nor more than ..... \$4 00

|   |         |
|---|---------|
| For every day's sitting, to consist of not less than six hours,<br>not less than.....   | \$ 5 00 |
| nor more than.....  | \$10 00 |
| For every sitting not extending to six hours (fractional parts of<br>hours being excluded) when the arbitration is actually pro-<br>ceeded with, for each hour occupied in such proceedings, at<br>the rate of not less than..... | \$ 1 00 |
| nor more than.....  | \$ 1 50 |

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### SCHEDULE B.

|  |         |
|--|---------|
| For every meeting where the cause is not proceeded with, but<br>an enlargement or postponement is made at the request of<br>either party, not less than .....  | \$ 4 00 |
| nor more than.....   | \$ 8 00 |
| For every day's sitting, to consist of not less than six hours,<br>not less than.....  | \$10 00 |
| nor more than .....  | \$20 00 |
| For every sitting not extending to six hours (fractional parts of<br>hours being excluded) where the arbitration is actually pro-<br>ceeded with, for each hour occupied in such proceedings, at<br>the rate of not less than..... | \$ 2 00 |
| nor more than.....   | \$ 3 00 |