

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming are checked below.

- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires: **Cover title page is bound in as last page in book but filmed as first page on fiche.**

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below /
Ce document est filmé au taux de réduction indiqué ci-dessous.

10x		14x		18x		22x		26x		30x	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	12x		16x		20x		24x		28x		32x

4th Session, 3rd Parliament, 14 Victoria, 1851.

BILL.

An Act to allow Notaries to call meetings of relations and friends in certain cases without being thereto specially authorized by a Judge, and for other purposes.

Received and read a first time, Thursday, 5th
June, 1851.

Second reading, Monday, 9th June, 1851.

Mr. LACOSTE.

BILL.

An act to allow Notaries to call meetings of relations and friends, in certain cases, without being thereto specially authorized by a Judge, and for other purposes.

WHEREAS great inconvenience and delays arise, Preamble.
and heavy expenses are incurred, in consequence of the personal attendance of the relations and friends before a Judge of the Superior Court, or of the Circuit Court, being necessary in all cases in which by the Laws of Lower Canada, the counsel and advice of relations and friends is required, where the said relations or friends reside at the distance of five leagues from the place at which any such Court is held, and of the necessity of obtaining the formal authorization of a Judge of one of the said Courts to empower such relations and friends to appear before a Notary or other person when such relations or friends reside beyond the said distance of five leagues ; Be it therefore enacted, &c.

I. Whenever it shall be necessary to call a meeting of friends and relations to give their counsel and advice upon the appointment of Guardians or Tutors, Subrogate Tutors, Curators to absentees or to vacant estates, and other matters which require the counsel and advice of relations and friends, it shall be lawful for any Notary near the residence of such relations and friends, or who may be on the spot when the meeting shall be held, whatever be the distance from the residence of the said relations and friends to the place of sitting of the Superior Court for the District, or of the Circuit Court, and without the formal authorisation of a Judge of either of the said Courts, to call such meeting ; and such Notary is hereby authorised, at the request of any of the parties on whose application any such Judge could have called such meeting, to call a meeting of the said relations and friends, administer to them the oath by law prescribed, and receive their counsel and advice respecting the matter submitted to their decision, and also to administer the oath of office by law required, to the Tutors, Curators and other persons, who shall be so appointed, with the advice and consent of the said relations and friends. Notaries may call meetings of relations and friends when thereunto required.

II. Before calling any such meeting of relations and friends, the party requiring such meeting shall state to the Notary, and represent to him truly and correctly, the object and purpose of the meeting, and the reasons for The Notary shall make a minute of the declaration of the party

requiring such meeting.

the same, in the same manner as he is now required to do in applications made to the Judges for similar purposes, of all which the said Notary shall draw up a minute in the form of schedule A; Provided always that it shall be lawful for several persons, having a common interest, conjointly to make such declaration, and to appear and act together in all the proceedings and instruments mentioned in the following sections. 5

The Notary may cause relations and friends to come before him, administer the oaths, &c.

III. In all appointments of Guardians or Tutors, Subrogate Tutors or Curators, as aforesaid, it shall be lawful for 10 any Notary to cause to come before him the relations, and in default of the relations, the friends of the parties, (such default of relations being previously declared and established;) he shall administer the usual oath to the persons composing such meeting, and read to them the 15 contents of the minute mentioned in the next preceding section, and receive their advice and opinion, administer the oath of office to the Guardian, Tutor, Subrogate Tutor, Curator, or other person so appointed, and shall draw up a minute thereof in the form of Schedule 20 B, stating the degree of relationship, residence and occupation of the persons composing the said meeting, and if there be any opposition or difference of opinion, he shall state in the said minute the reasons given by the several persons composing the said meeting. 25

Proceedings to be adopted when the sale of the property of minors, &c. shall be in question.

IV. In all cases of sale or other alienation of the immovable property of minors, or of any other person whose immovable property cannot be sold or otherwise alienated without the formalities by law prescribed for the sale or other alienation of the immovable property of 30 minors, the Notary, before calling a meeting of relations and friends for the said purpose, shall proceed to the appointment of two *experts*, who shall not be related to any of the parties or their legal representatives, nor interested in the matter in question (the fact of their not being so 35 related nor interested being duly mentioned in the minute appointing them); one of the said *experts* shall be appointed by the tutor, and the other by the subrogate tutor of the minors, or in the case of immovable property of any other person subject to the same formalities as by 40 law required for the immovable property of minors, one shall be appointed by the Curator to such person, and the other by one of the nearest relations who shall appear to have the greatest interest in the said person; a minute of the said appointment shall be drawn up in the form of 45 Schedule C; and the said Notary is hereby authorised to administer the oath by this Act provided to the said *experts*; and the said oath shall be taken by the said *experts* before entering upon their duties, in the form of Schedule D; it shall then be the duty of the said *experts* 50 to proceed to establish the value of the immovable property in question; and if the sale thereof is applied for

on account of joint possession (*indivision*,) they shall ascertain whether the said property cannot be divided with advantage, and report by an instrument in writing before Notaries delivered *en brevèt* in the form of Schedule E ;
 5 it shall thereupon be lawful for any Notary to cause to appear before him the relations and friends who are to compose the meeting ; he shall administer the usual oath to the persons composing the said meeting, and shall read to them the contents of the minute in the second section
 10 above mentioned, and also the contents of the minute appointing the *experts*, in this section mentioned. and shall take down notes of their opinion and draw up a minute thereof in the form of Schedule F, containing the names, age of the minors, degrees of relationship,
 15 occupation and residence of the persons composing the said meeting, and the description of the immovable property.

V. The applicant shall transmit and submit all the original proceedings above mentioned, in both cases, to the
 20 Judges of the Superior Court, or of the Circuit Court, by a memorial (which any Notary is hereby authorised to certify in the ordinary manner) setting forth clearly, but without entering into details, the object and purpose of the said proceedings, which are to be homologated if by
 25 law they ought so to be, and the said memorial shall be in the form of Schedule G ; if the Judge to whom the said proceedings are submitted homologates the counsel and advice of relations and friends (*avis de parents et amis*), he shall enter such homologation and his order
 30 at the end of the minute containing the said counsel and advice of relations and friends, in the usual form, and the same shall be deposited with the other proceedings in the archives of the Court, and copies thereof may be had according to law ; and if the Judge to whom the said pro-
 35 ceedings are referred shall think fit to refuse the homologation of the same, he shall state his motives for such refusal at the foot of the memorial, and shall sign the same.

The proceedings to be transmitted to the Court for homologation, &c.

VI. So much of the ninth section of the Act of the
 40 Legislature of Lower Canada passed in the thirty-fourth year of His Majesty, King George the Third, intituled, "*An Act for the division of the Province of Lower Canada, for amending the judicature thereof, and for repealing certain Laws therein mentioned,*" or of any other law, as
 45 shall be repugnant to this Act, shall be and is hereby repealed: Provided always, that nothing in this Act contained shall prevent any Judge of the Superior Court, or of the Circuit Court, from calling such meeting of relations and friends, or from authorising any Notary or other
 50 person, on the application of parties, to call such meeting in the manner by law prescribed, and as such Judge shall deem expedient for the ends of justice.

A certain part of the Act of L. C. 34 G. 3. c. 6. repealed.

Proviso.

The Judges may in certain cases, delegate the power to examine persons alleged to be non compos mentis.

VII. Whereas certain doubts exist as to the right of any Judge of the Superior Court, or of the Circuit Court, to delegate a person for the purpose of examining, as by law provided, any person who shall be *non compos mentis*, before such person can be interdicted, in case such person cannot be brought before the Judge without great difficulty, it is hereby enacted, That whenever a person who shall be *non compos mentis* cannot be brought before a Judge to undergo the examination by law required, and it shall not be in the power of the Judge to be present at the place at which such person resides, within a sufficiently short period, it shall be lawful for such Judge, on proof being shewn to him of the inconvenience which would arise in bringing such person before him, and if he shall find such inconvenience sufficient, to delegate any person whom he shall deem qualified, for the purpose of examining and questioning the party who shall be *non compos mentis*, at the place at which such party shall then be; and any interdiction pronounced and ordered by any Judge of the said Courts upon an examination made by any person delegated by any such Judge, and upon the counsel and advice of friends and relations, shall be as valid to all intents and purposes as if the said examination had been conducted by the Judge himself; and further, any interdiction which may have been pronounced and ordered before the passing of this Act, by any Judge, upon any examination made in such case by a person delegated by a Judge, and with the counsel and advice of friends and relations, shall be considered and be as valid to all intents and purposes whatsoever, as if the same had been pronounced and ordered upon an examination conducted by the Judge himself.

Extent of Act.

VIII. This Act shall only apply to Lower Canada.

~~~~~

SCHEDULE A.

On the \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ noon,  
 in the year one thousand eight hundred and \_\_\_\_\_, before  
 me the undersigned Public Notary for Lower Canada, residing  
 in the District of \_\_\_\_\_, came and appeared A, residing  
 \_\_\_\_\_ who hath declared that  
 whereupon \_\_\_\_\_ requires the counsel and  
 advice of the relations and friends of  
 Whereof Acte at \_\_\_\_\_

\_\_\_\_\_

SCHEDULE B.

On the \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ noon,  
 in the year one thousand eight hundred and \_\_\_\_\_, before \_\_\_\_\_

me the undersigned, Public Notary for Lower Canada, residing in the District of \_\_\_\_\_, came and appeared B, residing

Who ha \_\_\_\_\_ caused to be assembled before me the said Notary, for the purposes mentioned in the above declaration made before me on the \_\_\_\_\_ (or made before *any other Notary* on \_\_\_\_\_) to the intent that \_\_\_\_\_ to wit: in default of relations

Who after having been duly sworn on the Holy Evangelists, taken communication of the declaration above mentioned and maturely deliberated together, were unanimously of opinion that the said \_\_\_\_\_ be \_\_\_\_\_ who being present ha \_\_\_\_\_ voluntarily accepted the said office, and promised to fulfil the duties thereof.

Whereof *Acte* at

SCHEDULE C.

On the \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ noon, in the year one thousand eight hundred and \_\_\_\_\_, before the undersigned Public Notaries for Lower Canada, residing in the District of \_\_\_\_\_, came and appeared A residing at \_\_\_\_\_ on the one part, and B residing at \_\_\_\_\_ on the other part; who have appointed, to wit, the said A the person of \_\_\_\_\_ and the said B the person of \_\_\_\_\_ as *experts* to proceed to visit the immovable property belonging to \_\_\_\_\_, designated in the declaration made by the said \_\_\_\_\_ by an instrument before \_\_\_\_\_ Notary, or one of the undersigned Notaries, and establish the value thereof, (*and if the sale is applied for on account of joint possession,*) and examine whether the said property can be divided with advantage.

Whereof *Acte*, delivered *en brevét*, at

SCHEDULE D.

I \_\_\_\_\_ and I \_\_\_\_\_ do make oath and swear, that I will faithfully proceed to perform the duties required of me by my *acte* of appointment, received by \_\_\_\_\_ and his colleague, Notaries, and that I will make a true report of my opinion on the whole, without favor or partiality to any of the parties interested in the matter in question.—So help me God.

Sworn before me the undersigned }  
Notary at \_\_\_\_\_ the \_\_\_\_\_ 18 . }

## SCHEDULE E.

On the                      day of                      in the                      noon,  
 in the year one thousand eight hundred and                      , before  
 the undersigned, Notaries Public for Lower Canada, residing in  
 the District of                      , came and appeared  
*experts* appointed by the minute above drawn up by the under-  
 signed Notaries (or such other Notary as shall have drawn up  
 the same,) on the

Who do declare, that having first been sworn as appears by  
 the certificate hereunto annexed, they proceeded on the  
 day of                      to visit the immovable property with its cir-  
 cumstances and dependencies, mentioned and described in the  
 minute of declaration of                      received before  
 Notary on the                      and after having made  
 an examination of the whole, and obtained all the information  
 necessary for the purposes mentioned in their said minute of  
 appointment, they declare that they estimate and value the said  
 immovable property at                      (*if there be more than one*  
*immovable property they must be estimated separately,*) and that  
 the said immovable property cannot be divided with advantage.

The said *experts* do further declare that they are not related  
 to the parties interested in the matter in question, nor to their  
 legal representatives.

Whereof *Acte*, delivered *en brevet*, at

## SCHEDULE F.

On the                      day of                      in the                      noon,  
 in the year one thousand eight hundred and                      , before  
 me the undersigned, Notary Public for Lower Canada, residing  
 in the District of                      , came and appeared  
 who hath declared to me, that in conformity with  
 declaration made by an instrument in writing before  
 Notary, dated                      for the purpose of being authorized,  
 for the reasons therein contained, to sell the immovable pro-  
 perty belonging to                      and designated and described  
 as follows:—(*Description of the immovable property,*) he hath  
 caused to assemble before me, to wit,                      in default of  
 relations, requiring me to receive them before me and take down  
 their opinion and advice respecting the                      contained in the  
 minute of declaration above mentioned, and the said parties  
 having appeared, I have read to them the said minute of de-  
 claration, and the report of *experts* drawn up before  
 and his colleague, Notaries, and have administered to them the  
 usual oath, and after having taken the same they are unani-  
 mously of opinion that  
 (*in case of a difference of opinion, mention the same and the rea-  
 sons therefor.*)

Whereof *Acte* at



647

SCHEDULE G.

Province of Canada, }  
District of }

To the Honorable the Judges of the Superior Court, or of the  
Circuit Court, &c. &c. &c.

A. (*occupation and place of residence*.) humbly sheweth, that he  
hath caused the counsel and advice of relations and friends to be  
received by \_\_\_\_\_ Notary at \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_ and adopted all the proceedings  
by law required to succeed in \_\_\_\_\_ and submit the  
same to your approbation.

Wherefore he prays your Honors to take the said proceedings  
into your consideration, and homologate the same as the case  
may be, and you will do justice.

At \_\_\_\_\_ the \_\_\_\_\_ 18