

CAP. XXVII

An Act to amend the law respecting the Bar

[Assented to 15th January, 1898]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

R. S., 3523,
amended.

1. Article 3523 of the Revised Statutes, as amended by section 2 of the act 58 Victoria, chapter 36, is further amended by adding the following clauses thereto :

Power to
summon wit-
nesses, &c. ;

“ In the exercise of its functions, the council may summon witnesses, and has all the powers possessed by the Superior Court for compelling them to attend and answer and for punishing them in case of refusal. Any member of the council has the right to swear the parties and the witnesses and to make them declare or solemnly affirm that they will sincerely and truly tell the truth.

To swear
them, &c.

Costs.

The council may, in its discretion, condemn either party to costs or apportion the same.

Complaints to
be under
oath.

Every complaint against a member of the Bar shall be made under oath taken before the syndic and, in his default, before the bâtonnier or the secretary of the Bar of the district where it is laid.”

R. S., 3527,
amended.

2. Article 3527 of the Revised Statutes, as amended by section 3 of the act 58 Victoria, chapter 36, is further amended by adding the following paragraphs thereto :

Appeals to
general coun-
cil.

“ An appeal to the general council shall lie only when it shall appear on the face of the complaint, decision or sentence that the council had no right to investigate or decide. No appeal lies to the courts from decisions rendered by the councils of sections.

No appeal to
courts.

Deposit re-
quired with
notice of ap-
peal.

The appellant shall deposit, with his notice of appeal, a sum of fifty dollars to contribute towards the cost of the meeting of the general council. If he succeed in his appeal this sum is repaid to him, and the losing party is condemned to pay it to the Bar of the Province. If the losing party be an advocate he becomes disqualified from practising his profession until he has paid the same. If the losing party be not an advocate the said sum is recoverable by execution obtained from the Superior Court on the *fiat* of the secretary-treasurer of the general council, to which shall be annexed a copy of the judgment condemning the party to pay such sum.

Recovery of
costs in cer-
tain cases.

If deposit not
made.

If the sum of fifty dollars be not remitted by the appellant with his letter containing the notice of appeal within the required delay, the general council shall not be convened and the decision of the council of the section shall be carried out.”

3. Article 3539 of the Revised Statutes is amended by replacing the first paragraph by the following : R. S., 3539,
amended.

“ **3539.** Every member of the profession pays annually and in advance, before the first of May, into the hands of the treasurer of the section to which he belongs, the sum of six dollars if he has an office at the *chef-lieu* of the section although he does not reside there and has an office elsewhere ; three dollars if he has an office outside of such *chef-lieu* without having one at the latter place ; one dollar if he is a member of a library association.” Bar fees.

4. Article 3561 of the Revised Statutes is amended by adding the following paragraph after paragraph 4 : R. S., 3561,
amended.

“ 5. Every advocate who, while being disqualified under the provisions of this chapter or of the regulations of the Bar of this Province, practises such profession, directly, or indirectly, either alone or jointly with a qualified advocate, is liable, in addition to the disciplinary penalties, to the fine imposed upon every person who practises the profession without being the holder of a diploma as advocate ; such fine is recoverable with costs in the usual manner.” Penalty on
disqualified
advocate
practising.

Recovery of
fine.

5. Article 3562*a* of the Revised Statutes, as enacted by the act 54 Victoria, chapter 32, section 1, is amended by replacing the first three paragraphs by the following : R. S., 3562*a*,
amended.

“ **3562*a*.** Whoever, without holding a diploma as advocate, solicitor, attorney and barrister under the laws of Lower Canada or of this Province. Penalty on
person not
being advo-
cate practis-
ing, &c.

- (a) Practises as an advocate, or
- (b) Usurps the functions of the profession, or
- (c) Does or claims to do any act connected therewith, or
- (d) Assumes the title of advocate, or
- (e) Advertizes himself as such, or
- (f) Acts in such manner as to lead to the belief that he is authorized to fulfil the office of or to act as an advocate, shall be liable to a fine of not less than twenty-five and not more than sixty dollars.

The following are deemed to be acting in such manner as to lead to the belief that they are authorized to fulfil the office and to act as advocate and are consequently liable to the fine aforesaid namely : every person not holding a diploma as aforesaid or every association, company or corporation that writes or sends any card, letter or circular asking for the payment of any sum with costs or with an intimation to the effect that legal proceedings will be taken to recover the same, or advertizes that he or it will undertake to institute or have legal proceedings instituted or obtain or cause to be obtained or execute or cause a judgment to be executed against a debtor. Who are to
be deemed to
come within
these provi-
sions.

Not to apply to creditors.

This article shall not apply to a creditor who writes to his debtor.

Persons and corporations who are deemed to practise illegally.

Every person who has been disqualified or has become incapable of practising the profession of advocate under the law respecting the Bar of this province, or every association, company or corporation which joins with an advocate in the practice of his profession or shares in his fees or has the same transferred to him or to it, in consideration of being promised cases, a salary or remuneration, is considered as illegally practising as an advocate and is liable to the above fine.

Fine how recoverable.

In any of the above cases, the fine is recoverable with costs by summary process, either before the Superior or Circuit Court according to the amount of the condemnation demanded, or before two justices of the peace or any other officer having the same powers, of the district where the offence has been committed.

Imprisonment in default of payment.

In default of immediate payment of the fine and costs, the party condemned shall be imprisoned for three months. Such imprisonment shall cease, however, upon payment of the fine and costs and of all the expenses occasioned by the imprisonment.

To cease on payment.

Levy of fine and costs against companies, &c.

If the condemnation be pronounced against any association, company or corporation, the fine with costs shall be recoverable by the seizure and sale of its moveables and immoveables according to the usual rules for the execution of judgments of the court pronouncing the condemnation.

Application of fine.

Every fine imposed belongs wholly to the Bar of the district in which the offence has been committed and shall be remitted without delay to its treasurer by the officer who collects the same.

When and how prosecution brought.

Every prosecution under this article must be taken by the Bar of the district in which the offence was committed, under the direction and upon a resolution of its council, without its being necessary to have a sworn information or complaint or the deposition required for *qui tam* actions.

Law applicable.

In proceedings before two justices of the peace or any other officer having the same powers, all the provisions of the Criminal Code respecting summary convictions, not inconsistent with those of the present act, shall apply."

Art. added after R. S., 3567.

6. The following article is added after article 3567 of the Revised Statutes :

Publication of annual roll of disqualified persons.

" **3567a.** For the more effectual application of article 3568 of these Revised Statutes, the sections of the Bar shall annually publish an official roll, certified by the treasurer, of the disqualified members of their section.

Who shall be struck from roll.

2. The following persons shall be excepted or struck from such roll :

(a.) Those who have complied with the requirements of article 3540 of these Revised Statutes ;

(b.) Those who come under the application of article 3564, paragraph 1, of these Revised Statutes.

3. Such roll shall be printed and published by the secretary at the same time that the roll of advocates is published and shall be distributed and posted up by the said section in accordance with article 3566 of these Revised Statutes. Publication thereof.

4. The following shall be entered on such roll :

The names of the advocates who have been suspended or struck from the roll of advocates during the year. ” Who shall be entered on roll.

7. This act shall come into force on the day of its sanction. Coming into force.

C A P. X X V I I I

An Act to amend the Notarial Code

[Assented to 15th January, 1898]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

1. Article 3757 of the Revised Statutes is replaced by the following : R. S., 3757, replaced.

“ 3757. The treasurer, before acting as such gives security for the sum of four thousand dollars, by means of a guarantee policy which shall be previously approved by the Board.” Security to be furnished by treasurer.

2. Article 3786 of the Revised Statutes is amended by replacing the word : “ May,” in the third line, by the word : “ September.” R. S., 3786, amended.

3. Article 3792 of the Revised Statutes is amended by adding thereto the following paragraph :
“ The Board of Notaries may, by by-law, order that such fourth part shall contain only the list of *greffes* which have been deposited since the preparation of the last table.” R. S., 3792, amended. Certain greffes only may be entered in fourth part.

4. Article 3810 of the Revised Statutes is amended by replacing the words : “ to the Board,” in the second line, by the words “ to the treasurer.” R. S. 3810, amended.