

BILL

No. 1906.

An Act Respecting Clerks and Deputy Clerks.

(Assented to 1906.)

His Majesty by and with the advice and consent of the Legislative Assembly of the Province of Alberta enacts as follows :

Appointment of Clerks and their remuneration.

1. The Lieutenant Governor in Council may from time to time appoint such fit and proper persons, being advocates of the North-West Territories or of the Province resident in the Province to be Clerks of the Supreme Court of the North-West Territories, ~~or such other court as may hereafter~~ be constituted exercising within the Province the jurisdiction, powers and authority at the date of the passing of this Act exercised therein by the Supreme Court of the North-West Territories, in each judicial district, and every person so appointed shall hold office during pleasure, and such clerks shall receive such remuneration for their services as may from time to time be fixed by the Lieutenant Governor in Council.

Security to be given by Clerks.

2. Every person so appointed shall before entering upon the duties of his office give security for the due performance of such duties in such sum with such securities and in such manner and form as the Lieutenant Governor in Council requires.

Security may be
sued upon.

3. Such security shall be available to and may be sued upon by any person suffering damages by the default, breach of duty or misconduct of such Clerk.

Security to be
filed with
Provincial Sec-
retary.

4. Such security shall be filed in the office of the Provincial Secretary and a copy of the same, certified by the Provincial Secretary, shall be received in all courts as prima facie evidence of the due execution and contents thereof without further proof.

Appointment of
Deputy Clerks.

5. The Lieutenant Governor in Council may appoint a Deputy Clerk for each judicial district and fix his remuneration, and such Deputy Clerk shall, in the absence of the Clerk, perform the duties required to be performed by such Clerk.

Their duties.

Clerk or
Deputy Clerk
not to act as
an advocate

6. No such Clerk, or Deputy Clerk, while holding office, shall practice as an advocate in the Province, or be a member of any firm of advocates practicing in the Province.

Security to be
given by
Deputy Clerk

7. Every Deputy Clerk before entering upon the duties of his office, shall give security to His Majesty, to the satisfaction of the Lieutenant Governor in Council, in the sum of one thousand dollars (\$1,000.00) for the due performance of the duties and obligations of the said office, and for the due payment over to the persons entitled thereto, of all moneys received by him by virtue of his said office, and any person sustaining damage by reason of non-performance or improper or undue performance of any such duties or obligations, or by reason of the non-payment of any such

moneys shall have and possess all rights of action against such Deputy Clerk ^{and} ~~by~~ his sureties upon such security for the amount of such damage.

Clerk responsible for good conduct of Deputy Clerk.

8. The Clerk for each judicial district shall be responsible for the good conduct of every deputy appointed for such judicial district.

Actions to be carried on in the office in which they are commenced.

9. All actions and other proceedings commenced in the office of any one of the said Clerks shall be carried on in the same office, and in respect thereof such Clerk shall in all respects have and perform all the powers, duties and obligations imposed upon him by any law in force in the Province.

Oaths to be taken by Clerks and Deputy Clerks.

10. Every Clerk and Deputy Clerk appointed under the provisions of this Act shall, upon ~~appointment and before entering upon the duties of~~ his office, take an oath of office in the form in the schedule to this act, and also the oath of allegiance, and such oaths shall be filed in the office of the Clerk of the Executive Council immediately after being taken.

On vacancy of office of Clerk books etc., to be handed over to person lawfully performing Clerk's duties.

11. Whenever a vacancy occurs in the office of the Clerk, and until the same is filled by the proper authority, the books, records, moneys and other matters and things, the property of the Government of the Province, shall be handed over by the person in whose possession or control they may be to the person lawfully performing the duties of Clerk.

Order may be made for seizure of books, etc.,

(2) Without prejudice to any other powers of the court, or judge, by way of attachment, committal or otherwise, any judge of the said court, hereinbefore referred to, may on summary application

make an order directing the Sheriff, or other person named by him, to take and seize such books, records, moneys and other things wheresoever found, and for such purpose may authorize such Sheriff, or other person, to break and open any doors and windows, buildings, or inclosures, and such order shall be full justification to such Sheriff, or other person, for any action taken in pursuance thereof.

Property in
books and forms.

12. All necessary books and forms required for use in the Clerks' offices shall be provided for, by, and be the property of, the Provincial Government.

Process
Issuers .

13. In any section of the Province where the convenience of the public may be better served, the Clerk of the judicial district, with the approval of a Judge of the said court, may appoint a process issuer, who being supplied with blank forms, original and mesne processes signed by the Clerk, may issue the same under his direction from time to time, such process issuer countersigning each one so issued, and making returns of all processes so issued to the Clerk as required by the Clerk, or as directed by a Judge of the said court, and in such cases the Clerk and his sureties shall be responsible for all the acts and omissions of such issuer.

Fees.

14. Where the word "fees" occurs in the following sections of this Act it shall mean and include all fees and allowances payable to clerks under the provisions of The Judicature Ordinance of the North-West Territories, or rules of court, and all fees payable to such clerks as registration clerks under the provisions of The Bills of Sale Ordinance; An Ordinance respecting Hire Receipts and Conditional Sales of

Goods and An Ordinance respecting Partnerships,
being Ordinances of the North-West Territories,
and any amendments to the said Ordinances, or any
other Ordinance of the said Territories, and all
fees payable to said Clerks under any statute or
act in force in the Province.

Fees to be
paid Clerk.

15. All fees upon interlocutory motions,
summonses and orders made or granted in chambers
shall be paid to the Clerk of the judicial district
in which the proceedings are taken, ~~or to the~~
~~Deputy Clerk, as the case may be.~~

Chamber Book.

16. Every Clerk shall keep a chamber book
in which such proceedings shall be entered.

Fees received
to be recorded.

17. Every Clerk shall keep a separate book
in which he shall enter from day to day all fees and
emoluments received by him under and by virtue of
the said Ordinances, Statutes or Acts, and amendments,
showing therein separately the fees received by him
for each service performed under any of the said
Ordinances, Statutes or Acts, and amendments, and
such further facts and information as the
Lieutenant Governor may from time to time require.

Fee book open
to inspection

18. Each Clerk shall produce such book at any
time during his lawful office hours for inspection by
any person appointed by the Lieutenant Governor
for that purpose.

~~Remuneration~~
~~of Clerk by~~
~~salary.~~

19. All fees received by any Clerk shall be
paid to the Provincial Treasurer, by such clerk,
within the first five days of the month following
the month in which such fees are received; and such
payment to the Provincial Treasurer shall be

accompanied by a statement in such form as the Attorney General may prescribe, verified under oath, showing the amount of the fees received.

Penalty for neglect to keep books.

20. Any Clerk who fails to keep the books required to be kept by him under the provisions hereof or who fails to enter therein any fee or fees received by him and required by the provisions hereof to be entered therein shall for each such offence be liable on summary conviction to a penalty not exceeding \$20.00.

Failure to transmit fees.

21. Any Clerk who fails to transmit to the Provincial Treasurer the fees required to be so transmitted by him under the provisions of section 19 hereof shall for every such offence be liable on summary conviction to a penalty of \$20 for each day after he shall fail to transmit the same.

Penalty.

Moneys to go to General Revenue Fund.

22. The fees and moneys received by the Provincial Treasurer under the provisions hereof shall form part of the General Revenue Fund of the Province.

Present incumbents contained during pleasure.

23. Notwithstanding anything herein contained all Clerks and Deputy Clerks of the Supreme Court of the North-West Territories holding and exercising such offices at the date of the passing of this Act shall continue to hold such offices and exercise the duties appertaining thereto during pleasure in the same way and to the same extent and subject to the provisions of the same Ordinances, laws, rules and regulations made thereunder as would have been in force had this Act not been passed.

Repeal.

25. Save as herein provided all laws and

all orders, rules and regulations made thereunder
repugnant to the provisions of this Act are hereby
repealed.

SCHEDULE.

Clerk's Oath of Office.

I, _____ do swear that I
will truly and faithfully perform the several
duties of _____ Clerk of the Supreme
Court of the North-West Territories (or such other
Court as aforesaid) Judicial District of
_____ to which I have been appointed without fear,
favour or malice. So help me God.

Sworn before me at
in the Province of
Alberta, this
day of 19 .

No. 10

First Session, First Legislature,
6 Edward VII, 1906.

B I L L

An Act respecting Clerks and
Deputy Clerks.

Received and read the First
Time *Monday 22. 10. 06*

Second Reading *Monday*

Third Reading

Mr. *Cross*

EDMONTON,
King's Printer.
A.D. 1906.