

1908.

~~BILL.~~

AN ACT RESPECTING SECURITY TO BE GIVEN BY
PUBLIC OFFICERS.

(Assented to

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows;—

Persons to
furnish
security,

1. Every person appointed to any office or employment, by or under the Government of the Province, to any office or employment of public trust, or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money, and who by reason thereof is required to give security, shall within one month after notice of such appointment, if he is then in the Province, or within three months if he is then absent from the Province (unless he sooner arrives in the Province, and then within one month after such arrival), give and enter into a bond or bonds or other security or securities in such sum, and with such sufficient sureties as are approved of by the Lieutenant Governor in Council, or by such other officer or person as they may appoint, for the due performance of the trust reposed in him, and for his duly accounting for all public moneys entrusted to him or placed under his control.

Time and
manner of
giving security,

Bond solely
or with
sureties,

2. Whenever any person is required under this Act, or by any order of the Lieutenant Governor in Council, to give bond or security for the due performance of the duties of any office to which he has been or is about to be appointed, such person may either solely or together with any sureties as the

case may be, ^Qsuch securities by bond in the form A₁ in the ^Qschedule to this Act, or to the like effect.

Short form,

3. Whenever a bond made according to the said form A₁ or any other bond (expressed to be made in pursuance of this Act, or referring thereto) contains the form of words set forth in column one of the said form, such bond shall be construed, and have the same effect as if it contained the form of words set forth in column two of the said form.

Adaptation
of
form,

4. Any recitals may be inserted prior to the condition of the bond, and the feminine gender may be substituted for the masculine, or the plural number for the singular or vice versa, in any form in the first column of the said form, and corresponding changes shall in such case be taken to be made in the corresponding form in the second column.

Irregularities
not to affect
liability,

5. Any bond or part of a bond which does not take effect by virtue of the three sections of this Act next preceding shall nevertheless be as effectual to bind the obligors therein so far as the rules of law and equity will permit, as if the said sections had not been passed.

Sureties to
justify,

6. Every surety in any such bond shall make the affidavit in the form B in the ^Qschedule to this Act, or to the effect thereof; and every such bond or security shall be proved as to the due execution and delivery of the same by an affidavit of the attesting witness; and every

Attestation,

such bond or security with the several affidavits

(3)

Registration
of
bond,

thereunto annexed shall be registered in the office of the Provincial Secretary, and the original bond or security, and the affidavits thereunto annexed shall be retained in the said office, and such bond or security shall be registered within one month after being entered into or given if the person on whose behalf it is entered into or given, resides or is in the Province, and if he is absent from the Province, then within three months after being entered into or given, unless such person arrives sooner in the Province, and then within one month after such arrival.

Register of
bonds,

(2) The Provincial Secretary shall for the purpose of so registering bonds or securities, provide a separate register book, every page of which, and every bond or security recorded therein shall be numbered, and the day of the month and year when every such bond or security is registered shall be entered in the margin of the said register book, and in the margin of the bond or security.

List of prin-
cipals and
sureties,

(3) The Provincial Secretary shall keep separate alphabetical lists of the names of the principals, and of the names of the sureties mentioned in such bonds or securities, with reference to the book, page or number where the bonds or securities containing such names are to be found, and shall enter and register the said bonds or securities in the same order of time in which they respectively come to his hands.

Certified
copies,

(4) Copies of all bonds or securities registered as aforesaid certified by the Provincial Secretary, shall be received in all courts of civil jurisdiction in the Province, as prima facie

evidence of the due execution and the contents thereof; and for every such copy certified as aforesaid, a fee of one dollar shall be payable to the general revenue fund.

Failure to
give security,

7. If any person who is required to give, register and deposit any such bond or security as aforesaid neglects to do so, he shall be liable to forfeit the appointment in respect whereof such security should have been given, and such appointment shall be void from and after the time when the Lieutenant Governor in Council declares the same to be void under this Act, but such voidance shall not annul or make void any Act or other matter or thing done by such person during the time he actually held such appointment.

Exception
where
security
lost.

(2) No such forfeiture shall take place by reason of any such bond or security not being registered or deposited if the proper sureties have been given, and the proper bond made out when the failure of registry and deposit have arisen from the loss of such bond or security in the transmission thereof from a distance; but in every such case a new bond or security specifying the reason of such delay shall be made out and signed, registered and deposited within the like period after the person giving such security receives notice of the loss (regard being had to the place where he then is) as is required by this Act, for the registry thereof if such loss had not occurred.

Death, insolvency or non-residence of surety.

8. Every such person as aforesaid, who has given any bond or other security, with surety or

(5)

sureties for the due execution of the trusts reposed in him or for duly accounting for public monies ~~com-~~ coming to his hands, shall give notice in writing to the Provincial Secretary of the death, bankruptcy, insolvency or residence out of the Province of any surety or person bound for or with him in any such security.

Default in giving notice, penalty,

(2) Such notice shall be given within one month after the fact comes to the knowledge of such person, as aforesaid; and any person who neglects to give such notice within such period shall forfeit to the use of the Province, one-fourth part of the sum for which the surety so dead, bankrupt, insolvent or resident out of the Province became surety recoverable in any civil court at the suit of the Attorney General.

Omission to furnish new security,

(3) Every such person who (upon the death, bankruptcy, insolvency or residence out of the Province of any surety) neglects to give the security of another surety to be approved in like manner as such surety dying or becoming bankrupt, insolvent or resident out of the Province was approved, within such period from his having given notice of the death, bankruptcy or insolvency or residence out of the Province of the former surety as is by this Act limited for giving registering and depositing the original security, or neglects to register and deposit the bond or security of such new surety within such period from his having given the security of such new surety as is by this Act limited for the registering and depositing of the original bond or security (the same regard being had to the place in which the person then is), shall be liable to forfeit his appointment of office, em-

(6)

ployment or commission in respect whereof such new security ought to have been given, and such new bond or security registered and deposited as aforesaid; and his appointment shall be void from and after the time when the Lieutenant Governor in Council declares the same to be void in like manner and under and subject to such provisions as aforesaid.

Withdrawal
of
surety,

9. When any person has become security for the due accounting for public mon^{ey} or the proper performance of any public duty by such person as aforesaid, such surety (when no longer disposed to continue such responsibility) may give notice thereof to his principal and also to the Provincial Secretary and all accruing responsibility on the part of such person as such surety shall cease at the expiration of three months from the receipt of the last of such notices or upon the acceptance by the Lieutenant Governor in Council of the security of another surety whichever first happens; and the principal shall (within one month fr^{om} the receipt of the last of such notices) give the security of another surety and register and deposit the bond of such new surety, or in default of so doing shall be liable to forfeit and be deprived of the appointment in respect whereof such new security ought to have been given and deposited as aforesaid; and his appointment shall be void from and after the time when the Lieutenant Governor in Council declares the same to be void in like manner and under and subject to such provisions as aforesaid.

Acceptance
of security
after proper
time,

10. The Lieutenant Governor in Council may approve of the security given by any public officer although perfected after the time limited by this

(7)

Act; and in such case the office shall be deemed not to have been voided by such default but to have remained and to remain in full force and effect; and no act of any such public officer shall by ^{such} default be void or voidable.

Securities
executed at
different
times, Regis-
tration,

11. When the securities of the principal and sureties have been executed at different times (whether they were taken in one and the same bond, deed or ^{or} other instrument, in different ones) the period limited for registering and depositing such securities shall be estimated from the time of execution thereof by the person who was the last to execute the bond, deed, or other instrument as the case may be.

Irregular-
ities in
providing
securities,

12. No neglect, omission or irregularity in giving or receiving the bonds or other securities or in registering the same within the periods or in the manner prescribed by this Act, shall vacate or make void any such bond or security or discharge any surety from the obligations thereof.

Registrat-
ion after
time,

13. All bonds or other securities hereby required to be registered and deposited shall be registered and deposited by the proper officer, notwithstanding the period prescribed for registering and depositing the same has expired, but no such registering and depositing of any such bond or other security shall be deemed to waive any forfeiture or penalty, or shall exempt the person on whose behalf the same is registered and deposited from any forfeiture or penalty under any of the provisions of this Act.

Guarantee
company's
bond,

14. Whenever any public officer is required

to give security for the performance of his duties or other security of a like nature, and whether such security inures for the benefit of the Province or of any person injured by the default or misconduct of such Officer, the Lieutenant Governor in Council may direct that the bond or policy of guarantee of any incorporated joint stock company empowered to grant guarantees, bonds, covenants or policies for the integrity and faithful accounting of public officers or other like purposes may be accepted as such security upon such terms as may be determined by the Lieutenant Governor in Council; and the provisions of law with reference to the legal effect of such securities when given by individuals to the filing thereof, and to the mode of proceeding thereon shall apply to the security given by every such Company.

15. The interim receipt of such company may be accepted in lieu of the formal security, but the formal security shall be completed within four months from the date of such receipt.

16. ~~Chapter 13 of the Consolidated Ordinances of 1905 is repealed.~~

SCHEDULE.

FORM A.

Know all men by these presents that we,
of in the
Province of Alberta, Dominion of Canada (herein-
after called "the principal"), and
of in the said Province, and
of in the said Province (hereinafter called
"the sureties"), are respectively held and firmly
bound unto our Sovereign Lord the King, his heirs
and successors, in the respective penal sums foll-
owing, that is to say: the principal in the sum
of dollars of lawful money of Canada, and
each of the sureties in a sum of dollars
of like lawful money, to be paid to our Sovereign
Lord the King, his heirs and successors, for which
said respective payments well and faithfully to
be made, we severally, — and not jointly or
each for the other, — bind ourselves, and our
respective heirs, executors and administrators,
firmly by these presents, sealed with our res-
pective seals.

DATED this day of in
the year of our Lord one thousand
and in the year of His Majesty's reign.

WHEREAS the principal having been appointed
to the office or employment of
is required by law to give security to the Crown
for the due performance of the duties appertaining
thereto, and the sureties have consented to become
his sureties for such his performance

of the said duties, and this bond is given in pursuance of An ACT RESPECTING SECURITY TO BE GIVEN BY PUBLIC OFFICERS.

COLUMN ONE.

Now the condition of this obligation is that if the principal faithfully discharges the duties of the said office and duly accounts for all moneys and property which come into his custody by virtue of the said office, this obligation shall be void.

Signed, sealed
AND DELIVERED in the
presence of

COLUMN TWO.

Now the condition of the above obligation is such that if the principal so appointed to the said office or employment as aforesaid, do and shall from time to time, and at all times, so long as he shall hold the said office or employment or be and remain charged with the actual discharge of the duties appertaining thereto, or any of them, faithfully, honestly and diligently do, perform, fulfil and discharge all and every such duties, in every respect in accordance with the laws now in force in that behalf, as also all and singular such other duties as by competent authority in that behalf now are or hereafter shall or may be attached to the said office or employment or imposed upon or required

(3)

to be performed by the incumbent for the time being of the said office or employment, whether such last mentioned duties are regulated or imposed by any Act or Acts, heretofore passed or that may hereafter be passed by the Legislative Assembly of the said Province, or by any order or regulations made under any such Act or Ordinance, and whether such duties are extended increased or otherwise varied or altered by any such Act or Acts, so to be passed, or by any such order or regulations as aforesaid, or are regulated or imposed, or are extended, increased or otherwise varied or altered by competent authority, and shall duly account for and pay over all such moneys or securities for money or valuable securities or property as shall come into his hands, custody or control by virtue of or in consequence of his holding to the said office;

And further, if the principal, upon his removal from, or his resignation of the said office or employment, or if in the event of his death during

(4)

his tenure of the said office or employment, his legal representatives, or some or one of them, do and shall quietly surrender and deliver up the same, and all the moneys, securities for money, valuable securities, or property, books, papers, instruments, instructions, maps, plans, letters and writings, and other things whatever, which then may be or ought to be, in his possession, custody or keeping, by virtue of or in consequence of his holding the said office, or relating or in anywise appertaining thereto, then the above obligation shall be null and void and of no effect: otherwise the same shall be and remain in full force and virtue.

AFFIDAVITS TO BE ANNEXED TO THE BOND.

AFFIDAVIT OF WITNESS.

CANADA: } I, C.D., of
Province of Alberta, }

To wit: } in the
Province of Alberta, make oath and say that I was
personally present, and did see
the obligors in the above bond or writing obligatory
named, duly execute the said instrument by signing,
sealing, and, as their respective acts and deeds, del-
ivering the same, and that I am a subscribing witness
to such execution.

SWORN before me at
in the said
Province, this
day of A.D. (Signature) C.D.
one thousand
(Signature) A.B.

(A separate affidavit in this form shall be made
by a witness to the execution of each obligor, if
the same person does not witness the execution by
all of them.)

FORM B.

CANADA:
Province of Alberta,
To Wit:

I, A.B., one of the sureties
in the annexed bond named,
make oath and say, as follows:

1. I am seized and possessed to my own use of real
(or real and personal) estate at
in the Province of Alberta, of the actual value
of \$ over and above all charges upon or
incumbrances affecting the same.
2. My post office address is as follows:

SWORN before me at
 this day of A.D. one
 thousand (Signature) A.B.
 (Signature) C.D.

A separate affidavit to be made by each surety.

INDORSEMENT OF BOND.

The indorsement on the bond shall show: 1. The date of its receipt by the Provincial Secretary, 2. The names of the principal and sureties, and the amount for which each is bound, 3. The date of the bond, 4. The office for the faithful discharge of the duties whereof it is given, 5. The registration number, 6. The folio on which it is entered in the register of bonds.

No.

3rd SESSION,

First Legislature of Edward VII,
1908.

B I L L,

An Act respecting Security to
be ~~Given~~ by Public Officers.

Received and read the
First time.....
Second time.....
Third time.....

Mr. Rutherford.

EDMONTON:

Jas. F. Richards, ^{Govt.} King's Printer

A. D. 1908,