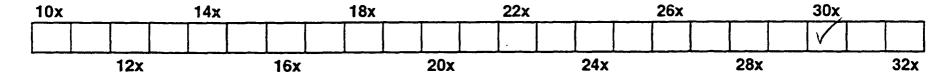
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No. -

30 Session, 30 PARLIAMENT, 13 VICTORIA, 1850.

BILLO

An Act to assign fixed Annual Salaries to certain Officers of Justice in Lower Canada, and to form a Special Fund out of the Salaries, Fees, Emoluments and Pecuniary Profits attached to their Offices.

Received and read first time,

Second reading,

[250 Copies.]

Honble Mr. LAFONTAINE.

S. Derbishire and G. Desbarats, Quoen's Printer.

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BILL.

An Act to assign fixed Annual Salaries to certain Officers of Justice in Lower Canada, and to form a Special Fund out of the Salaries, Fees, Emoluments and Pecuniary Profits attached to their Offices.

THEREAS it is just and proper to form a Special Fund out of Preamble. all the Salaries, Fees, Emoluments and Pecuniary Profits attached to certain Offices connected with the administration of

4 Justice in Lower Canada, and to assign Annual and Fixed Salaries to the Officers holding and filling such Offices; Be it therefore 6 enacted, &c.

and it is hereby enacted by the authority of the same, that this Act Commence-8 shall commence and be in force at and after the expiration of one ment of this month from the day of its passing.

- II. And be it enacted, That upon, from and after the day on which 10 this Act shall commence, the Public Officers hereinafter mentioned
- 12 shall respectively cease to have the right of demanding and receiving for their own use and benefit, the Salaries, Fees, Emoluments and

14 Pecuniary Profits whatsoever, which are now or may hereafter be atached to their respective Offices, that is to say :

- 1. The Sheriffs of the Districts of Montreal, Quebec, Three-Rivers 16 and St. Francis.
- 2. The Prothonotaries or Clerks of the Superior Court in the 18 said Districts;
- 3. The Clerks of the Circuit Courts in the Circuits respectively 20 called the Circuits of Quebec, Montreal, Three-Rivers and Sher-22 brooke ;

4. The Clerks of the Crown in the Districts aforesaid ;

24 5. The Clerks of the Peace in the Districts aforesaid ;

6. The Clerk of the Court of Queen's Bench, called "The ²⁶ Clerk of Appeals."

- III. And be it enacted, That upon, from and after the said day, Special fund. 28 all Salaries, Fees, Emoluments and Pecuniary Profits whatsoever,
- 30 which are now or may hereafter be attached to the said Offices respectively, under any authority whatsoever, shall form a Special 32 Fund to be employed as hereinafter appointed, and shall for this
- purpose be paid over by the proper Officers to the Receiver General
- 34 of the Province, in the manner hereinalter mentioned; they shall continue to be and shall be demanded and collected as heretofore by
- 36 the Officers aforesaid respectively, in their respective Districts or Circuits ;, the said Officers shall render a faithful and detailed account

Act.

Public officers who shall cease to receive fees, &c.

Officers to render accounts. thereof, every three months, to the Inspector General of Public Accounts for the Province, in such form and in conformity with 2 such instructions as shall from time to time be prescribed by or by order of the said Inspector General; and the said Officers shall 4 respectively pay over the balance of such Accounts to the Receiver General within the fifteen days immediately following the rendering 6 thereof.

Annual and fixed salaries.

IV. And be it enacted, That from and out of the amount collected 8 in every year of such Salaries, Fees, Emoluments and Pecuniary Profits of what kind soever, attached to each of the aforesaid Offices, 10 it shall be lawful for the Governor from time to time to assign to the said Officers respectively, the annual and fixed Salaries hereinafter 12 mentioned; which Salaries it shall also be lawful for the Governor to modify from time to time as he shall judge expedient, that is to say: 14

IN THE DISTRICT OF QUEBEC.

1. To the Sheriff, a sum not exceeding \mathcal{L} currency ; 16

2. To the Prothonotary or Clerk of the Superior Court, a sum not exceeding \pounds currency; 18

S. To the Clerk of the Circuit Court for the Circuit called "The Quebec Circuit," a sum not exceeding \pounds currency; 20

4. To the Clerk of the Crown, a sum not exceeding $\boldsymbol{\pounds}$ currency;

5. To the Clerk of the Peace, a sum not exceeding \pounds currency;

IN THE DISTRICT OF MONTREAL:

1. To the Sherili, a sum not exceeding \boldsymbol{z}	curren	cy;	26
2. To the Prothonotary or Clerk of the Superior Cou	rt, a s	sum	
not exceeding \mathfrak{L} currency ;			28
3. To the Clerk of the Circuit Court for the Circuit cal	led " '	The	
	rency		S 0
4. To the Clerk of the Crown, a sum not exceeding \pounds	r		
currency ;			32
5 To the Clerk of the Peace a sum not exceeding f.			

5. To the Clerk of the Peace, a sum not exceeding \pounds currency.

IN THE DISTRICT OF THREE RIVERS:

1. To the Sheriff, a sum not exceeding \mathcal{L} currency; 36

2. To the Prothonotary or Clerk of the Superior Court, a sum not exceeding \pounds currency; 38

3. To the Clerk of the Circuit Court for the Circuit called "The Three Rivers' Circuit," a sum not exceeding \mathcal{L} currency ; 40

4. To the Clerk of the Crown, a sum not exceeding \pounds currency; 42

5. To the Clerk of the Peace, a sum not exceeding \mathcal{L} currency.

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IN THE DISTRICT OF ST. FRANCIS :

1. To the Sheriff, a sum not exceeding \pounds 2 currency;

2. To the Prothonotary or Clerk of the Superior Court, a sum 4 not exceeding \pounds currency;

3. To the Clerk of The Circuit Court for the Circuit called " The 6 Sherbrooke Circuit," a sum not exceeding \pounds currency :

4. To the Clerk of the Crown, a sum not exceeding \pounds 8[°]currency;

5. To the Clerk of the Peace, a sum not exceeding £ 10 currency.

COURT OF QUEEN'S BENCH :

To the Clerk of this Court, called "The Clerk of Appeals," a 12 sum not exceeding \pounds currency.

Which salary so assigned in every year to each of the above named 14 officers, shall be paid to him every three months, but solely out of salaries shall

the amount of the said fees, emoluments and pecuniary profits 16 attached to his office and collected as aforesaid by him during such

year : Provided always, that the amount so collected by him during lected be

18 such year, be sufficient to cover his salary after deducting therefrom the pecuniary remuneration to be paid by him to his Deputy and

20 Clerks, as hereinafter directed ; otherwise his salary for such year shall not in any such case exceed such nett amount.

How such be paid—pro-vided the amount colsufficient.

V. And for the avoidance of all doubt in this behalf, be it enacted, 22 that the words " Salaries, Fees, Emoluments and Pecuniary Profits," 24 in the foregoing sections, shall include and be held to include for the

purposes of this act, the commission or remuneration of two and a half

26 per cent or any other commission or remuneration which, under the laws now or then in force, the said Sheriffs are or may hereafter

28 be authorised to charge upon and retain out of monies levied by execution or otherwise, and also all other sums of money which the

30 public officers aforesaid receive or may be entitled to receive for their use and benefit by virtue of their said respective offices, and under

\$2 any authority whatsoever.

VI. And be it enacted, that whenever any two or more of the Case where 34 offices hereinbefore mentioned, shall at any time be held and filled by two offices the same person, then it shall be lawful for the Governor to reduce shall be held

36 and fix at such sum as he shall deem expedient, the united Salaries of person. the said offices, and in such case, the sum so established shall form

38 the whole of the Salary which such person shall be entitled to receive by reason of the said offices so held and filled by him; and the

40 remainder of the Salaries assigned to the said offices, respectively,

shall then form part of the Special Fund hereinbefore mentioned.

VII. And be it enacted, that each of the Public Officers above 42 mentioned, who is not now by law obliged to have and appoint a of deputies.

44 Deputy, shall hereafter be obliged to have and appoint one to assist him in discharging the duties of his office, and shall appoint such

46 Deputy by an Instrument under his hand and seal ; and such Deputy

Interpretation o! the words, salaries, fccs, Ğс.

by the same

Appointment

is hereby authorised to perform the duties of the Public Officer who shall have so appointed him as his Deputy, and shall continue to 2 perform the said duties in the event of the decease, dismissal, suspension or resignation of the said Officer, until a person shall have been 4 appointed to succeed such Officer in his said office; and the Instrument appointing such Deputy shall be entered at full length in the register 6 of the Gourt ; but it shall be lawful at all times for any such Officer to remove his Deputy and appoint another in his stead : Provided 8 always, that all the above mentioned Officers, may, if they think proper, respectively appoint in the manner and with the formalities 10 prescribed in relation to the appointment of their first Deputy (and with like power of removal) other Deputies to assist them in that 12 capacity, in the performance of any particular portion whatsoever of the duties of their office, such portion being specially and clearly 14 described in the Instrument appointing any such Deputy; and every such Deputy is hereby authorised to perform the duties so specially 16 assigned to him in like manner as the Public Officer who shall have appointed him : Provided always and it is hereby declared that the 18 said Public Officers shall be and continue to be responsible to all intents and purposes, for the conduct of each of their Deputies, 20 respectively.

Criers to cease to receive fees, &c.

Proviso.

Proviso.

Prothonotaries to collect them as part of the special fund.

Salary of

criers.

VIII. And be it enacted, That upon, from and after the day of the 22 commencement of this Act, the Criers attached to the Court of Queen's Bench and to the Superior Court in each of the Districts 24 above mentioned, and to the Circuit Court in the Circuits above mentioned, or such persons as shall be acting in that capacity in the 26 said Courts respectively, shall cease to be entitled to demand and receive for their own use and benefit, the Salaries, Fees, Emolu-28 ments and Pecuniary Profits, which now are or hereafter may be allowed to or for the services of such Criers respectively ; and that 30 upon, from and after the said day, the said Salaries, Fees, Emoluments and Pecuniary Profits shall form; part of the Special Fund 34 above mentioned, and shall not be demanded and collected by the said Criers, but by the Prothonotaries or Clerks of the said Courts, 32 respectively, in the respective Districts and Circuits above mentioned; and it shall be the duty of the said Prothonotaries or Clerks 36 to account therefor to the Inspector General and to pay over the amount thereof to the Receiver General, in like manner and at the 38 same time as they are required to account for and pay over the Fees, Emoluments and Pecuniary Profits attached to their own offices res- 40 pectively.

IX. And be it enacted, That from and out of the amount annually 42 collected as aforesaid, of the said Fees, Emoluments and Pecuniary Profits so allowed for the said Criers, it shall be lawful for the Gover-44 nor from time to time to assign an annual and fixed Salary to each of the said Criers, and also from time to time to modify the same as 46 he shall deem expedient, which Salary shall in no case exceed the sum of \pounds currency, and shall be paid to the 48 said Criers every three months by the Prothonotaries or Clerks of the said Courts respectively, but only out of the amount of the Fees, 50 Emoluments and Pecuniary Profits, which without this Act, the Crier himself would have been entitled to demand and collect during 52 the year, and which shall have been collected by the said Prothono-

taries or Clerks as aforesaul; provided always, that the amount so 2 collected during such year, shall be sufficient to cover the Salary of the Crier, otherwise his Salary for such year shall not in such case

4 exceed such amount.

X. And be it enacted, That each of the Public Officers mention- Necessary 6 ed in the first section of this Act, shall have a sufficient number of clerks, &c. Clerks for the due performance of the duties of his office ; to each of S whom, as well as to the Deputies of such Officer, a reasonable remuneration may be granted, subject to the previous approval of the 10 Governor; and for this purpose, the said Officer shall furnish every year to the Provincial Secretary, and oftener if thereunto required, 12 a list of the Deputies and Clerks employed by him as aforesaid; and as regards their number and remoneration, he shall conform to such 14 instructions as shall from time to time be transmitted to him in that behalf by the Provincial Secretary; the amount of which 16 remuneration shall be paid by such Officer and by him entered under the head of expenses in the accounts rendered by him to the Inspec-18 tor General as aforesaid.

XI. And bo it enacted, That the said Public Officers shall, in all Officers to 20 accounts rendered by them as aforesaid to the Inspector General, be entitled respectively to retain and enter under the head of ex-

22 penses, such portion of the annual and fixed Salary to them assigned by the Governor as aforesaid, as shall correspond with the period

24 comprised in the account so rendered; and that after deducting therefrom their fixed Salary, the remuneration of their Deputies and

26 Clerks and the Salary of the said Criers by them paid as aforesaid, the said Public Officers shall respectively be entitled for their own

28 use and benefit, to a Commission of

dent on the balance of the sums acknowledged by them in such on the balance. 30 account as remaining in their bands; and after the Inspector Gene-

ral shall have examined and approved such account, it shall be law-32 ful for the said Officers to retain the amount of the said Commission to which they are entitled on the balance of such account, and

34 to enter the same under the head of expenses in their next account.

XII. And be it enacted, That the Inspector General shall keep Inspector 36 separate and distinct acccounts for each of the Districts above men- General to

tioned, of the portion of the said Special Fund created by this Act keep distinct 38 which shall be collected in such District.

XIII. And be it enacted, That from and out of the whole of the 40 sald Special Fund, or any part thereof collected in any of the Districts aforesaid and paid into the hands of the Receiver General, a reason-42 able sum may from time to time betaken and applied (according to such

regulations as shall be from time to time made by the Governor , to 14 defray the expense of compiling and publishing the decisions of the

Tribunals of Lower Canada, and to the payment of a fit Salary to 46 such person or persons as the Governor may from time to time entrust

with the said compilation and publication, which persons shall.

48 conform to such instructions as may from, time to time be given to. them by order of the Governor.

per Commission

take credit for

salaries.

accounts by Districts.

Compilation of reports and judicial decisons.

XIV. And be it enacted, That the amount of each of the said portions

of the said Special Fund, or the balance of each portion remaining

after the deduction (if any) of the sum necessary to meet the expenses authorised by the foregoing section, may be employed in such

manner as shall be directed and ordered from time to time by the Governor, in repairing the Court Houses, or for other purposes

connected with the administration of Justice, in the District wherein

Application of balances.

Judges, &c., to contribute yearly to the expense of publishing decisions.

8 such portion shall have been collected. XV. And be it enacted, That in aid of the compilation and publication of the decisions of the Tribunals in Lower Canada as 10 authorized by the thirteenth section of this Act, each of the persons hereafter designated and residing in any of the Districts above men-12 tioned, shall pay in each year, between the first of October and the thirty-first of December, to the Prothonotary or Clerk of the 14 Superior Court in the District in which he shall reside, the sum of 16

currency, to wit :

1. The Judges and Prothonotaries or Clerks of the Court of Queen's Bench, the Superior Court, and the Circuit Court; 18

- 2. The Advocates and Attorneys:
- 3. The Sheriffs:
- 4. The Clerks of the Peace;

And whenever the said office of Sheriff, or of Prothonotary or 22 Clerk shall be held by more than one person, each such person individually shall pay the said sum of currency; 24 and in default of payment within the time above directed, the Prothonotary or Clerk to whom such payment ought to be made, shall 26 in his said quality, have the right and shall be bound to sue by personal action in the Circuit Court, for the recovery of the said 28 currency, each of the persons above sum of mentioned who shall have neglected to pay the said sum in manner 30 aforesaid; and when judgment shall be rendered in favor of the said Prothonotary or Clerk, it shall be rendered with Costs; and such 32 judgment shall be executory in the same manner as any other judgment of the said Circuit Court : Provided always, that when 34 any such judgment shall have been rendered against any Advocate and Attorney, then in default of payment by him of the amount of 36 the principal sum and costs of the action, within two months after judgment shall have been rendered therein, he shall after the said 38 two months shall have expired, cease to enjoy the right of practising the said profession of Advocate and Attorney in any of the Courts 40 of Law in Lower Canada, until he shall have satisfied the whole amount of the said judgment. .:42

XVI. And be it enacted, That the said sum of currency, shall be payable for the present year, one thousand eight 44 hundred and fifty, at the time above mentioned, as well as for subsequent years; it shall form part of the Special Fund created by 46 this Act, but shall be solely applied to the purpose mentioned in the thirteenth section; and the provisions of this Act relating to the 48 responsibility of the said Prothonotaries or Clerks, to the payment over by them of the amount received by them, and to their com- 50

Prothonotary to sue defaulters.

Proviso as to advocates and attornies.

The said sum to he payable for the present year, and to form part of the special fund.

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mission of per cent, shall apply this portion of 2 the said Special Fund as well as to the other portions thereof.

XVII. And be it enacted, That none of the foregoing provisions 4 shall extend or be construed to extend to deprive the above mentioned

Courts of Justice or the Judges thereof, of the power now possessed 6 by them, or to relieve them from the obligation imposed on them

by the now existing laws of Lower Canada, to make and establish, 8 from time to time, tariffs of fees for the officers of the said Courts

- respectively, and for the Counsel, Advocates and Attorneys practising 10 therein, and from time to time as need shall be, to revoke or amend such tariffs.
- 12 XVIII. And whereas several of the offices before mentioned, are Cumula offices.

IN THE DISTRICT OF MONTREAL:

14 The offices of Sheriff, of Prothonotary or Clerk of the Superior Court, and of Clerk of the Peace.

IN THE DISTRICT OF QUEBEC :

- 16 Those of Prothonotary or Clerk of the Superior Court and of Clerk of the Peace :
- 18 Be it enacted, that it shall be lawful for the Governor to add to the annual and fixed Salary which under the foregoing provisions he
- 20 is authorised to assign to each of the said Offices respectively, the sums hereafter mentioned, to wit :---

IN THE DISTRICT OF MONTREAL :

- To the Office of Sheriff, a sum not exceeding £ currency yearly;
- 24 2. To the Office of Prothonotary or Clerk of the Superior Court, a sum not exceeding £ currency yearly;
- 26 3. To the Office of Clerk of the Peace, a sum not exceeding £ currency yearly;

IN THE DISTRICT OF QUEBEC.

- To the Office of Prothonotary or Clerk of the Superior Court, a sum not exceeding £ currency yearly;
- 30 2. To the Office of Clerk of the Peace, a sum not exceeding £ currency yearly;

32 Each of which said sums shall only form part of the salary attached to the office to which it shall be so granted, so long as such office

34 shall so continue to be held by more than one person as aforesaid; and provided always, that such sum as aforesaid shall be taken solely

36 out of the amount of the portion of the special fund created by this Act, which shall have actually been paid into the hands of the

38 Receiver General as arising from such office for the year during

The courts and judges to continue to make Tariffs of fees.

Cumulation of offices.

Governor may add to the fixed salary.

Out of what portion of the special fund such sum shall be taken. Governor to apportion such increase. which such increase of salary shall be assigned to such office; and if the said amount be not sufficient to cover the increase of salary so 2 assigned to such office, then such increase of salary shall not for that year exceed such amount; and provided also, that it shall be lawful 4 for the Governor to apportion such increase of Salary among the persons conjointly holding and filling such office, in suchmanner as 6 he shall deem expedient, having a due regard to the length of service of each of the persons in the performance of the duties of such 8 office, or of a similar office in any other Court or any other District.

Accounts to be sworn to. XIX. And be it enacted, that the accounts which shall be rendered 10 to the Inspector General under this Act by each of the above mentioned Public Officers, shall be by such Officer sworn to as true and 12 faithful, on oath to be taken before one of the Judges of any of the Courts aforesaid.

Lower Cana- XX. And be it enacted, that this Act shall apply to Lower Canada da. only. 16