



No. 40

3D SESSION, 3D PARLIAMENT, 13 VICTORIA, 1850.

**B I L L.**

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.

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Honble Mr. LAFONTAINE.

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## B I L L .

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.

2 **W**HEREAS it is just and proper to form a Special Fund out of all the Salaries, Fees, Emoluments and Pecuniary Profits attached to certain Offices connected with the administration of Justice in Lower Canada, and to assign Annual and Fixed Salaries to the Officers holding and filling such Offices; Be it therefore enacted, &c. Preamble.

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

10 **II.** And be it enacted, That upon, from and after the day on which this Act shall commence, the Public Officers hereinafter mentioned shall respectively cease to have the right of demanding and receiving for their own use and benefit, the Salaries, Fees, Emoluments and Pecuniary Profits whatsoever, which are now or may hereafter be attached to their respective Offices, that is to say: Public officers  
who shall  
cease to re-  
ceive fees, &c.

16 1. The Sheriffs of the Districts of Montreal, Quebec, Three-Rivers and St. Francis.

18 2. The Prothonotaries or Clerks of the Superior Court in the said Districts;

20 3. The Clerks of the Circuit Courts in the Circuits respectively called the Circuits of Quebec, Montreal, Three-Rivers and Sherbrooke;

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

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

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

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

Officers to  
render ac-  
counts.

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

Annual and  
fixed salaries.

IV. And be it enacted, That from and out of the amount collected in every year of such Salaries, Fees, Emoluments and Pecuniary Profits of what kind soever, attached to each of the aforesaid Offices, 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 £ currency; 16
2. To the Prothonotary or Clerk of the Superior Court, a sum not exceeding £ currency; 18
3. To the Clerk of the Circuit Court for the Circuit called "The Quebec Circuit," a sum not exceeding £ currency; 20
4. To the Clerk of the Crown, a sum not exceeding £ currency; 22
5. To the Clerk of the Peace, a sum not exceeding £ currency; 24

#### IN THE DISTRICT OF MONTREAL:

1. To the Sheriff, a sum not exceeding £ currency; 26
2. To the Prothonotary or Clerk of the Superior Court, a sum not exceeding £ currency; 28
3. To the Clerk of the Circuit Court for the Circuit called "The Montreal Circuit," a sum not exceeding £ currency; 30
4. To the Clerk of the Crown, a sum not exceeding £ currency; 32
5. To the Clerk of the Peace, a sum not exceeding £ currency. 34

#### IN THE DISTRICT OF THREE RIVERS:

1. To the Sheriff, a sum not exceeding £ currency; 36
2. To the Prothonotary or Clerk of the Superior Court, a sum not exceeding £ currency; 38
3. To the Clerk of the Circuit Court for the Circuit called "The Three Rivers' Circuit," a sum not exceeding £ currency; 40
4. To the Clerk of the Crown, a sum not exceeding £ currency; 42
5. To the Clerk of the Peace, a sum not exceeding £ currency. 44

IN THE DISTRICT OF ST. FRANCIS :

- 2 1. To the Sheriff, a sum not exceeding £ currency ;  
 2. To the Prothonotary or Clerk of the Superior Court, a sum  
 4 not exceeding £ currency ;  
 3. To the Clerk of The Circuit Court for the Circuit called " The  
 6 Sherbrooke Circuit," a sum not exceeding £ currency :  
 4. To the Clerk of the Crown, a sum not exceeding £  
 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 £ 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  
 16 the amount of the said fees, emoluments and pecuniary profits  
 18 attached to his office and collected as aforesaid by him during such  
 20 year : Provided always, that the amount so collected by him during  
 such year, be sufficient to cover his salary after deducting therefrom  
 the pecuniary remuneration to be paid by him to his Deputy and  
 Clerks, as hereinafter directed ; otherwise his salary for such year  
 shall not in any such case exceed such nett amount.

How such salaries shall be paid—provided the amount collected be sufficient.

22 V. And for the avoidance of all doubt in this behalf, be it enacted,  
 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  
 32 any authority whatsoever.

Interpretation of the words, salaries, fees, &c.

34 VI. And be it enacted, that whenever any two or more of the  
 offices hereinbefore mentioned, shall at any time be held and filled by  
 the same person, then it shall be lawful for the Governor to reduce  
 36 and fix at such sum as he shall deem expedient, the united Salaries of  
 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.

Case where two offices shall be held by the same person.

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

Appointment of deputies.



aries or Clerks as aforesaid; provided always, that the amount so 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 exceed such amount.

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

Necessary clerks, &c.

XI. And be it enacted, That the said Public Officers shall, in all accounts rendered by them as aforesaid to the Inspector General, be entitled respectively to retain and enter under the head of expenses, such portion of the annual and fixed Salary to them assigned by the Governor as aforesaid, as shall correspond with the period comprised in the account so rendered; and that after deducting therefrom their fixed Salary, the remuneration of their Deputies and Clerks and the Salary of the said Criers by them paid as aforesaid, the said Public Officers shall respectively be entitled for their own use and benefit, to a Commission of per cent on the balance of the sums acknowledged by them in such account as remaining in their hands; and after the Inspector General shall have examined and approved such account, it shall be lawful for the said Officers to retain the amount of the said Commission to which they are entitled on the balance of such account, and to enter the same under the head of expenses in their next account.

Officers to take credit for salaries.

Commission on the balance.

XII. And be it enacted, That the Inspector General shall keep separate and distinct accounts for each of the Districts above mentioned, of the portion of the said Special Fund created by this Act which shall be collected in such District.

Inspector General to keep distinct accounts by Districts.

XIII. And be it enacted, That from and out of the whole of the said Special Fund, or any part thereof collected in any of the Districts aforesaid and paid into the hands of the Receiver General, a reasonable sum may from time to time be taken and applied (according to such regulations as shall be from time to time made by the Governor) to defray the expense of compiling and publishing the decisions of the Tribunals of Lower Canada, and to the payment of a fit Salary to such person or persons as the Governor may from time to time entrust with the said compilation and publication, which persons shall conform to such instructions as may from time to time be given to them by order of the Governor.

Compilation of reports and judicial decisions.

Application of  
balances.

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 such portion shall have been collected. 2 4 6 8

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

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

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 ; 20
4. The Clerks of the Peace ;

Prothonotary  
to sue de-  
faulters.

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

Provisions to  
advocates and  
attorneys.

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

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

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.

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

XVIII. And whereas several of the offices before mentioned, are  
12 now held by two or more persons conjointly to wit :—

Cumulation of  
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 :—

Governor  
may add to the  
fixed salary.

#### IN THE DISTRICT OF MONTREAL :

22 1. 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.

28 1. 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

Out of what  
portion of the  
special fund  
such sum shall  
be taken.

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  
 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  
 for the Governor to apportion such increase of Salary among the  
 persons conjointly holding and filling such office, in such manner as  
 he shall deem expedient, having a due regard to the length of ser-  
 vice of each of the persons in the performance of the duties of such  
 office, or of a similar office in any other Court or any other District.

Governor to apportion such increase.

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

Accounts to be sworn to.

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

Lower Cana-  
 da.