

Laws of Her Majesty's Province of United Canada, passed in the year 1851. York: Stewart Derbyshire and George Desbarts, 1851.

14 & 15 Victoria – Chapter 118

An Act to authorize and require the several Deputy Clerks of the Crown to perform the duties of Clerks of Assize in their respective Counties in Upper Canada, except as therein mentioned. 30th August, 1851.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, the Deputy Clerks of the Crown in the several Counties or Unions of Counties in Upper Canada, shall *ex officio* be and act as Clerks of Assize and Marshals at the Courts of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery, to be holden in their respective Counties or Unions of Counties, and shall have all the powers and perform all the functions incident to the same, as such Clerks of Assize and Marshals, and it shall be the duty of the said Deputy Clerks of the Crown, respectively, immediately after each sitting of such Courts to forward to the Clerk of the Crown and Pleas at Toronto, every Recognizance, Indictment, Paper or Proceeding in any criminal matter in their custody as such Officers respectively, and to the Clerk of the Judges' Chambers at Toronto, every Record, Exhibit and Proceeding which shall be required by either party or his or her Attorney or Agent, for the purpose of moving for new trial or otherwise, upon receiving notice to that effect, together with the usual and proper Returns as such Clerks of Assize and Marshals, by post; and it shall be the duty of such Clerk of the Judges' Chambers to deliver to the Clerk of the particular Court in which the cause is pending, every Record or other Paper in his custody, when required, for the purpose of motions for new trials or otherwise: Provided always, that the notice to toe given, shall in all cases be served on the Deputy Clerk of the Crown, in time for the Record or Proceeding required to be sent, to reach Toronto by regular course of mail, on or before the last day for moving against the verdict or non suit.

II. And be it enacted, That the said Deputy Clerks of the Crown shall, after the time for the moving for new trials has expired, deliver to the Attorney of the party entitled to the Postea, any Record in their custody upon getting a receipt for the same, but that they shall not deliver to any party any Exhibit filed without a Judge's order to that effect.

III. And be it enacted, That the sum of Five Shillings shall be hereafter paid to the said Deputy Clerks of the Crown, as the fee upon each Record entered, which sum, and no more, shall be paid, whether the cause be tried or not, and that the said fees shall be by them accounted for, paid over and applied under the provisions of the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to provide for the accommodation of the Courts of Superior Jurisdiction in Upper Canada*, as part of the fund thereby created: Provided always, that the said Deputy Clerks shall

respectively be allowed to retain out of such fees a sum equal to One Pound for each day's attendance as such Clerks of Assize.

IV. And be it enacted, That after verdict or non suit, the Attorney of the party entitled to the Postea in the cause shall prepare the same.

V. And be it enacted, That no charge whatever shall be made by the said Clerks of Assize or Marshals upon any criminal trial or proceeding in any Court, at which they may act as such Clerks of Assize and Marshals respectively.

VI. And be it enacted, That the party requiring any Record, Exhibit or other Paper to be sent to the Clerk of the Judges' Chambers shall, with the notice, pay the postages incident to the transmission of the Record, Exhibit or Paper required by him.

VII. And be it enacted, That the Deputy Clerks of the Crown shall pay the postage on the transmission of Indictments and other Proceedings in criminal cases, and take credit for such postages in accounting for the fees received under this Act, or fees in any other manner received by them, in case the fees under this Act shall not be sufficient for that purpose.

VIII. And whereas William Alexander Campbell has, for twenty-six years now last past, held the office of Marshal and Clerk of Assize for the County of York: Be it enacted, That from and after the passing of this Act the said William Alexander Campbell shall continue to be the Marshal and Clerk of Assize for the County of York, and shall hold office during good behaviour, and be removeable by the Judges of the Superior Courts of Common Law, or a majority of them, and shall act as Marshal and Clerk of Assize at the Courts of Assize and Nisi Prius, and Oyer and Terminer and General Gaol Delivery for the said County of York, and shall receive as such Marshal and Clerk of Assize, the salary of Three Hundred Pounds per annum, which shall be charged upon the fund in this Act mentioned, and as Marshal and Clerk of Assize for the said County of York, shall be subject to all the provisions relating to Records, Exhibits and other Documents in this Act mentioned, and in the event of the death or removal from his said office of the said William Alexander Campbell, the Clerk of the Crown and Pleas for the time being, or his Deputy, in the said County of York, shall act as such Marshal and Clerk of Assize for the said County of York, and have all the powers and exercise all the functions that are had and exercised by the Clerks of Assize by law and under this Act.

IX. And be it enacted, That the Marshal and Clerk of Assize of the County of York shall take and receive the same fees only as are taken by the other Marshals and Clerks of Assize under this Act, and such fees shall be accounted for, paid over and applied in the same manner as the other fees taken under the authority of this Act.

X. And be it enacted, That the several Clerks of Assize appointed under this Act shall issue the Precepts to the several Sheriffs of Counties in the same manner and with the same effect as such Precepts are now issued by law, by any Marshal or Clerk of Assize.

XI. And be it enacted, That this Act shall not come into force until the first day of January next.