

1927

c 17 Public Officers Act

Ontario

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CHAPTER 17.

The Public Officers Act.

Public officer
to be British
subject.

Proviso.

1. No person shall be employed in any public office in Ontario who is not a British subject by birth or naturalization, but nothing in this section shall prevent the employment of any person for a temporary purpose by the Government of Ontario or by any commission acting for or on behalf of the Crown, when in the opinion of the Government or of such commission such employment is in the public interest. R.S.O. 1914, c. 15, s. 2.

COMMISSIONS ON DEMISE OF THE CROWN.

Commissions
continued on
demise of the
Crown.

2.—(1) It shall not be necessary, upon the demise of the Crown, to renew any commission, by virtue whereof any public officer or functionary in Ontario held his office or profession, during the previous reign, but a proclamation shall be issued by the Lieutenant-Governor, authorizing all persons in office who held commissions under the late Sovereign and all functionaries who exercised any profession by virtue of any such commissions, to continue in the due exercise of their respective duties, functions and professions, and such proclamation shall suffice, and the incumbents shall, as soon thereafter as may be, take the usual and customary oath of allegiance before the proper officer or officers thereunto appointed.

Continuance
in duty
and validity
of acts.

(2) The proclamation having been issued and oath taken, every public officer and functionary shall continue in the lawful exercise of the duties and functions of his office or profession, as fully as if appointed *de novo* by commission derived from the Sovereign for the time being; and all acts and things *bona fide* done and performed by such incumbents in their respective offices, and in the due and faithful performance of their duties and functions, between the time of the demise and the proclamation so to be issued, the oath of allegiance being always duly taken, shall be deemed to be legally done and valid accordingly. R.S.O. 1914, c. 15, s. 3.

Saving as to
rights of the
Crown.

3. Nothing in the next preceding section shall prejudice or in anywise affect the rights or prerogatives of the Crown with respect to any office or appointment derived or held by

authority from the Crown, nor prejudice or affect the rights or prerogatives thereof in any other respect whatsoever. R.S.O. 1914, c. 15, s. 4.

OATHS OF ALLEGIANCE AND OFFICE, ETC.

4. It shall not be necessary for any person appointed to any office in Ontario, or for any mayor or other officer or member of any corporation therein, or for any person admitted, called or received as a barrister, notary public, or solicitor, to make any declaration or subscription, or to take or subscribe any other oath than the oath following, that is to say:—

What oath necessary.

Allegiance.

"I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to His Majesty King George the Fifth, (or the reigning Sovereign for the time being,) as lawful Sovereign of Great Britain, Ireland, and the Dominions beyond the Seas, and that I will defend Him to the utmost of my power against all traitorous conspiracies or attempts whatever which may be made against His Person, Crown and Dignity, and that I will do my utmost endeavour to disclose and make known to His Majesty, His Heirs or Successors, all treasons or traitorous conspiracies and attempts which I may know to be against Him or any of them;—And all this I do swear without any equivocation, mental evasion or secret reservation: So help me God."

Form.

and also such oath for the faithful performance of the duties of his office or for the due exercise of his profession or calling as may be required by any law in that behalf. R.S.O. 1914, c. 15, s. 5.

Oath of office.

5. Except where otherwise specially provided, the form hereinbefore set forth, and no other, shall be that of the oath of allegiance to be administered to and taken by every person in Ontario, who, either of his own accord or in compliance with any lawful requirement made on him or in obedience to the directions of any statute of this Legislature, desires to take an oath of allegiance. R.S.O. 1914, c. 15, s. 6.

The said form of oath of allegiance and no other to be used in all cases.

6. All magistrates and all other officers lawfully authorized, either by virtue of their office or by special commission from the Crown for that purpose, may administer the oath of allegiance in any part of Ontario. R.S.O. 1914, c. 15, s. 7.

Who may administer oath of allegiance.

SECURITY BY PUBLIC OFFICERS.

7.—(1) Security by or on behalf of every person appointed to any office or employment, or commission in the public service of Ontario, or to any office or employment of public trust, or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money under the Government of Ontario, and who by reason there-

Persons appointed to certain public offices to give security.

of is required to give security, shall be furnished within one month after notice of his appointment, if he is then in Ontario, or within three months, if he is then absent from Ontario (unless he sooner arrives in Ontario, and then within one month after such arrival), in such sum and in such manner as may be approved of by the Lieutenant-Governor in Council or by the principal officer or person in the office or department to which he is appointed, 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.

Liability of sureties of public officer for acts of deputy.

(2) Where a deputy is appointed by any person holding an office, any security required by law and hereafter given on behalf of such person, shall extend to and include the acts and omissions of the deputy, whether appointed before or subsequent to the giving of the security.

Security to cover acts and omissions of deputy.

(3) The liability of the sureties, and of the officer appointing the deputy, shall be the same as regards the performance of the duties of the office by the deputy, as in regard to the performance thereof by the person holding the office; and such liability shall extend to and cover all acts and omissions of the deputy while he continues to perform the duties of the office, and whether before or after the death or resignation of the person appointing him, subject to the same rights of withdrawal by the sureties from liability, as may exist in regard to the security given by public officers.

Deputy may be required to furnish security.

(4) The Lieutenant-Governor in Council may, notwithstanding the provisions of this section, require new security to be furnished by any deputy on the death or resignation of the person holding the office wherein he is deputy, and such security shall be for the like amount, and subject to the same conditions as that required by law for the due performance of the duties of the officer whom the deputy represents. R.S.O. 1914, c. 15, s. 8.

Regulations as to form of security.

8. The Lieutenant-Governor in Council may prescribe the form of the security required to be furnished under any statute by a public officer or by any class of public officers, and may authorize the Treasurer of Ontario to enter into agreements in His Majesty's name with any corporation authorized to carry on the business of fidelity insurance in Ontario for the furnishing of security for any public officer, or for public officers generally, or for any class or classes of public officers. R.S.O. 1914, c. 15, s. 9.

Saving as to municipal or school treasurers.

9. Nothing in the preceding sections shall apply to any treasurer or other officer of a municipal or school corporation having the custody of moneys of such corporation. R.S.O. 1914, c. 15, s. 10.

10. The Treasurer of Ontario shall cause to be prepared and laid before the Assembly, within fifteen days after the opening of every session thereof, a detailed statement of all securities furnished on behalf of public officers, and of any changes that have been made in reference to such securities since the last statement laid before the Assembly. R.S.O. 1914, c. 15, s. 11.

Laying statement of securities before Assembly.

11. The security hereafter furnished on behalf of any public officer in pursuance of this or any other Act requiring security shall enure as well for the benefit of His Majesty as for that of the persons for whose benefit it is provided by the Act requiring the security or otherwise that it shall enure. R.S.O. 1914, c. 15, s. 12.

Effect of securities by public officers.

12. Where any person, company or corporation is surety for a public officer, or for any person appointed to any office, employment or commission in the public service of Ontario, or to any office or employment of public trust, whether the suretyship is for the benefit of His Majesty or enures for the benefit of any person injured by the default or misconduct of the officer or other person, and an action is brought against the surety, no damages shall be recovered except as to matters and causes of action which have arisen within ten years next before the commencement of the action. R.S.O. 1914, c. 15, s. 13.

Limitation of actions against sureties of public officers.

DUTIES OF INSPECTORS.

13.—(1) The Attorney-General may direct any inspector to discharge the duties which are by statute or otherwise imposed upon or may be performed by any other inspector, and an inspector while acting under such direction shall have all the powers of the inspector whose duty he has been directed to perform.

Duties of one inspector may be discharged by another.

(2) In this section the word "inspector" shall include the Inspector of Legal Offices, the Inspector of Registry Offices, the Inspector of Land Titles Offices, the Inspector of Prisons and Public Charities, and the Inspector of Division Courts. R.S.O. 1914, c. 15, s. 14.

Inspector defined.

RETURNS OF FEES.

14. Every clerk of a county court, every registrar of a surrogate court and every clerk of a division court for a division embracing a city or part of a city, shall keep a separate book, in which he shall enter from day to day all fees, charges and emoluments received by him by virtue of his office, showing the sums received by him for fees, charges and emoluments of all kinds whatsoever, and shall on or before the 15th day of January in each year make up a statement under oath of such fees, charges and emoluments to and including the 31st day of December of the previous year and return the same to the Provincial Secretary. R.S.O. 1914, c. 15, s. 15.

County court and division court clerks and registrars of surrogate court.

Particulars in returns by public officers.

15. Every public officer who is by this or any other Act required to make a return of the fees and emoluments of his office to any department of the Government, or to any officer, shall include in his return the following particulars,

- (a) the aggregate amount of all fees and emoluments earned by him during the preceding year by virtue of his office;
- (b) the aggregate amount of all fees and emoluments actually received by him during the preceding year by virtue of his office;
- (c) the actual amount of the disbursements during the same period in connection with his office, and such other particulars as the Lieutenant-Governor in Council may prescribe. R.S.O. 1914, c. 15, s. 16.

GENERAL.

Procedure against person, who has ceased to be a public officer, for retaining moneys, books, etc.

16. Where a person who has been, but has ceased to be, a public officer, retains possession of any accounts, moneys, books, papers, matters or things which have been in his possession as such officer, a Judge of the Supreme Court or the judge of any county or district court, upon application of the successor in the office of such person or of the Attorney-General or of some person by his authority, and on notice to the person affected, may order that such accounts, moneys, books, papers, matters and things be forthwith delivered to such successor in office or to such person as the judge may direct, and in default that such person be committed to the common gaol of the county or district in which he resides for such period as the judge may direct, or until he complies with the directions of the order, and may authorize the sheriff of any county or district in which the same may be found to forthwith seize and take such accounts, moneys, books, papers, matters and things, and deliver the same to the persons to whom they have been directed to be delivered. R.S.O. 1914, c. 15, s. 17; 1914, c. 2, Sched. (3).

Procedure when public officer interested in question before him.

17. Wherever by any general or special Act of this Legislature any person or the occupant for the time being of any office is empowered to do or perform any act, matter or thing and such person or the occupant for the time being of such office is disqualified by interest from acting, and no other person is by law empowered to do or perform such act, matter or thing, then he or any interested person may apply, upon summary motion, to a Judge of the Supreme Court, who shall have power to appoint some disinterested person to do or perform the act, matter or thing in question. R.S.O. 1914, c. 15, s. 18.