

1914

c 58 County Judges Act

Ontario

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CHAPTER 58.

An Act respecting County and District Judges and Local Courts.

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

1. This Act may be cited as *The County Judges Act*.^{Short title}
9 Edw. VII. c. 29, s. 1.

JUDGES AND JUNIOR JUDGES.

2. The Judges of the several County and District Courts^{Tenure of office.} now holding office, as well as the Judges hereafter to be appointed, shall hold their offices during good behaviour, but shall be subject to be removed by the Lieutenant-Governor^{Removal. R.S.C. c. 138, s. 28.} for inability, incapacity or misbehaviour, established to the satisfaction of the Lieutenant-Governor in Council. 9 Edw. VII. c. 29, s. 2.

3. The person to be appointed to be the Judge or Junior^{Qualification.} Judge of a County or District Court shall be a Barrister of at least seven years' standing at the Bar of Ontario. 9 Edw. VII. c. 29, s. 3.

4. Unless otherwise expressed in the commission, where^{Style.} more than one Judge of a County or District Court is appointed for a county or district, the Judge whose commission has priority of date shall be styled "The Judge of the County or District Court of " (as the case may be), and the other Judge of the same Court shall be styled "The Junior Judge of the County or District Court of " (as the case may be). 9 Edw. VII. c. 29, s. 4.

5.—(1) A Junior Judge may be appointed for a county or district the population of which exceeds 80,000.^{Appointment of Junior Judges.}

(2) The recital in any commission heretofore or hereafter issued for the appointment of a Junior Judge that the population of the county or district for which he is appointed exceeds 80,000 shall be conclusive and shall not be open to question in any proceeding whatever.^{Presumption as to population.}

(3) A Junior Judge may be appointed for a county in^{Certain counties and districts.} which a city is situate and for which county a Junior Judge was appointed prior to the 13th day of April, 1897, and for

any of the Counties of Grey, Lincoln, Renfrew, Leeds and Grenville, Stormont, Dundas and Glengarry, Prescott and Russell, Northumberland and Durham, Ontario, Bruce, Simcoe, Huron, Lambton and Victoria, including Haliburton, and for the Provisional Judicial Districts of Algoma, Nipissing and Thunder Bay. 9 Edw. VII. c. 29, s. 5; 2 Geo. V. c. 19.

Powers of
Junior Judges.

6. Where any power or authority is, by this Act or otherwise, conferred upon or may be exercised by the Judge of a County or District Court, whether with reference to the holding of any of the courts of the county or district which he may hold, or to the business of any of such Courts, or to any other matter or thing over which he has jurisdiction, the like power and authority shall be possessed and may be exercised by a Junior Judge, subject to the general regulation and supervision of the Judge. 9 Edw. VII. c. 29, s. 6.

County of
York.

7. A second junior judge and a third junior judge may be appointed for the County of York, who shall be called respectively the Second Junior Judge and the Third Junior Judge of the County Court of the County of York. 9 Edw. VII. c. 29, s. 7.

Residence
in county.

8. Every Judge and Junior Judge of a County or District Court shall reside within the county or district for which he is appointed, unless otherwise provided by Order in Council. 9 Edw. VII. c. 29, s. 8; 1 Geo. V. c. 17, s. 54.

Not to practise.

9. A Judge or Junior Judge shall not, directly or indirectly, practise as Counsel or Solicitor or act as a Notary Public or Conveyancer under the penalty of forfeiture of office and the further penalty of \$400. 9 Edw. VII. c. 29, s. 9.

Penalty.

DEPUTY JUDGES.

Appointment
of Deputy
Judge.

10.—(1) A Barrister of at least three years' standing at the Bar of Ontario may be appointed to be Deputy Judge for any county or district.

Idem.

(2) The appointment may be made notwithstanding that the office of Judge is vacant by death, or resignation, or that the Judge is ill or absent at the time of the appointment. 9 Edw. VII. c. 29, s. 10.

Tenure of office
and powers.

11. A Deputy Judge shall hold office during pleasure, and in case of the death, illness or absence of the Judge, shall have authority to perform in the place of the Judge, in the county or district for which he is appointed, all the duties of and incident to the office of the Judge, and all acts required or allowed to be done by the Judge under this or any other Act, unless therein otherwise expressly provided. 9 Edw. VII. c. 29, s. 11.

12. Nothing herein contained shall prevent a Deputy Judge from practising the profession of the law. 9 Edw. VII. c. 29, s. 12. Right to practise.

OATH OF OFFICE.

13. Every Judge, Junior Judge and Deputy Judge, before entering upon the duties of his office, shall take and subscribe the following oath before some person appointed by the Lieutenant-Governor to administer the same, that is to say: Oath of office.

"I, _____, do swear that I will (in the case of a Deputy Judge add the words as occasion may require,) truly and faithfully, according to my skill and knowledge, execute the several duties, powers and trusts of Judge of the County or District Court of the County or District of _____, (as the case may be): So help me God."

9 Edw. VII. c. 29, s. 13.

DUTIES AND POWERS OF JUDGES.

14.—(1) At any sittings of the County or District Court held at the same time as the sittings of the Court of General Sessions of the Peace, or of a Division Court in any county or district, or of any two of the Courts at the same time, either the Judge or the Junior Judge, or both of them, may, if the Judge thinks fit, preside in any of such Courts, or each of them in one of such Courts at the same time, so that two of the Courts may sit and the business therein be proceeded with simultaneously. Power to preside together or separately.

(2) The County Court of the County of York, the Court of General Sessions of the Peace, and the Division Courts of the said county, or any of such Courts, may sit at the same time, and the business thereof may be proceeded with simultaneously. 9 Edw. VII. c. 29, s. 14. Local Courts in York.

15.—(1) It shall be competent for any Judge of a County or District Court to hold any of the Courts in any county or district or to perform any other duty as a Judge of a County or District Court in any such county or district upon being required so to do by an order of the Governor-General in Council, made at the request of the Lieutenant-Governor. Powers of Judge to act outside his county.

(2) The Judge of any County or District Court may, without any such order, perform any judicial duty in any county or district on being requested so to do by the Judge of the County or District Court to whom the duty for any reason belongs. At request of any other judge. R.S.O. c. 138, s. 31.

(3) Any retired Judge of a County or District Court may hold any Court or perform any other duty of a Judge of a County or District Court in any county or district on being authorized so to do by an order of the Governor-General in Council, made at the request of the Lieutenant-Governor. When retired a Judge may act for County Judges. Idem, s. 32.

Power of a
Judge so
acting.
Idem. s. 31 (3).

(4) The Judge so required, requested or authorized as aforesaid shall, while acting, be deemed to be a Judge of the County or District Court of the county or district in which he is so required or requested to act, and shall have all the powers of such Judge.

Junior
Judges.

(5) In this section "Judge" shall include a Junior Judge. 9 Edw. VII. c. 29, s. 15.

Authorization
by Lieutenant-
Governor in
Council.

16. The Lieutenant-Governor in Council may empower a Judge or Junior Judge of a County or District Court to transact, at such place out of his county or district, to be named in the Order in Council, as may be deemed proper, all such business depending in his Court as may be transacted in Chambers where the solicitors for all parties reside in the place so named, or with the consent of the solicitors for all parties. 9 Edw. VII. c. 29, s. 3.

ALLOWANCES TO JUDGES OF DISTRICT COURTS.

Allowance to
judges of
district
courts.

17. In lieu of the fees otherwise payable to him under *The Surrogate Courts Act* and for services performed under *The Mechanics and Wage Earners Lien Act*, *the Woodman's Lien for Wages Act* and *The Rivers and Streams Act* there shall be paid to every Judge and Junior Judge of a District Court the sum of \$500 per annum, and the fees heretofore payable in money under any of the said Acts shall be payable in stamps, and shall form part of the Consolidated Revenue Fund. 10 Edw. VII. c. 26, s. 13.

SHORTHAND WRITERS.

Shorthand
writers—
appointment
of.

18.—(1) A shorthand writer may be appointed by the Lieutenant-Governor in Council for the local courts of each County and Provisional Judicial District.

To be under
direction of
judge.
Remuneration.

(2) The shorthand writer so appointed shall be subject to the direction of the Judge or, in his absence, of the Junior Judge or Judges, and shall be entitled to such remuneration by salary or by fees, or partly by salary and partly by fees, as the Lieutenant-Governor in Council may direct.

When paid by
salary only.

(3) If such shorthand writer is paid by salary only the fees payable in respect of his duties shall be applied in reduction of his salary, and the balance, if any, shall be paid by the county quarterly on the first days of January, April, July and October of every year.

Regulation of
fees and duties

(4) The fees and all matters relating to the duties of the shorthand writer shall be determined and regulated by the Judge of the County or District Court, subject to the approval of the Lieutenant-Governor in Council.

(5) Every city and separated town shall pay the county a proper proportion of the remuneration which, in case of disagreement, shall be determined by arbitration according to the provisions of *The Municipal Act*, and subject thereto, and unless and until the same is otherwise determined, the city or town shall pay to the county one-half of such remuneration. 9 Edw. VII. c. 29, s. 17.

City and separated town to contribute.

INTERPRETERS.

19. If the Council of any county, by resolution, requests the appointment of an official interpreter to act at the Courts held in that county an appointment may be made in the same manner, and subject to the same terms and conditions, as provided with respect to shorthand writers by the next preceding section which shall apply as nearly as may be to official interpreters. 9 Edw. VII. c. 29, s. 18.

Appointment of official interpreters.

Note.—By 9 Edw. VII. c. 29, s. 19 (1), chapter 54 of R.S.O. 1897, and all amendments thereto are repealed, but by subsection 2 it is provided that notwithstanding the repeal of sections 19 to 28 of the said Act any district or group formed under the provisions of the said section 19 and then existing should continue to exist, and that the provisions of the said sections should continue to apply to such district or group.

[For certain Dominion enactments as to tenure of office and powers of Local Judges, see R.S.C. 1906, c. 138, ss. 30-32.]