

believes himself to be in danger of suffering from his securityship, from the defalcation of such clerk or register or from other malfeasance in office, the judge of such court shall forthwith pass an order requiring a copy of the said petition to be served on such clerk or register within five days, and shall within ten days thereafter take up the case, and if he shall be satisfied, from the evidence of the truth of the matters alleged, he shall pass an order requiring such clerk or register within a specified time to give counter security, to be approved in the same manner as his original bond; and for every day after the expiration of such specified time that such clerk or register shall fail to give such counter security he shall be subject to a penalty of fifty dollars, which may be recovered by separate action for each penalty in the name of the State in the same manner provided for the recovery of small debts, and upon judgment for any such penalty the fees of office of such clerk or register, whether for office work or for State tax on commissions, may be attached by way of execution; and such penalty shall inure and be payable to the sureties of such clerk or register to insure them against any loss which they may sustain by the defalcation, misfeasance, or malfeasance of such clerk or register.

Penalty for non-compliance.

Fees of office attachable.

ACCOUNTS WITH COMPTROLLER, ETC.

49. Every clerk shall, on or before the first Monday of June and first Monday of December in each year, transmit to the comptroller a list of all executions issued by the court of which he is clerk, for fines, penalties, or forfeitures, and also a list of the fines, penalties, and forfeitures imposed by his court, and a list and account under oath of all public money received by him, which lists shall contain the names of the parties, the amount of the fines, penalties and forfeitures, and to whom payable, with the costs thereon, and shall embrace all cases not included in former lists returned by him, and shall show from whom and on what account public money has been received.

Art 18, s 6
1777, c. 13, s 4;
1795, c 74, s 5
What returns to
be made to
comptroller.

50. Each clerk shall, on the first Mondays of March, June, September, and December, in each and every year, pay to the treasurer all public money which he may have received, and on his failure to do so within thirty days thereafter, his bond may be put in suit for the use of the State, in which suit recovery shall be had for the amount appearing to be due the State, with interest at the rate of ten per cent per annum, from the date or dates when the same became payable as aforesaid; and a failure on the part of any clerk to make such payment shall amount to a forfeiture of the commissions to which he would otherwise be entitled, and recovery on the bond of the clerk, for the non-payment of public money received by him, shall be evidence of a misdemeanor in office, for which, upon conviction, he may be removed.

1868, c 197
Payments into
treasury.

Penalty.