

1937

c 140 Constables Act

Ontario

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Bibliographic Citation

Constables Act, RSO 1937, c 140

Repository Citation

Ontario (1937) "c 140 Constables Act," *Ontario: Revised Statutes*: Vol. 1937: Iss. 1, Article 144.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1937/iss1/144>

CHAPTER 140.

The Constables Act.

INTERPRETATION.

1. In this Act,—

- (a) "County" shall include district; "County."
- (b) "County court" shall include district court. R.S.O. "County court."
1927, c. 125, s. 1.

PART I.

CONSTABLES AND HIGH CONSTABLES.

Appointment by General Sessions.

2. The court of general sessions of the peace, at any sittings or adjourned sittings but not at a special sittings, may appoint a sufficient number of fit and proper persons to be constables for the county, and may, in like manner, dismiss any constable so appointed. R.S.O. 1927, c. 125, s. 2.

Appointment
of
constables.

Dismissal.

3. Every constable so appointed, and having taken the oath, shall continue in office at least one year, and thereafter from year to year without reappointment, unless he claims exemption from serving, in which case he shall be released at any time after the end of the first year. R.S.O. 1927, c. 125, s. 3.

Continu-
ance in
office.

Appointment by County Judge.

4.—(1) In the intervals between the sittings of the courts of general sessions of the peace, the judge of the county court may appoint one or more constables for the county.

Appoint-
ment of
constables
by county
court judges.

(2) The judge shall forthwith notify the clerk of the peace of the appointment.

Clerk of the
peace to be
notified.

(3) The clerk of the peace shall report every such appointment to the court of general sessions of the peace at the sittings holden next after he receives such notice, and, unless

Clerk to
report to the
general
sessions.

at such sittings the appointment is revoked, the same shall continue as if it had been made by such court. R.S.O. 1927, c. 125, s. 4.

Appointment by Magistrates.

Certain magistrates may appoint temporary constables.

5.—(1) A salaried county or district magistrate may appoint a constable for the county or district of which he is a magistrate to hold office for not more than thirty days.

Notice of appointment.

(2) The magistrate making any such appointment shall forthwith notify the Provincial Secretary thereof.

Revocation.

(3) The appointment may be revoked by the magistrate, or by the Provincial Secretary before the expiration of the thirty days. R.S.O. 1927, c. 125, s. 5.

Constables to be sworn.

6. Every constable shall before entering on the duties of his office take, subscribe and deposit with the clerk of the peace the following oath,—

The oath.

I, _____, having been appointed Constable for _____ do swear that I will truly, faithfully and impartially perform the duties appertaining to the said office, according to the best of my skill and ability: So help me God.

Sworn, etc.

A. B.

R.S.O. 1927, c. 125, s. 6.

Constable to be county constable.

7. Every constable appointed by the authority of this Act shall be a county constable. R.S.O. 1927, c. 125, s. 7.

High Constable.

High constable appointed by counties to continue in office.

8.—(1) Every high constable appointed by the municipal council of any county, who is in office on the 24th day of June, 1929, shall continue to hold office as a high constable during the pleasure of the council or until he resigns or until there is a vacancy in the office through any cause.

High constables,—remuneration of.

(2) Every high constable shall be paid by the county such remuneration by salary or otherwise, be allowed by the county such sums for expenses, and be supplied by the county with such arms, accoutrements, clothing and other necessities as may be prescribed by the regulations made under this Act.

Appointment by Lieutenant-Governor in Council.

(3) In any county, in which there is no high constable in office on the 24th day of June, 1929, and in any county in which a vacancy occurs in that office after the said date, and

in any other county when the office of high constable becomes vacant, the Lieutenant-Governor in Council may appoint an officer for such county or one or more counties, who shall be vested with all the powers and perform all the duties of a high constable under the provisions of this Act, and be subject to suspension as hereinafter provided by this Act..

(4) Any officer appointed under subsection 3, shall be paid out of such sums as may from time to time be appropriated by the Legislature of the Province of Ontario, such salary as may be determined by the Lieutenant-Governor in Council. 1929, c. 39, s. 2. Remuneration when appointed under subs. 3.

9.—(1) Every person appointed to be a high constable shall before entering on the duties of his office, take and subscribe the following oath,— Oath of high constable.

I, _____, do swear that I will well and truly serve Our Sovereign Lord the King in the office of High Constable for the county (or united counties) of _____ without favour or affection, malice or ill-will; and that to the best of my power, I will cause the peace to be kept and preserved, and prevent all offences against the persons and properties of His Majesty's subjects; and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law: So help me God. Form of oath.

Sworn, etc.

C. D.

R.S.O. 1927, c. 125, s. 10 (1).

(2) The oath, together with a copy of the by-law under which a high constable has been appointed, shall be deposited in the office of the clerk of the peace of the county for which he has been appointed, and the oath of every officer appointed after the 24th day of June, 1929, to perform the duties of a high constable under the provisions of this Act, shall be deposited with the Commissioner of Police for Ontario. 1929, c. 39, s. 4. Oath to be deposited with clerk of the peace.

10. A high constable shall have the supervision of all the constables in his county, and shall be charged with the special duties of preserving the peace, preventing crime, and apprehending offenders, and shall have generally all the powers and privileges, and be liable to all the duties and responsibilities which belong to constables. R.S.O. 1927, c. 125, s. 11. To have supervision of other constables.

11. A high constable for services rendered by him shall be entitled to the fees allowed by law, unless the council otherwise provides for payment therefor. R.S.O. 1927, c. 125, s. 12. To be entitled to fees unless otherwise provided.

Returns by Constables.

High and county constables to make returns.

12.—(1) Every high constable and every constable, whether appointed under the authority of this Act or any other Act, shall make such returns respecting his duties and acts as the Commissioner of Police for Ontario requires.

Exception as to certain cities and towns.

(2) This section shall not apply to a city or to a town having a board of commissioners of police. R.S.O. 1927, c. 125, s. 13; 1929, c. 39, s. 5.

Inquiries by Commissioner.

Supervision by Commissioner of Police.

13.—(1) The Commissioner of Police for Ontario shall have authority to inspect the offices of the high constables and constables appointed under this Act, and may hold inquiries into their conduct in connection with their official duties.

Commissioner may examine on oath and compel attendance of witnesses.

(2) Where the Commissioner of Police for Ontario institutes an inquiry he may require the officer or any other person to give evidence on oath, and for that purpose shall have the same power to summon such officer and other person to attend as witnesses, to enforce their attendance, and to compel them to produce books, documents and things and to give evidence, as a judge of the Supreme Court has in civil cases. R.S.O. 1927, c. 125, s. 14; 1929, c. 39, s. 6; 1937, c. 72, s. 15 (1).

Suspension and Dismissal.

Suspension of constable.

14.—(1) A judge of the county court, or the Commissioner of Police for Ontario, may suspend from office any high constable appointed by the municipal council of a county, or any county constable for any period not extending beyond one week after the time appointed for the next sittings of the court of general sessions of the peace.

Suspension to be reported to clerk of the peace.

(2) The suspension shall be by notice in writing and, if the judge, or the Commissioner of Police for Ontario considers the suspended officer deserving of dismissal, he shall, immediately after suspending him, report the case fully to the clerk of the peace for submission to the court of general sessions of the peace at its next sittings.

Dismissal.
Restoration to office.

(3) The court may dismiss the officer or direct him to be restored to his office, after the period of his suspension has expired, or after such further period as may be deemed proper.

(4) Subsections 1 to 3 shall not apply to an officer appointed to perform the duties of a high constable under the provisions of this Act by the Lieutenant-Governor in Council, but in all such cases the Commissioner of Police for Ontario may suspend any such officer so appointed, and after investigation upon notice to the officer, and subject to the approval of the Lieutenant-Governor in Council, may dismiss or direct such officer to be restored to his office after the period of his suspension has expired, or after such further period as may be deemed proper.

(5) This section shall not apply to any county for which there is a county board of commissioners of police, on the 24th day of June, 1929. 1929, c. 39, s. 7.

Persons Exempt.

15. The officers, non-commissioned officers and men of every militia corps shall be exempt from serving as constables except as special constables. R.S.O. 1927, c. 125, s. 16.

Appointment of Special Constables.

16. If it is made to appear to any two or more justices of the peace upon the oath of any credible witness, that any tumult, riot or felony has taken place or is continuing or may be reasonably apprehended within the limits for which such justices have authority to act, and the justices are of the opinion that the ordinary officers appointed for preserving the peace are not sufficient for the preservation of the peace and for the protection of the inhabitants and the security of property, such justices may, by writing under their hands, appoint so many as they think fit of the householders or other persons, residing within such limits, or in the neighbourhood thereof, to act as special constables for such time and in such manner as to such justices may seem necessary. R.S.O. 1927, c. 125, s. 17.

17. The justices of the peace who appoint special constables by virtue of this Act, or any one of them, or any other justice of the peace acting within the same limits, may administer to any person so appointed the following oath,—

I, A. B., do swear that I will well and truly serve our Sovereign Lord the King in the office of special constable for the of , without favour or affection, malice or ill-will; and that to the best of my power, I will cause the peace to be kept and preserved, and prevent all offences against the persons and properties of His Majesty's subjects; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law: So help me God.

R.S.O. 1927, c. 125, s. 18.

Notice of appointment to be sent to Commissioner of Police.

18. Where a special constable has been appointed, notice of the appointment, and of the circumstances which rendered it expedient, shall be forthwith transmitted by the justices making the appointment to the Commissioner of Police for Ontario. R.S.O. 1927, c. 125, s. 19; 1929, c. 39, s. 8.

Justices may make regulations touching special constables.

19. The justices who appoint any special constable, under this Act, or any two of them, or the justices acting within the limits for which the special constable has been appointed, or the majority of them, may make such orders and regulations as they may deem necessary or expedient for rendering the special constables more efficient for the preservation of the public peace, and may remove any such special constable from his office for any misconduct or neglect of duty therein. R.S.O. 1927, c. 125, s. 20.

Powers of special constables, and local extent of such powers.

20. Every special constable appointed under this Act, shall have and may exercise the like powers, authorities, advantages and immunities, and be liable to the like duties and responsibilities as any other constable throughout the territorial jurisdiction of the justices who appointed him. R.S.O. 1927, c. 125, s. 21.

Constable may act in other division.

21.—(1) Where two or more justices of the peace for any other territorial division deem it expedient that a special constable should be permitted to act in that division, they may make an order permitting him to do so. R.S.O. 1927, c. 125, s. 22 (1).

Notice to Commissioner of Police.

(2) Notice of such order shall be forthwith transmitted by the justices making the same to the Commissioner of Police for Ontario. R.S.O. 1927, c. 125, s. 22 (2); 1929, c. 39, s. 9.

Their powers in other adjoining division.

22. Every such special constable, during the time he so acts in such other territorial division, shall have and may exercise all the like powers, authorities, advantages and immunities, and be liable to the like duties and responsibilities as if he were acting within the territorial division or place for which he was originally appointed. R.S.O. 1927, c. 125, s. 23.

Special constables may be paid a per diem allowance.

23.—(1) The county judge may order such reasonable allowances for his trouble, loss of time and expenses, not exceeding \$1 a day, to be paid to a special constable.

Allowance to be paid by the treasurer of the municipality.

(2) Such order shall be made upon the treasurer of the territorial or municipal division for which the special constable has been appointed, and the treasurer shall pay the same, and shall be allowed the same in his accounts. R.S.O. 1927, c. 125, s. 24.

24. The justices who have appointed a special constable, or the Commissioner of Police for Ontario, may suspend or terminate the service of the special constable so appointed, and notice of such suspension or termination shall, when made by the justices, be forthwith transmitted to the Commissioner of Police for Ontario. 1929, c. 39, s. 10.

Suspension,
or termina-
tion of
service of
special
constable.

25. The county judge, or the Commissioner of Police for Ontario, may exercise the powers herein conferred upon two justices of the peace as to special constables. 1929, c. 39, s. 11.

Powers of
county
judge and
Commis-
sioner of
Police.

Penalties.

26. If a person appointed to be a special constable,—

Penalty for
refusing to
take oath
or act as
constable.

- (a) refuses to take the oath hereinbefore mentioned when thereunto required by the justices of the peace who appointed him or by any two of them or by any other two justices of the peace acting within the limits for which he was appointed; or
- (b) neglects or refuses to appear for the purpose of taking the oath at the time and place for which he has been summoned unless he proves that he was prevented from so doing by sickness or some unavoidable cause; or
- (c) being called upon to service, neglects or refuses to serve or to obey such lawful orders or directions as may be given to him for the performance of the duties of his office,

he shall incur a penalty not exceeding \$20. R.S.O. 1927, c. 125, s. 27.

27. Every special constable, within one week after the expiration of his term of office, or after he has ceased to hold or exercise the same pursuant to this Act, shall deliver to his successor, if any, or to such persons and at such time and place as may be directed by a justice of the peace acting within the limits for which the special constable was appointed, every staff, weapon and other article which has been provided for such special constable under this Act, and if a special constable neglects or refuses so to do, he shall incur a penalty not exceeding \$8. R.S.O. 1927, c. 125, s. 28.

Special
constables to
deliver up
their staves,
etc., when
discharged.

28. The penalties imposed by or under the authority of this Act shall be recoverable under *The Summary Convictions Act* and shall be paid to the treasurer of the territorial or

Recovery of
penalties.
Rev. Stat.,
c. 136.

municipal division within which the offence was committed.
R.S.O. 1927, c. 125, s. 29.

REGULATIONS.

Regulations
as to high
constables
and
constables,

29.—(1) The Lieutenant-Governor in Council may make regulations,—

- (a) prescribing, subject to any general statute, the duties of high constables and county constables;
- (b) respecting the location and regulation of the office of a high constable and the accommodation to be furnished therein;
- (c) prescribing the records, returns, books and accounts to be kept and made by or in the office of the high constable;
- (d) respecting the holding of investigations into charges against high constables or constables;
- (e) prescribing the method of accounting for the fees of high constables or constables and the records to be kept by them of all fees and costs collected or taken;
- (f) generally for the better carrying out of the provisions of this Act.

Regulations
may be
general or
particular.

(2) Any regulations made under the authority of subsection 1 may be either general or particular in its application. R.S.O. 1927, c. 125, s. 30.

PART II.

THE ONTARIO PROVINCIAL POLICE FORCE.

Appoint-
ment of
Commis-
sioner of
Police.

30.—(1) There shall be a Commissioner of Police for Ontario, who shall be appointed by the Lieutenant-Governor in Council.

Powers and
duties of
Commis-
sioner.

(2) The Commissioner of Police shall have the general control and administration of the Ontario Provincial Police Force and of all officers specially appointed for the enforcement of any statute of Ontario, and he and all the officers, members, clerks and employees of the Force shall be responsible to the Attorney-General for Ontario and shall perform such duties and exercise such powers as may be prescribed by the regulations. R.S.O. 1927, c. 125, s. 31 (1, 2).

(3) The Commissioner of Police may hold an inquiry into the conduct of any member of the Force or of any officer or employee under his control and upon such inquiry shall have and may exercise the like powers and authority as are conferred upon the Commissioner by section 13. R.S.O. 1927, c. 125, s. 31 (3); 1937, c. 72, s. 15 (2). Investigations by Commissioner.

31.—(1) Unless otherwise provided by Order-in-Council, the Commissioner of Police for Ontario shall be *ex-officio* a magistrate for the Province of Ontario and shall have and may exercise and perform the powers and duties of a magistrate, and may take informations and issue warrants or summonses in any city, town, county, provisional county or provisional judicial district, or other locality in Ontario, and may make the same returnable in the city, town, county, provisional county, provisional judicial district, or other locality in which the offence charged is alleged to have been committed. Commissioner to be ex-officio magistrate.

(2) The jurisdiction conferred by subsection 1 may be exercised by the Commissioner notwithstanding that there is in the locality in which he acts a magistrate, who, under *The Magistrates Act*, or any other statute, has jurisdiction exclusive or otherwise. R.S.O. 1927, c. 125, s. 32. Exercise of jurisdiction. Rev. Stat., c. 133.

32.—(1) There shall be a force of constables to be known as the Ontario Provincial Police Force. Ontario Provincial Police Force.

(2) The Force shall consist of such officers, clerks and members as may be prescribed by the regulations and every officer and member of the Force shall have authority to act as a constable throughout Ontario and shall be deemed to be a provincial constable. Members of, to be deemed provincial constables.

(3) In addition to the officers hereinbefore mentioned, the Lieutenant-Governor in Council may appoint such other officers and such officers, clerks and servants of the Ontario Provincial Police Force as may be deemed advisable. Appointment of officers and clerical staff.

(4) The Lieutenant-Governor where he deems proper may authorize any person not a member of the Force to exercise the powers of a provincial constable. R.S.O. 1927, c. 125, s. 33; 1937, c. 72, s. 62. Granting powers of provincial constable to other persons.

33. The Lieutenant-Governor in Council may make such regulations from time to time with respect to the office of the Commissioner of Police, and with respect to the Ontario Provincial Police Force and officers appointed for the enforcement of any statute of Ontario as he may deem expedient, Regulations.

and providing for such clerical and other assistance, and for accommodation and office equipment for any such officer as he may deem expedient. R.S.O. 1927, c. 125, s. 34.

PART III.

THE LAW ENFORCEMENT FUND.

Law En-
forcement
Fund.

34.—(1) Any money appropriated by the Legislature for the purpose of enforcing or preventing the contravention of the laws of the Province of Ontario or the Dominion of Canada, or of any regulation made thereunder shall be known as the "Law Enforcement Fund" and payments from the said Fund from time to time shall be made under the direction of the Attorney-General to such officers and persons and for such purposes as he may think proper, to be expended in such law enforcement, including the salaries and expenses of the officers, members and clerks of the Provincial Police Force.

Payments
out of Fund.

(2) The certificate or order of the Attorney-General that any sum of money is required to be paid out of the said Fund shall be sufficient authority for the issue of a cheque by the Treasurer of Ontario for the amount named in such certificate or order, and the officer or other person to whom such cheque is issued shall account for the proper disbursement of the proceeds thereof to the Attorney-General, whose approval of the account shall be final.

Payment of
expenses of
provincial
officers act-
ing under
instructions
of Attorney-
General.

(3) Where any member of the Ontario Provincial Police Force is engaged in a matter of extradition or other special investigation, or where he performs any act or discharges any duty with the authority and under the direction of the Attorney-General, he shall be allowed such travelling, incidental and other expenses as the Attorney-General may approve, and the same shall be paid out of the said Fund. R.S.O. 1927, c. 125, s. 35.

PART IV.

MISCELLANEOUS PROVISIONS.

When
county to
pay expenses
of Ontario
police.

35.—(1) When the Crown attorney of any county requests the services of a member of the Force the expenses of any member of the Force furnished in compliance with such request shall be certified by the Crown attorney and the amount so certified shall be paid by the treasurer of the county to the

Treasurer of Ontario. R.S.O. 1927, c. 125, s. 36 (1); 1934, c. 54, s. 8.

(2) In a provisional judicial district the treasurer of the district may, on the written request of the Crown attorney, make an advance to any member of the Ontario Provincial Police Force for the purpose of paying reasonable and necessary expenses incurred in any criminal matter. R.S.O. 1927, c. 125, s. 36 (2).

Advances to provincial police in districts.
