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c 192 Justices of the Peace Act

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CHAPTER 192

The Justices of the Peace Act

1.—(1) Every judge of the Supreme Court of Canada, of the Exchequer Court of Canada, and of the Supreme Court of Ontario, and every judge and junior judge of a county or district court shall be *ex officio* a justice of the peace for every county, district and part of Ontario and as such shall have power to do alone whatever is authorized to be done by two or more justices of the peace. Justices of the peace *ex officio*.

(2) Sections 2 to 8 shall not apply to any person who is *ex officio* a justice of the peace. Idem. R.S.O. 1937, c. 132, s. 1.

2. Subject to section 3 the Lieutenant-Governor by commission under the Great Seal in pursuance of an Order in Council, whenever he thinks fit, may appoint justices of the peace in and for the Province of Ontario or any part thereof. Appointment. R.S.O. 1937, c. 132, s. 2; 1944, c. 28, s. 1.

3.—(1) Any person other than a barrister or solicitor desirous of being appointed a justice of the peace shall be subject to examination in regard to his qualification for the office by the judge of the county or district court of the county or district in which he resides, or by such other person as may be appointed in that behalf by the Lieutenant-Governor, and no such person shall be appointed a justice of the peace without a certificate from such judge or other person that he has examined the applicant and finds him qualified for the office and that in his opinion a justice of the peace is needed for the public convenience in matters pertaining to the administration of justice. Examination as to qualifications.

(2) The Lieutenant-Governor in Council may make regulations for such examination and certificate. Regulations. 1944, c. 28, s. 2.

4. Where a new general commission of the peace is issued all former general commissions shall become absolutely revoked and cancelled, but nothing in this Act shall prevent the reappointment of any justice of the peace named in any former commission, if the Lieutenant-Governor thinks fit, and the issue of a supplementary commission of the peace for any county or district shall not operate as a revocation of a general commission. Effect of a new general commission. R.S.O. 1937, c. 132, s. 3.

Revocation of commissions when town becomes a city.

5. Where a town has been erected into a city, and the council of the city duly organized, every commission of the peace for the town shall cease. R.S.O. 1937, c. 132, s. 4.

Disability of practising solicitors.

6. Except where otherwise specially provided no solicitor shall be a justice of the peace during the time he continues to practise. R.S.O. 1937, c. 132, s. 5.

Disability of sheriffs and coroners.

7. No sheriff or coroner in and for any county, district or place shall be competent or qualified to be a justice of the peace or to act as such for any county, district or place wherein he is sheriff or coroner, under the penalties hereinafter mentioned, and every act done by a sheriff or coroner, by the authority of any commission of the peace, shall be void. R.S.O. 1937, c. 132, s. 6.

Oath.

8.—(1) Every justice of the peace shall take and subscribe the following oath:

I, A. B., of the.....of....., in the County of....., do swear that I will well and truly serve our Sovereign Lord King George (or the reigning Sovereign for the time being) in the office of Justice of the Peace, and I will do right to all manner of people, after the laws and usages of this Province, without fear or favour, affection or ill-will. So help me God.

Sworn before me, etc.

A. B.

R.S.O. 1937, c. 132, s. 7.

Limitation of time for taking oath.

(2) Every person appointed a justice of the peace shall take such oath within three months from the date of the commission under which he is appointed, otherwise the commission shall, so far as the same relates to him, be deemed to be revoked and cancelled. R.S.O. 1937, c. 132, s. 8.

Filing oaths.

(3) Every such oath taken by a justice of the peace shall forthwith after the same is taken be transmitted or delivered by him to the clerk of the peace of the county or district within which he is to act, and shall be filed in the office of the clerk of the peace. R.S.O. 1937, c. 132, s. 9 (1).

Posting up.

(4) The clerk of the peace shall keep posted up in his office a list of the justices of the peace who have taken such oath and the same shall be open to inspection without payment of any fee. R.S.O. 1937, c. 132, s. 9 (2).

Effect of attested copy of oath.

(5) The clerk of the peace shall, upon demand, forthwith deliver a true and attested copy of any such oath to any person paying the sum of 25 cents for the same, which copy being produced as evidence on the trial of any proceeding under this Act, shall have the same force and effect as the record of the oath would have if produced. R.S.O. 1937, c. 132, s. 10.

(6) It shall not be necessary for any justice of the peace named in any commission who, after his appointment as such justice by a former commission, took the oath to again take such oath before acting under the new commission. No new oath required from persons who have before qualified.
R.S.O. 1937, c. 132, s. 11.

(7) When not otherwise provided any person who acts as justice of the peace without having taken, subscribed and filed with the clerk of the peace such oath shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$50. Penalty for acting without taking oath. R.S.O. 1937, c. 132, s. 12 (1).

(8) Where proceedings have been instituted under this section and are proceeded with without fraud and with effect no subsequent prosecution shall be brought against the same person for any offence committed before such proceedings were begun. Subsequent prosecution. R.S.O. 1937, c. 132, s. 12 (2).

9. Every justice of the peace shall have the same powers to administer oaths, affirmations and declarations as a commissioner appointed under *The Commissioners for taking Affidavits Act*. Power to take oaths. Rev. Stat., c. 57. R.S.O. 1937, c. 1, s. 23 (3), *amended*.

10. A justice of the peace shall have the right, unless another suitable place is provided by the municipality, to use the town hall of any municipality for the hearing of cases brought before him, but not so as to interfere with its ordinary use. Use of town hall. R.S.O. 1937, c. 132, s. 13.

11.—(1) A justice of the peace acting within his territorial jurisdiction, may take an information or issue a search warrant or a summons or warrant returnable before a magistrate having jurisdiction to try the case and may hear and determine a prosecution under a by-law of any municipality. Powers of justices of the peace.

(2) Save as provided in subsection 1, a justice of the peace shall not act in any case except under the direction of a magistrate or the Inspector of Legal Offices. Limitation of power. R.S.O. 1937, c. 132, s. 14.

12.—(1) Where a justice of the peace tries any offence, Returns of convictions, etc.

(a) under a municipal by-law; or

(b) under the direction of a magistrate or the Inspector of Legal Offices,

he shall make such returns as the Inspector of Legal Offices may direct. R.S.O. 1937, c. 132, s. 15.

Idem.

(2) Nothing in this Act shall exonerate a justice of the peace from duly returning to the court of general sessions of the peace any conviction or record of convictions which is by law required to be so returned. R.S.O. 1937, c. 132, s. 16.

Penalty.

(3) Every justice of the peace before whom a conviction takes place or who receives any money, who neglects or refuses to make the prescribed return or wilfully makes a false, partial or incorrect return, shall be liable to a penalty of \$60 together with full costs of suit. R.S.O. 1937, c. 132, s. 17 (1).

Not to apply to Toronto.

(4) This section shall not apply to the City of Toronto. R.S.O. 1937, c. 132, s. 18.

Fees in certain cases not otherwise provided for. R.S.C. 1927, c. 36. Rev. Stat., c. 379.

13. In cases not provided for by the *Criminal Code* (Canada) and *The Summary Convictions Act*, the Lieutenant-Governor in Council may prescribe the fees to be paid by a county, or, in the case of a provisional judicial district by the Province to a justice of the peace not receiving a salary. 1941, c. 55, s. 16, *amended*.

Mileage allowance.

14. Where the justice of the peace, for the convenience of witnesses and others, attends at a distance from his residence to hear the evidence on a criminal charge he shall be entitled to a mileage allowance of 15 cents a mile one way for the distance necessarily travelled, to be paid by the county, or, in the case of a district, by the Province. R.S.O. 1937, c. 132, s. 20.

Salaries, fees and emoluments.

15. The Lieutenant-Governor in Council may make regulations providing for the payment of salaries, fees and emoluments to justices of the peace and may direct that any city to which a justice of the peace is assigned shall pay to such justice of the peace such salary as may be determined by the Lieutenant-Governor in Council. R.S.O. 1937, c. 132, s. 21.

Penalty for charging excessive fees.

16. A justice of the peace who wilfully receives a larger fee than authorized by law shall be liable to a penalty of \$60, together with full costs of suit. R.S.O. 1937, c. 132, s. 22.

Application of penalties.

17. The penalties recovered under this Act shall belong to the Crown if the Crown is the prosecutor and if a private person is the prosecutor one-half shall belong to him and the other half to the Crown. R.S.O. 1937, c. 132, s. 12 (3).