

1927

c 118 Justices of the Peace Act

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6. ADMINISTRATION OF JUSTICE IN CRIMINAL
MATTERS.

1. Magistrates and Procedure.

CHAPTER 118.

The Justices of the Peace Act.

PART I.

QUALIFICATION AND APPOINTMENT OF JUSTICES.

Justices
of the peace
ex officio.

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 *ex officio* justice shall have power to do alone whatever is authorized to be done by two or more justices of the peace.

Idem.

(2) Sections 2 to 15 shall not apply to any person who is *ex officio* a justice of the peace. 1926, c. 28, s. 2.

Appoint-
ment by the
Lieutenant-
Governor in
Council.

2. The Lieutenant-Governor, by commission under the Great Seal in pursuance of an Order in Council, whenever he thinks fit, may appoint one or more justices of the peace in and for every county, city and town in Ontario and in and for each provisional judicial district or provisional county, or for any part of Ontario not forming part of a county or of a provisional judicial district. 1926, c. 28, s. 3.

Effect of a
new general
commission.

3. Where a new general commission of the peace is issued all former general commissions shall become absolutely revoked and cancelled, but nothing in this Part contained shall prevent the re-appointment 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. 1926, c. 28, s. 4.

4. 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. 1926, c. 28, s. 5.

Revocation of commissions when town becomes a city.

5. Except where otherwise specially provided all justices of the peace appointed in Ontario shall be of the most sufficient persons dwelling in the counties, districts or places for which they are appointed. 1926, c. 28, s. 6.

Qualifications.

6. Except where otherwise specially provided no solicitor shall be a justice of the peace during the time he continues to practise. 1926, c. 28, s. 7.

Disability of practising solicitors.

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. 1926, c. 28, s. 8.

Disability of sheriffs and coroners.

8.—(1) Except where otherwise provided by law no person shall be or act as a justice of the peace who has not in his actual possession, to and for his own proper use and benefit, an estate in land in Ontario, such estate being of or above the value of \$1,200 over and above what will satisfy and discharge all incumbrances affecting the same, and all rents and charges payable out of or affecting the same.

Property qualification.

(2) Such estate may be an estate in fee simple, absolute, or for life, or for one or more lives, or a term originally of not less than twenty-one years.

(3) Where any person is appointed a justice of the peace for a territorial district, or for any part of a territorial district, it shall only be necessary for him to possess such property qualification, if any, as may be provided in the commission appointing him. 1926, c. 28, s. 9.

Property qualification in districts.

9. Except in the case of justices who are not required to possess a property qualification, every justice of the peace before he acts as such shall take and subscribe the oath following:

Oath of qualification.

"I, A. B., do swear, that I truly and *bona fide* have to and for my own proper use and benefit such an estate as qualifies me to act as a justice of the peace for the County (or as the case may be) of _____ according to the true intent and meaning of *The Justices of the Peace Act*, (state the nature of the estate and describe the land). So help me God."

Sworn before me, etc.

A. B.

Oath of
office and
allegiance.

10. A justice of the peace shall take and subscribe the oath of allegiance and the oath following:

"I, A. B., of the _____, 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.

1926, c. 28, s. 11.

Limitation
of time for
taking oaths.

11. Every person appointed a justice of the peace shall take the oaths of qualification and of office and of allegiance 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 absolutely revoked and cancelled. 1926, c. 28, s. 12.

Filing oaths.

12.—(1) Every oath of qualification and of office and of allegiance 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 the justice of the peace is to act, and shall be filed in the office of the clerk of the peace.

Records.

(2) The clerk of the peace shall keep posted up in his office a list of the justices of the peace who have taken the oath of qualification and the oath of office and of allegiance, and the same shall be open to inspection without payment of any fee. 1926, c. 28, s. 13.

Effect
of attested
copy of such
oath.

13. The clerk of the peace shall, upon demand, forthwith deliver a true and attested copy of the oaths to any person paying the sum of twenty-five 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. 1926, c. 28, s. 14.

No new oath
required
from persons
who have
before
qualified.

14. 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 of office and the oath of allegiance to again take such oaths before acting under the new commission, nor shall it be necessary for any such justice who has under any former commission qualified himself in the terms of section 9, and deposited the oath in the office of the clerk of the peace, to take any oath of qualification before acting under such new commission, unless the justice, since he took the oath of qualification, has parted with the estate in right of which he qualified. 1926, c. 28, s. 15.

15.—(1) When not otherwise provided any person who acts as justice of the peace without having the prescribed property qualification, or without having taken, subscribed and filed with the clerk of the peace the oaths of qualification and of office and of allegiance, shall incur a penalty of \$50, recoverable under *The Summary Convictions Act*. Penalty for acting without being qualified or taking oaths. Rev Stat. c. 121.

(2) Such person may rely upon land not mentioned in the oath of qualification, as constituting the whole or any part of his qualification, at the time of the offence alleged against him. Defendant may rely on other lands.

(3) 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.

(4) 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 shall belong to the Crown. 1926, c. 28, s. 16. Application of penalties.

16. 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. 1926, c. 28, s. 17. Use of town hall.

[As to appointment of justices for a limited period for the purpose of taking cognizance of certain offences, see "*The Forest Fires Prevention Act*," Rev. Stat. c. 291.]

PART II.

RETURNS OF CONVICTIONS BY JUSTICES.

17.—(1) Every justice of the peace who convicts and imposes any fine, forfeiture, penalty, or damages, shall make a return thereof and of the receipt and application by him of the money received from the person convicted, in writing under his hand (Form 1) to the clerk of the peace on or before the second Tuesday in March, June, September and December in every year for the three months ending on the last day of the next preceding month. Return of fines and penalties imposed; when and to whom to be made.

(2) Every such return shall include all convictions and other matters mentioned in the next preceding subsection, not included in a previous return, and also all cases wherein a fine or any part thereof has been paid since the last return; and in the column for observations shall be written the words, "Paid on case formerly returned." What matters to be included in return.

Where two justices act.

(3) In the case of a conviction before two or more justices, present and joining therein, they shall make the return forthwith. 1926, c. 23, s. 18.

Posting up returns.

18.—(1) The clerk of the peace shall, within two weeks after the time fixed for making the returns, post up in the court house and also in a conspicuous place in his office a schedule of the returns made, and the same shall be kept so posted up for three months, and for every schedule so made and posted up he shall be allowed a fee of \$4, which, in the case of a county, shall be paid by the treasurer of the county, and, in the case of a district, by the Treasurer of Ontario out of the Consolidated Revenue Fund.

Filing and entry.

(2) All returns so received by the clerk shall be filed by him and shall be entered by him quarterly in a book to be kept for that purpose. 1926, c. 28, s. 19.

Transmission of returns to Inspector of Legal Offices.

19. The clerk of the peace, within twenty days after the end of each general sessions of the peace, shall transmit to the Inspector of Legal Offices at Toronto a true copy of all returns made to him, and also a like return of all cases brought before or tried at the court of general sessions of the peace, and at the county or district court judges' criminal court up to the date of such return. 1926, c. 28, s. 20.

Return of convictions to general sessions.

20. Nothing herein 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. 1926, c. 28, s. 21.

Penalty on justice of the peace neglecting to make returns, etc.

21.—(1) If a justice of the peace or a police magistrate before whom a conviction takes place, or who receives any money, neglects or refuses to make the prescribed return, or wilfully makes a false, partial or incorrect return, he shall incur a penalty of \$60 together with full costs of suit.

Defendant to have solicitor and client costs.

(2) If a judgment passes for the defendant, or the plaintiff discontinues the action, the defendant shall recover his full costs of suit as between solicitor and client. 1926, c. 28, s. 22.

Part II not to apply to Toronto.

22. This Part shall not apply to the City of Toronto. 1926, c. 28, s. 23.

PART III.

Fees in certain cases not otherwise provided for.

R.S.C. 1906, c. 146.

Rev. Stat. c. 121.

23. In cases not provided for by *The Criminal Code* and *The Summary Convictions Act* a police magistrate not receiving a salary and a justice of the peace shall be entitled to receive from the county, or, in the case of a district, from the Province, \$2 for all services connected with the case where the time occupied by the hearing does not exceed two hours, and fifty cents for each additional hour above two hours. 1926, c. 28, s. 24.

24. 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 fifteen 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. 1926, c. 28, s. 25.

25. A justice of the peace who wilfully receives a larger fee than authorized by law shall incur a penalty of \$60, together with full costs of suit. 1926, c. 28, s. 26.

[*Note.—As to the powers of a justice of the peace to take affidavits and affirmations see "The Interpretation Act," Rev. Stat. c. 1, s. 22(3).*]

FORM 1.

RETURN OF CONVICTIONS.

(To be signed by the convicting justice or justices, see section 17.)
Made by me during the quarter ending in A.D., 19 . Form of return of convictions.

Name of the Prosecutor.	Name of the Defendant.	Nature of the Charge.	Date of Conviction.	Name of Convicting Justice.	Amount of Penalty, fine or damages.	When paid or to be paid to said Justice.	To whom fine paid over by said Justice.	If not paid, why not, and remarks, if any.	Amount of Magistrate's fees.	Amount of Constable's fees.	Amount of Witness fees.
									\$	\$	\$