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Ontario
CHAPTER 88.

An Act respecting Police Magistrates.

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 Police Magistrates' Act. 10 Edw. VII. c. 36, s. 1.

2. Every Police Magistrate shall be appointed by the Lieutenant-Governor in Council, and shall hold office during pleasure. 10 Edw. VII. c. 36, s. 2.

IN CITIES AND TOWNS.

3. There shall be a Police Magistrate for every city, and for every town having a population of 5,000 or over, whose salary shall not be less than the following:

(a) $2,000 per annum in a city having a population of 18,000 or over; but in a city having a population of more than 18,000 and less than 25,000 where the Police Magistrate was appointed before the last day of January, 1903, is permitted by this Act to practise the profession of the law or engage in any business, $1,400 per annum;

(b) In a city having a population of less than 18,000, $1,400 per annum, but any salary of a larger amount paid to the Police Magistrate on the 29th day of March, 1873, shall be continued while he remains in office;

(c) In towns—where the population is not more than 6,000, $800 per annum; where the population is over 6,000 and not more than 8,000, $1,000 per annum, and where the population is over 8,000, $1,200 per annum. 10 Edw. VII. c. 36, s. 3.

4.—(1) The Lieutenant-Governor in Council may appoint a Police Magistrate for any other town.

(2) No appointment of a salaried Police Magistrate shall, in the first instance, be made for a town not having a population of at least 5,000, until a resolution of the council affirming the expediency thereof is passed by a vote of two-thirds of all the members; and the council may by the resolution fix the salary to be paid to him; but no Police
Magistrate appointed before the 29th day of March, 1873, shall be affected by this subsection. 10 Edw. VII. c. 36, s. 4.

5.—(1) The council of a town having a population of less than 5,000 for which a salaried Police Magistrate has been appointed may, by the vote of two-thirds of all the members, pass a by-law to reduce the salary of the Police Magistrate to a sum less than that fixed by the council in the first instance, and may name a sum in the by-law at which the council desires the salary thereafter to be fixed.

(2) Upon being furnished with a certified copy of the by-law and with satisfactory proof that the same was passed by a two-thirds vote of all the members of the council, and after notice to the Police Magistrate, the Lieutenant-Governor in Council may fix the salary to be paid after a date to be named in the Order, either at the sum named in the by-law or at such other sum, not exceeding that fixed in the first instance, as the Lieutenant-Governor in Council may deem proper.

(3) The sum fixed by the Order in Council shall thereafter be paid as the salary of the Police Magistrate in lieu of that fixed in the first instance. 10 Edw. VII. c. 36, s. 5.

6.—(1) The Lieutenant-Governor in Council may appoint two Police Magistrates for any city having a population of not less than 200,000, at salaries to be named in the order making the appointment or by a subsequent order, which shall not exceed $5,000 per annum in the case of the senior Police Magistrate and $3,500 per annum in the case of the junior Police Magistrate. 10 Edw. VII. c. 36, s. 6 (1); 2 Geo. V. c. 17, s. 18.

(2) The Lieutenant-Governor in Council may appoint a third Police Magistrate for any city having a population of not less than 200,000, at a salary to be named in the order making the appointment or in a subsequent order, but which shall not exceed the salary paid to the junior Police Magistrate.

(3) No Police Magistrate appointed under this section shall act as director of a company.

(4) The Lieutenant-Governor in Council may appoint a second Police Magistrate for any other city, if a resolution affirming the expediency thereof is passed by a vote of two-thirds of all the members of the council, and the salary of such second Police Magistrate, where the resolution provides that the appointment shall be with salary, shall be paid at the rate determined by the council and approved by the Lieutenant-Governor in Council.

(5) Where there are more Police Magistrates than one a division of their duties may be made by the Lieutenant-Governor in Council. 10 Edw. VII. c. 36, s. 6 (2-5).
Salaries to be paid quarterly.

7. The salary of the Police Magistrate shall be paid by the city or town at least quarterly. 10 Edw. VII. c. 36, s. 7.

Appointment without salary.

8. The Lieutenant-Governor in Council may, notwithstanding anything in this Act, appoint a Police Magistrate without salary for any town for which there is no Police Magistrate. 10 Edw. VII. c. 36, s. 8.

Deputy Police Magistrate.

9.—(1) Where, in the opinion of the Lieutenant-Governor in Council, the due administration of justice requires the appointment of a Deputy Police Magistrate for a city having a population of not less than 40,000 he may appoint a Deputy Police Magistrate accordingly, who shall hold office during pleasure, and without salary unless the municipal council of the city sees fit to provide for the payment to him of a salary.

(2) The appointment may be made notwithstanding that the office of Police Magistrate is vacant. 10 Edw. VII. c. 36, s. 9.

Authority of Deputy Police Magistrate.

10. In case of the death, illness or absence of the Police Magistrate, or at his request, a Deputy Police Magistrate shall have authority to perform all the duties and exercise all the powers of and incident to the office of Police Magistrate. 10 Edw. VII. c. 36, s. 10.

Fees of Deputy Police Magistrate.

11. A Deputy Police Magistrate shall be entitled to collect the same fees and emoluments as a Justice of the Peace, and, where the Police Magistrate is paid by salary such fees and emoluments, whether received by the Deputy Police Magistrate as such or as a Justice of the Peace, shall be paid to the municipality; and the other provisions of section 30 shall also apply to such Deputy. 10 Edw. VII. c. 36, s. 11.

Population, how determined.

12.—(1) In ascertaining the population of any city or town the last Dominion census shall govern, unless there has been a subsequent enumeration by the assessors of the city or town in which case such enumeration shall govern.

(2) Where the authority of the Lieutenant-Governor in Council to appoint a Police Magistrate or a Deputy Police Magistrate depends upon the population of the city, town or place for which the appointment is to be made, no appointment purporting to be made under the authority of this Act shall be open to question on the ground that the population was not in fact such as to authorize the making of the appointment. 10 Edw. VII. c. 36, s. 12.

IN COUNTIES AND DISTRICTS.

13.—(1) Where the county council by resolution affirms the expediency of the appointment of salaried Police Magistrates or of a salaried Police Magistrate for the county or part of the county, the Lieutenant-Governor in Council may make
such an appointment, and the salary, which shall not be less than $600 per annum, shall be fixed and paid by the county.

(2) The Police Magistrate shall also be entitled to be repaid by the county his reasonable and necessary travelling expenses while attending to his duties.

(3) If the Police Magistrate is appointed for part of the county, he shall have jurisdiction only in that part.

(4) The Police Magistrate shall go from place to place within the county or within the part thereof which is designated in his commission, as occasion may arise, for the performance of his duty.

(5) Where the county council, not less than twelve months after the appointment of the Police Magistrate, by resolution affirms the expediency of discontinuing the office, his commission shall terminate at the end of the next quarter but one after that in which the resolution was passed.

(6) Where a resolution is passed under subsection 5 the clerk shall forthwith transmit a certified copy thereof to the Provincial Secretary. 10 Edw. VII. c. 36, s. 13.

14. The Lieutenant-Governor in Council may appoint a Police Magistrate for a county or district, or for any part of a county or district, who shall hold office without salary, unless the Legislature, or the county council, or other municipal council, shall see fit to provide for the payment to him of a salary. 10 Edw. VII. c. 36, s. 14.

15. The jurisdiction of the Police Magistrate appointed under sections 13 or 14 shall not extend to any city, town or village for which there is a Police Magistrate, nor to any case in which the initiatory proceedings were taken by or before such last mentioned Police Magistrate. 10 Edw. VII. c. 36, s. 15.

16. Where a town not separated from a county has a salaried Police Magistrate it shall not be chargeable with any part of the salary and expenses paid to Police Magistrates by the county. 10 Edw. VII. c. 36, s. 16.

17. A municipal council shall not reduce the salary of a Police Magistrate without the sanction of the Lieutenant-Governor in Council. 10 Edw. VII. c. 36, s. 17.

18.—(1) No Justice of the Peace shall admit to bail or discharge a prisoner or adjudicate upon or otherwise act until after judgment in a case arising in a city or town for which there is a Police Magistrate, or arising in a county or part of a county for which there is a Police Magistrate appointed under sections 13 or 14, where the initiatory proceedings were taken before such last mentioned Police Magis-
trate, except at the Court of General Sessions of the Peace, or in the case of the illness or absence or at the request of the Police Magistrate.

(2) Where the initiatory proceedings in any case are taken before a Police Magistrate no Justice of the Peace shall admit to bail or discharge the prisoner or adjudicate upon or otherwise act in such case, save as mentioned in subsection 1, until after judgment.

(3) Nothing in this section shall prevent a Justice of the Peace acting within his territorial jurisdiction from taking an information or issuing a summons or warrant returnable before the proper Police Magistrate. 10 Edw. VII. c. 36, s. 18.

19. Nothing in this Act shall prevent a Justice of the Peace from acting with a Police Magistrate, at the request of the Police Magistrate. 10 Edw. VII. c. 36, s. 19.

20. It shall not be necessary for a Police Magistrate for a county or district or for part thereof to be actually resident within the county or district for which, or for part of which, he is appointed. 10 Edw. VII. c. 36, s. 20.

21. A Police Magistrate for a county or district, or for part of a county or district, may sit or hold his court within any town in the district or in a town separated from the county, or within a city situate within the limits of the county or district, whether such town or city has a Police Magistrate or not, and may in such town or city hear complaints, and dispose thereof as Police Magistrate in respect of all matters arising within the county or district or the part of the county or district for which he is appointed, and do therein all acts, matters and things in the discharge of the duties and powers of his office. 10 Edw. VII. c. 36, s. 21.

22. Subject to the provisions of section 18 a Justice of the Peace for a county or district may issue a summons or warrant and hold his court for the trial or investigation of any case in a city where the offence was committed within the county or district in which such city lies or which such city adjoins. 10 Edw. VII. c. 36, s. 22.

23. The corporation of a county shall provide a proper office, together with fuel, light and furniture, for the Police Magistrate for the county or for any part thereof. 10 Edw. VII. c. 36, s. 23.

24. Every Police Magistrate shall be ex-officio a Justice of the Peace for the whole county or district, for which or for part of which, he is appointed. 10 Edw. VII. c. 36, s. 24.
25. Every Police Magistrate shall have the right to use any court room or town hall belonging to the county or to any municipality therein for which there is no Police Magistrate, for the hearing of cases brought before him; but in so using the court room or town hall he shall not interfere with the ordinary use of the court room for the other courts or with the use of the town hall for the purposes for which the same is maintained. 10 Edw. VII. c. 36, s. 25.

26. In case of the absence or illness or at the request of a Police Magistrate any two or more Justices of the Peace of the county or district may act in his place in any matter within the jurisdiction of the Police Magistrate, and such Justices, or a majority of them, shall have all the powers of the Police Magistrate. 10 Edw. VII. c. 36, s. 26.

27. Nothing in this Act shall prevent one Justice of the Peace from acting for the Police Magistrate, where by law one may act. 10 Edw. VII. c. 36, s. 27.

28. A Police Magistrate sitting as such or as ex-officio a Justice of the Peace for the county or district shall have power to do alone whatever is authorized to be done by two or more Justices of the Peace. 10 Edw. VII. c. 36, s. 28.

29.—(1) The following oath of office and allegiance shall be taken and subscribed by every Police Magistrate and Deputy Police Magistrate before acting.

I, A. B., of the of in the county (or district) of do swear that I will well and truly serve Our Sovereign Lord King George, in the office of Police Magistrate, (or Deputy Police Magistrate, as the case may be) and I will do right to all manner of people according to law, without fear or favour, affection or ill will. So help me God.

(2) The oath of office and allegiance shall forthwith be transmitted or delivered by the Police Magistrate or Deputy Police Magistrate to the Clerk of the Peace of the county or district within which the Police Magistrate or Deputy Police Magistrate is to act, and shall be filed in the office of the Clerk of the Peace. 10 Edw. VII. c. 36, s. 29 (2).

30. A Police Magistrate shall be entitled to collect the same fees and emoluments as a Justice of the Peace; and, where a Police Magistrate is paid by salary, the fees and emoluments received by him as Police Magistrate shall be paid to the municipality if the salary is provided by such municipality, but if the salary is provided by the Crown such fees and emoluments shall be paid to the Treasurer of Ontario; but this section shall not authorize the imposition of such fees by a Police Magistrate who is paid by salary upon an Inspector of Licenses or upon a Provincial officer appointed under
The Liquor License Act in respect of a case or complaint prosecuted by him under that Act. 10 Edw. VII. c. 36, s. 30; 3-4 Geo. V. c. 18, s. 19.

31. A Police Magistrate shall not be bound to act in any case arising without the limits of the city, town or place for which he is Police Magistrate, but if he does so act he shall be entitled to collect for his own use the same fees and emoluments as a Justice of the Peace. 10 Edw. VII. c. 36, s. 31.

32.—(1) No Police Magistrate, and no partner or clerk of a Police Magistrate, shall act as agent, solicitor or counsel in any cause, matter, prosecution, or proceeding before a Police Magistrate or a Justice of the Peace.

(2) A Police Magistrate of a city having a population of more than 18,000 shall not practise the profession of the law or engage in any business while holding such office, but this shall not apply to a Deputy Police Magistrate or to a Police Magistrate appointed on or before the 5th day of May, 1894, or to the Police Magistrate of the City of Kingston now in office. 10 Edw. VII. c. 36, s. 32.

33. Except in case of urgent necessity a Police Magistrate shall not be required to attend at the police office on a holiday, or on any day set apart by the municipal council, as a civic holiday. 10 Edw. VII. c. 36, s. 33.

34. In case of the illness or absence from the county or district of a Police Magistrate, any other Police Magistrate, whether appointed for the county or district or for a city, town, village or other place therein, shall have all the powers and may perform all the duties of the Police Magistrate during such illness or absence, and shall also have jurisdiction and power to continue and complete any proceeding begun before him, notwithstanding that the first mentioned Police Magistrate may in the meantime have recovered or returned. 10 Edw. VII. c. 36, s. 34.