

1906

CHAPTER 13.

An Act Respecting Police Magistrates and Justices of the Peace.

(Assented to May 9, 1906.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Police
Magistrates

1. The Lieutenant Governor in Council may appoint police magistrates in the Province and such police magistrates shall have all the powers and authorities now or hereafter vested in two justices of the peace under any law in Canada and shall exercise jurisdiction in and for such Province as is defined by the order in council appointing them or by any order in council amending the same.

(2) No person shall be appointed a police magistrate unless he has been admitted and has practised as an advocate, barrister or solicitor in the North-West Territories or in the Province or in one of the Provinces of Canada for a period of not less than three years.

(3) Every police magistrate and every justice of the peace, whether heretofore or hereafter appointed, shall hold office during the pleasure of the Lieutenant Governor in Council and his appointment may at any time be revoked.

(4) Notwithstanding the resignation or revocation of the appointment of any police magistrate or justice of the peace he shall remain liable to transmit all fines and make all returns that he was liable to transmit or make at the time of such resignation or revocation and shall be subject to all penalties for failure to transmit such fines or make such returns as if he had continued such police magistrate or justice of the peace.

Appointment of
Justices

2. The Lieutenant Governor in Council may appoint justices of the peace for the Province who shall have jurisdiction as such throughout the same.

Commission of
the Peace

3. Whenever a new commission of the peace shall be issued all and such like former commissions shall become absolutely revoked and cancelled; and nothing in this Act contained shall prevent the reappointment of any justice of the peace named in such former commission if the Lieutenant Governor in Council shall think fit.

4. No person who is not a British subject by birth or Alien not to be appointed naturalization shall be appointed as a justice of the peace.

5. When not otherwise especially provided for by law no No practising advocate to be Justice advocate shall be appointed or act as a justice of the peace during the time he continues to practise as such.

(2) The provisions of this section shall not apply to any Proviso advocate appointed as a police magistrate.

6. Every police magistrate or justice of the peace before he is gazetted as such and takes upon himself to act as such shall take and subscribe the oath of allegiance and the following oath before any person authorized to administer oaths and declarations in the Province, that is to say:

I, A.B., of _____ in the Form of oath
district of (as the case may be) do swear that I will well and truly serve our Sovereign Lord King Edward the Seventh in the office of police magistrate or justice of the peace and that 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.

7. Every oath of office or allegiance taken by a police Record of oath magistrate or a justice of the peace shall forthwith after the same is taken be transmitted or delivered by the police magistrate or justice of the peace to the Clerk of the Executive Council and shall be filed in his office.

PROCEDURE.

8. Except it is otherwise specially provided all the provisions of part LVIII. of the Act of the Parliament of Canada known as The Criminal Code 1892 and the Acts already passed or which may be hereafter passed amending the same shall apply to all proceedings before police magistrates and justices of the peace under or by virtue of any law in force in the Province or municipal by-laws and to appeals from convictions or orders made therein. Part LVIII of the Criminal Code to apply to proceedings

PRIORITY OF JURISDICTION.

9. Every complaint and information shall be heard, tried, Jurisdiction of one or more justices determined and adjudged by a police magistrate, one justice or two or more justices as directed by the Act, Ordinance or law upon which the complaint or information is framed or by any other Act, Ordinance or law in that behalf.

(2) If there is no such direction in any Act, Ordinance or law then the complaint or information may be heard, tried, determined and adjudged by any one justice.

(3) Any one justice may receive the information or complaint and grant a summons or warrant thereon and issue his summons or warrant to compel the attendance of any witnesses for either party and do all other acts and matters necessary preliminary to the hearing even if by the Act or Ordinance in that behalf it is provided that the information or complaint shall be heard and determined by two or more justices.

(4) After a case has been heard and determined one justice may issue all warrants of distress or commitment thereon.

(5) It shall not be necessary for the police magistrate or justice who acts before or after the hearing to be the police magistrate or justice or one of the justices by whom the case is to be or was heard and determined.

(6) If it is required by any Act, Ordinance or law that an information or complaint shall be heard and determined by two or more justices or that a conviction or order shall be made by two or more justices, such justices shall be present and act together during the whole of the hearing and determination of the case.

RETURNS.

Returns and transmissions

10. Every police magistrate or justice of the peace who receives the amount of any fine, penalty, forfeiture or other sum of money which is payable to the Government of the Province shall forthwith after he has received the same transmit the amount to the Attorney General with a statement as in form A in the schedule to this Act.

(2) Every police magistrate or justice of the peace by or before whom, whether alone or with one or more other justices or justices, any matter of any nature whatsoever is commenced, tried, heard, revised or adjudicated upon shall in the months of January and July in each year and before the fifteenth day thereof make a return in writing signed by him to the Attorney General shewing the result, disposition of or action taken upon or in regard to any such matter so dealt with theretofore which has not been included in some previous return made by such magistrate or justice to the Attorney General.

(3) Such return shall be in form B in the schedule to this Act and shall truly set forth the information indicated as required by the headings in the different columns in said form.

(4) In case no proceedings whatever have been had or taken before any police magistrate or justice he shall make a return so stating.

Procedure to enforce returns

11. Any police magistrate, justice or justices of the peace whose duty it is to make returns or transmit fines, penalties,

forfeitures or other moneys as aforesaid, who refuses or neglects to make such returns or transmit such amounts in the manner and at the time above provided may be required by a written notice from the Attorney General (which notice may be forwarded to the usual or last known post office address of the said police magistrate, justice or justices by post prepaid and registered or delivered to the said police magistrate, justice or justices in person) requiring such police magistrate, justice or justices forthwith to make such returns or transmit such amounts as aforesaid; and after the expiration of thirty days from the posting or delivery of such notice should the said police magistrate, justice or justices still refuse or neglect to make such returns or transmit such amounts as aforesaid then the Attorney General shall report such refusal, neglect or omission to the Provincial Secretary, who shall cause the names of the police magistrate, justice or justices so making default to be published in the official gazette of the Province during two successive issues thereof with a notice stating that in default of the police magistrate, justice or justices therein named making such returns or transmissions within thirty days from the first publication of such notice the name of such justice or justices so making default shall be erased from the commission of the peace, and the appointment of such police magistrate shall be cancelled; and the Provincial Secretary shall on the expiration of thirty days from the date of the first publication in the Alberta Gazette, erase from the commission of the peace the name of every justice of the peace still in default and at the expiration of the said period the appointment of such police magistrate shall *ipso facto* be cancelled; and upon such erasure and cancellation such justice or justices of the peace or police magistrate shall be and become deprived of all power and authority and jurisdiction and shall not thereafter be eligible for reappointment.

12. The penalties in this Act provided for omission to make returns shall be in addition to all other fines, penalties or punishment provided therefor by any other Act, Ordinance or law in force in the Province.

13. In case the police magistrate, justice or justices before whom any such conviction takes place or who receives or receive any such money neglects or refuses, neglect or refuse to make such return thereof or in case any such magistrate, justice or justices wilfully makes or make a false, partial or incorrect return every such magistrate or justice so neglecting or refusing or wilfully making such false, partial or incorrect return shall forfeit and pay the sum of \$100 together with full costs of suit to be recovered by the Attorney General on behalf of His Majesty before the Supreme Court of the North-West Territories, or any court hereafter constituted exercising

within the Province the jurisdiction, powers and authority at the date of the passing of this Act exercised therein by the Supreme Court of the North-West Territories, as a debt, the same when recovered to form part of the general revenue fund of the province.

Appointments
heretofore made
valid

14. All appointments heretofore made by the Lieutenant Governor or by the Lieutenant Governor in Council of persons as justices of the peace are hereby declared to be valid.

SCHEDULE.

FORM A.

The Attorney General,
Alberta.

Sir,—

I inclose herewith the sum of \$ being the amount of
the penalty collected on the day of 1
from of imposed by
at on the day of 1
on conviction for contrary
to the provisions of section of

Your obedient servant,

P.M. or J.P.

FORM B.

Return by Police Magistrate or Justice of the Peace.

I, the undersigned, one of His Majesty's Police Magistrates, or Justices of the Peace in and for the Province of Alberta, do certify the following to be a true and correct return of all proceedings heretofore had in which I took part as such police magistrate or justice and not included in some previous return made by me to the Attorney General of the Province.

Name of prosecutor or informant	Name of accused or respondent	Nature of charge or matter	Act, Ordinance or By-Law proceeded on	Date of hearing	Adjudication and sentence if any	Amount of costs imposed	Date of payment of penalty and costs, and to whom	Remarks giving subsequent action, if any

Dated at

 1
 P.M. or J.P.