



## CHAPTER 150.

### An Act respecting Justices of the Peace and other Magistrates.

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

1. This Act may be cited as the “Magistrates Act.” R.S. 1911, Short title. c. 149, s. 1.

2. It shall be lawful for the Lieutenant-Governor in Council, by Order, from time to time to appoint, by Commissions under the Great Seal, fit and proper persons to be Stipendiary Magistrates for any one or more counties or electoral districts in the Province, or for any less extensive jurisdiction, and from time to time to cancel and revoke the said Commissions and appointments, or any of them. R.S. 1911, c. 149, s. 3.

Appointment of  
Stipendiary  
Magistrates.

3. Every Stipendiary Magistrate appointed, or to be appointed, in or for any county or electoral district, or for any less extensive jurisdiction, shall have, and be deemed to have had, full power, authority, and jurisdiction to do alone, within the limits of his Commission or other authority appointing him in that behalf, all and whatsoever is or may be authorized to be done by any one or more Justice or Justices of the Peace in and for the said county, electoral district, or jurisdiction as aforesaid, under or by virtue of any law which is for the time being in force in the Province; and every Stipendiary Magistrate shall, while acting as such within the limits of the county or other territorial division of the Province for the time being or from time to time assigned to him by his Commission or other authority in that behalf from the Lieutenant-Governor in Council, have and take rank and precedence before all other Justices of the Peace whatsoever, except Justices of Assize,

Powers of Stipen-  
diary Magistrates.

Judges of the Supreme Court, Judges of the Court of Appeal, Judges of the County Courts, and Judges of the Dominion Courts. R.S. 1911, c. 149, s. 4 (*altered*).

Appointment of  
Justices of the  
Peace.

4. It shall be lawful for the Lieutenant-Governor in Council, whenever he thinks fit, to issue either a General Commission of the Peace or Supplementary Commissions of the Peace, under the Great Seal, appointing a Justice or Justices of the Peace in and for the Province, or in and for any county or electoral district in the Province, or in and for any less extensive jurisdiction, and so from time to time to issue Supplementary Commissions of the Peace. The appointment of any person as a Justice of the Peace, whether the same is contained in a General Commission or a Supplementary Commission, may be cancelled by Order of the Lieutenant-Governor in Council; but such cancellation shall not affect the authority or office of any other Justices named in the same Commission. R.S. 1911, c. 149, s. 5.

Judges of  
Courts to be  
Justices of the  
Peace *ex officio*.

5. Every Judge of the Supreme Court of Canada, of the Exchequer Court of Canada, of the Court of Appeal, of the Supreme Court, and of any County Court shall be *ex officio* a Justice of the Peace for the Province. R.S. 1911, c. 149, s. 6.

Certain disqualifi-  
cations removed.

6. A Justice of the Peace shall not be incapable of acting as a Justice on the trial of any offence arising under an Act to be put in force by a municipal corporation, or a local board of health, or any other local authority, by reason only of his being one of several ratepayers, or one of any other class of persons liable, in common with the others, to contribute to or to be benefited by any fund to the account of which the penalty payable in respect of the offence is directed to be carried, or of which it will form part, or to contribute to any rate or expenses in diminution of which the penalty will go. R.S. 1911, c. 149, s. 7.

Oaths to be taken  
by the persons  
appointed.

7. Every person appointed a Stipendiary Magistrate or Justice of the Peace shall, before acting in the execution of his office, take the oath of office and oath of allegiance in the Forms A and B in the Schedule, before any person authorized under the "Evidence Act" to take affidavits within the Province, and such oaths when taken shall be transmitted to the Provincial Secretary, who shall file the same among the records of his office. R.S. 1911, c. 149, s. 8 (*redrawn*).

Time-limit for  
taking oaths.

8. Every person appointed a Stipendiary Magistrate or a Justice of the Peace shall take and transmit the oaths as prescribed in section 7 within sixty days from his appointment (unless such time is extended by the Lieutenant-Governor in Council); otherwise such appointment shall absolutely cease and determine. R.S. 1911, c. 149, s. 9.

9. No action shall be brought against any Judge, Stipendiary or Police Magistrate, Justice of the Peace, or officer, for any act or thing by him done under the supposed authority of a Statute or statutory provision of the Province or of the Dominion, which Statute or statutory provision was beyond the legislative jurisdiction of the Legislature of the Province or of the Parliament of Canada, as the case may be, provided such action would not lie against him if the said Statute or statutory provision had been within the legislative jurisdiction of the Parliament or Legislature which assumed to enact the same. R.S. 1911, c. 149, s. 10.

Protection of Magistrates and others against action for things done under ultra vires Statute.

10. Where, notwithstanding the above provision, an action is sustainable against any Judge, Stipendiary or Police Magistrate, Justice of the Peace, or officer, for any act or thing by him done under the authority of a Statute or statutory provision, as in the above provision, the action shall only be sustainable subject to the like provisions as the action would be subject to if the Statute or statutory provision were valid; and the like damages, and no more, shall be recoverable in any such action as under the like circumstances could have been recovered if the Statute or statutory provision had been valid. R.S. 1911, c. 149, s. 11.

When action sustainable, must be subject to the same provision as if such Statute were valid.

11. No defect in form in any information or warrant taken before or signed by a Stipendiary or Police Magistrate or Justice of the Peace shall prevent such Magistrate or Justice from claiming the benefit and protection of any Statute protecting Justices of the Peace and other officers from vexatious actions, if the Court before which, or Judge before whom, the action is tried is of opinion that the Magistrate or Justice acted in good faith, and that the informant or complainant intended, by the facts stated to such Magistrate or Justice, to charge the commission of an offence which, if the same had been set forth in proper form in the information or warrant, would be one within the jurisdiction of such Magistrate or Justice; and in any case the person so charged shall be liable to prosecution as if the information had charged in proper form the commission of the offence so intended to be charged. R.S. 1911, c. 149, s. 12.

Where the Magistrate or Justice acts bona fide, no defect of form shall bar the protection of any Statute.

12. Where application is made to a Court or Judge thereof to quash a summary conviction in any case within the jurisdiction of the Legislature, the Court or Judge may, as a condition of quashing the same, if the Court or Judge thinks fit so to do, provide that no action in respect of such conviction shall be brought against the Stipendiary or Police Magistrate or Justice of the Peace who made the same. R.S. 1911, c. 149, s. 13.

Conviction may be quashed subject to condition not to bring action.

13. No person who has in good faith intended to charge another person, who is arrested by the direction of the person so charging under any warrant signed by any Stipendiary or Police Magistrate or Justice of the Peace, with the commission of any offence shall

No action lies where offence not properly described in warrant and the persons have acted bona fide.

be liable to an action or suit in consequence only of the information or the warrant not containing a proper description of the offence. R.S. 1911, c. 149, s. 14.

Disposal of fines  
imposed by Magis-  
trate.

14. All fines, fees, and forfeitures imposed by any Stipendiary Magistrate, Police Magistrate, or Justice of the Peace, save those specially appropriated to the Magistrate or Justice, or to any municipality, or for any other use, by any Statute in force in the Province, shall be paid into the Provincial Treasury monthly. R.S. 1911, c. 149, s. 22 (*part*).

### SCHEDULE.

(Section 7.)

#### FORM A.

##### OATH OF OFFICE.

I, \_\_\_\_\_, swear that as a Stipendiary Magistrate [or Justice of the Peace] for the County [or Counties] or Electoral District [or Electoral Districts] of \_\_\_\_\_ [or part of the County or Electoral District or Electoral Districts of \_\_\_\_\_], in the Province of British Columbia, in all articles in the King's Commission to me directed, I will do equal right to the poor and to the rich, after my cunning, wit, and power, and after the laws and customs of the Realm, and Statutes thereof made. And that I will take nothing for my office of Stipendiary Magistrate to be done, but of the King and fees accustomed, and costs limited by Statute. So help me God.

(Signature of Stipendiary Magistrate or J.P.)

Sworn and subscribed by the said  
before me at \_\_\_\_\_ this \_\_\_\_\_ day }  
of \_\_\_\_\_, 19 \_\_\_\_\_ }  
..... }

#### FORM B.

##### OATH OF ALLEGIANCE.

I, \_\_\_\_\_, do solemnly promise and swear that I will be faithful and bear true allegiance to His Majesty King George V., his heirs and successors. So help me God.

(Signature of Stipendiary Magistrate or J.P.)

Sworn and subscribed by the said  
before me at \_\_\_\_\_ this \_\_\_\_\_ day }  
of \_\_\_\_\_, 19 \_\_\_\_\_ }  
..... }

R.S. 1911, c. 149, Sch. 1.

VICTORIA, B.C.:

Printed by CHARLES F. BANFIELD, Printer to the King's Most Excellent Majesty.  
1924.