



## CHAPTER 68

An Act to amend the Courts of Justice Act respecting justices of the peace

*[Assented to, the 4th of April, 1930]*

**HIS MAJESTY**, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

**1.** Section 246 of the Courts of Justice Act (Revised R. S., c. 145, Statutes, 1925, chapter 145) is replaced by the following: s. 246, replaced.

**"246.** Every police magistrate shall cause to be kept by the clerk of the peace an account book and minutes of all proceedings had by him and before him. Such magistrate shall collect such information within his jurisdiction and perform such other duties as the Lieutenant-Governor in Council may impose upon him and require of him."

**2.** Section 247 of the said act is replaced by the following: R. S., c. 145, s. 247, replaced.

**"247.** All monies arising from penalties imposed by any such police magistrate shall be paid according to the provisions of the Fines Payment Act (Chap. 166) and account therefor shall be rendered in the manner therein provided."

**3.** Section 331 of the said act is amended by replacing the words: "Magdalen Islands and the electoral districts of Lake St. John, Chicoutimi and Saguenay", in the third and fourth lines thereof, by the words: "electoral districts of the Magdalen Islands and Saguenay and in the territories of Abitibi, Mistassini, Ashuanipi and New-Quebec". R. S., c. 145, s. 331, am.

R. S., c. 145,  
s. 360, am.

**4.** Section 360 of the said act is amended by adding thereto, after the word: "appointed", in the first line thereof, the words: "without restriction as to his jurisdiction".

Id., Div. II  
of Part III,  
am.

**5.** The title of subdivision 5 of Division II of Part III and sections 364 to 370 of the said act are replaced by the following title and sections:

"§5.—*Clerks and Justices of the Peace and monies received by them*

Interpreta-  
tion:

**"364.** For the purposes of this subdivision:

"Clerk";

1. The word "clerk" means the clerk of the justices of the peace;

"Municipal-  
ity".

2. The word "municipality" means a city, town or any municipality other than a county municipality.

Note to be  
made in re-  
gister.

**"365.** Each justice of the peace who receives a complaint, issues a warrant or performs any proceeding in criminal or penal matters shall cause note thereof to be made in a register which must be kept by the clerk designated or appointed according to the provisions of this subdivision, whether such clerk be present or not when the justice of the peace so acts.

Idem.

In all cases which are within the jurisdiction of any two or more justices of the peace, the senior justice of the peace shall see that the clerk shall enter in his register the minutes of the proceedings submitted to several justices of the peace.

Clerk of  
justice of  
peace, where  
clerk of  
peace.

**"366.** 1. In a municipality where there is a clerk of the peace, the latter shall be *ex officio* the clerk of the justices of the peace and each of his deputies shall be competent to act as such.

Id., where  
Magistrate's  
Court.

2. In a municipality where there is a Magistrate's Court but no clerk of the peace, the clerk of such court shall be *ex officio* the clerk of the justices of the peace and each of his deputies shall be competent to act as such.

Id., in other  
municipal-  
ities.

3. In the other municipalities the clerk or secretary-treasurer of the municipality shall be *ex officio* the clerk of the justices of the peace unless another clerk of the justices of the peace has been appointed for such locality by the Lieutenant-Governor in Council, as hereinafter provided.

Id., where  
assist. clerk,  
etc.

In such municipalities the assistant clerk or assistant secretary-treasurer, as the case may be, shall be competent to act.

4. In a municipality where a Recorder's Court exists, the clerk of such court shall be *ex officio* the clerk of the recorder when the latter exercises judicial powers which are not within the jurisdiction of the Recorder's Court, notwithstanding the provisions of subsections 1, 2 and 3 of this section. In such case the assistant clerk of the Recorder's Court shall be competent to act as clerk of the recorder when the latter acts in his capacity of magistrate. Id., where Recorder's Court.

5. In territories not yet organized as municipalities, a justice of the peace may himself choose a clerk and must make known the name and address of such clerk to the clerk of the peace of the judicial district whereof such territory forms part. Appointment of clerk by justice of peace.

6. Notwithstanding the foregoing provisions, the Lieutenant-Governor in Council may appoint a clerk of the justices of the peace for one or more municipalities or for any extent of territory that he may see fit, and such clerk must act, to the exclusion of all others, within the territory determined in the order-in-council appointing him. Id., by Lt.-Gov. in C.

7. In case the clerk or officer authorized to replace him is, for any cause, unable to act or refuses to act, the magistrate may appoint a clerk for the cases which he has then to dispose of. Such appointment shall forthwith be brought to the knowledge of the clerk of the peace. Special appointment.

**"367.** The clerk of the justices of the peace shall keep note of all proceedings adopted by the justices of the peace, for whom he is clerk, or had before them; he must also keep account books and make the returns required by law and by the Attorney-General or by the clerk of the peace of the district. Note of proceedings.

**"368.** The register kept by the clerk of the justices of the peace shall contain in chronological order a concise note of all judicial acts done by the justices of the peace whose clerk he is and, in particular, such register must contain the details relating to each case as follows: Register.

The names of the justice or justices of the peace; Details.

The name, qualifications and address of the complainant;

The name or description of the accused;

The nature of the complaint;

The date of signing the summons or warrant;

The name of the constable to whom such documents were handed for service or execution;

The date of the appearance of the accused and that of the adjournments;

The details respecting the provisional release of the accused (*name and address of sureties, amount of each bail, etc.*);

A concise note of all other proceedings;  
 The nature of the judgment;  
 Proceedings in execution of the judgment;  
 The detail of the costs awarded in each case;  
 The amount of the fine imposed and costs incurred;  
 The date of payment of the fine and of the costs;  
 The name and address of the person to whom the fine is transmitted.

Fines to be transmitted to clerk of the peace.

**"369.** Unless otherwise prescribed by the Lieutenant-Governor in Council, under the provisions of section 370*h* of this act and section 7 of the Fines Payment Act (Chap. 166), every clerk who receives from an offender, gaoler, constable or other person a fine imposed by a justice of the peace shall transmit the same without delay to the clerk of the peace, with the record of the case, if the latter has not already been transmitted under the provisions of sections 370*a* and 370*b*.

Transmission of security.

**"370.** The clerk shall, furthermore, transmit without delay to the clerk of the peace the monies received by him or by a justice of the peace, as security.

Monthly return.

**"370*a*.** The clerk shall also make, on the first day of each month, a return to the clerk of the peace of all matters submitted, during the preceding month, to the justices of the peace for whom he is clerk, whether such matters be terminated or not.

Records to be transmitted.

He shall at the same time transmit to the clerk of the peace the records of cases which have been terminated.

Return if no case heard.

If nothing was submitted to the justices of the peace in the previous month, a return to that effect must also be made.

Transmission of record on request of Atty.-Gen'l.

**"370*b*.** The clerk must also, on receipt of a request made by the Attorney-General or by the clerk of the peace, transmit to the latter the record in a case whether terminated or not.

Paying of fines.

**"370*c*.** The clerk of the peace shall, within the shortest possible delay, pay to those entitled thereto the fines received by him from the clerks, as well as those which he himself collects.

Monthly return to the Atty.-Gen'l.

**"370*d*.** The clerk of the peace shall, in the first ten days of each month, transmit to the Attorney-General:

1. A return of all matters submitted in the preceding month to the justices of the peace for whom he has acted as clerk;

2. A summary of the returns received from the other clerks of the justices of the peace;

3. A statement of all monies received by him in the previous month for fines, bail and costs, showing to whom the sums received have been paid over in each case;

4. A list of the clerks who have not complied with the provisions of articles 369, 370 and 370a;

5. All information respecting monies which should have been paid to him and have not been so paid.

**"370e.** The Lieutenant-Governor in Council may, <sup>Furnishing</sup> whenever the importance of the matters justifies it, <sup>of security.</sup> require that a clerk of the justices of the peace furnish security in accordance with the Public Officers Act (Chap. 9).

**"370f.** Every clerk shall, whenever thereunto required <sup>Examina-</sup> by an officer validly commissioned by the Lieutenant- <sup>tion of re-</sup> Governor in Council or by the Attorney-General, produce <sup>gisters, etc.</sup> and show to such officer, for examination and inspection, all registers, books of account, records, vouchers and documents connected with the administration of his office, and shall answer the questions put to him respecting such documents and the matters submitted to the justices of the peace for whom he is clerk.

**"370g.** The Attorney-General is authorized to supply <sup>Supplying of</sup> the registers which have to be kept by the clerks as well as <sup>registers, etc.</sup> the forms for the returns which the latter have to make.

**"370h.** The Lieutenant-Governor in Council may <sup>Powers of</sup> make, amend and repeal regulations: <sup>Lt.-Gov. in C.</sup>

1. To determine, from time to time, the manner of keeping the accounts respecting the monies collected by the clerks and by the clerks of the peace;

2. To determine, according to the circumstances in each office, the manner in which fines are to be accounted for;

3. To permit, if he deem it more advantageous, a rendering of accounts, with bulk payment, at fixed dates;

4. To change the dates and delays fixed for transmitting returns and records;

5. To secure the carrying out of this subdivision.

**"370i.** Every clerk who, after six days notice by <sup>Penalty.</sup> registered letter given by the clerk of the peace, neglects to comply with any provision of this subdivision, shall be liable to a fine not exceeding twenty dollars, and to an additional fine not exceeding five dollars for every day after the service upon him of an information or complaint respecting such neglect during which he continues to be in default, and, failing payment of the fine and costs, to an imprisonment not exceeding three months."

R. S., c. 145, Pt. III, Div. II, subdiv. 6, title and s. 371, replaced. **6.** The title of subdivision 6 of Division II of Part III and section 371 of the said act are replaced by the following title and section:

*"§ 6. Miscellaneous provisions*

Fees. **"371.** The clerk of the justices of the peace shall be entitled to the fees provided by the tariffs in force and he shall not, at any time, under any pretext, demand or require higher fees than those fixed and determined by such tariffs.

R. S., c. 145, s. 372, repealed. **7.** Section 372 of the said act is repealed.

Id., s. 373, am. **8.** Section 373 of the said act is amended by replacing the words: "enter the same in his register", in the fourth and fifth lines thereof, by the words: "shall cause the same to be entered in the register kept by the clerk of the justices of the peace".

Id., s. 374, replaced. **9.** Section 374 of the said act is replaced by the following:

Bailiffs to act as constables. **"374.** Any bailiff of the Superior Court may and must, if thereunto required, act as a constable under the orders of a justice of the peace without a special appointment for that purpose."

Continuing in office. **10.** The justices of the peace appointed in the electoral districts of Lake St. John and Chicoutimi, before the coming into force of this act, shall continue to act without having to take the oath of real estate qualification provided in section 331 of the Courts of Justice Act (Revised Statutes, 1925, chapter 145).

Coming into force. **11.** This act shall come into force on the date which it may please the Lieutenant-Governor in Council to fix by proclamation.