

POLICE MAGISTRATES

SOME PARTICULARS ABOUT THAT DEPARTMENT OF THE JUDICIAL SYSTEM OF ONTARIO

LOCAL INTEREST—SOME FACTS ABOUT THE OFFICE—THE POWER OF MAGISTRATES—HOW THEY ARE PAID—NO UNIFORM METHOD OR AMOUNT—REMARKS ON THE DIFFERENT SYSTEMS—LINDSAY'S POSITION.

Since considerable interest has been aroused in town by the proposed reduction of the police magistrate's salary, it may be amiss to publish a few facts regarding that section of the provincial judiciary.

Police magistrates are appointed by the Governor-in-Council, and may hold office for life, and good conduct. The oath of office is as follows:

"I, A. B., do swear that I will well and truly serve Our Sovereign Lady Queen Victoria in the office of Police Magistrate, and I will do right to all manner of people, after the laws and usages of this province without fear, favor, affection or ill-will. So help me God."

The statute provides that each town of more than five thousand inhabitants shall have a police magistrate. Those having less than that number "may" have one appointed at the request of a two-thirds vote of the municipal council.

In part of the county, the police magistrates of any town or city therein, has, by virtue of his office, the power of a justice of the peace, and may dispense of all cases ordinarily lying within the jurisdiction of justices acting together.

For the purpose of trying such cases the magistrate may take possession of any county or municipal building. Residence within the municipality for which he is acting is not compulsory, nor is any property qualification required of a magistrate. He is not allowed to continue his practice as barrister in cities of thirty thousand or over.

THEIR POWERS. Offences against the law are divided into summary and indictable offences. Roughly speaking the former are of a less serious character than the latter, and call for a less heavy maximum punishment.

A magistrate has the power to try a person charged with a summary offence without the consent of the accused, but a man charged with an indictable offence may elect to be tried by the magistrate or by a jury.

In all cases that lie within his jurisdiction or in cases where the accused elects to be tried by a magistrate, that official has all the powers to try and sentence that belong to a judge of the superior court. So that sending a man to prison for life is quite within the possibilities in the career of a police magistrate. It will be seen that he is no insignificant official.

ABOUT THE REWARDS. A magistrate looks to one of three sources for his pay. He is paid a salary, by either the municipality or the government, or else he receives the fees chargeable on the cases that come before him, just as do justices of the peace. In places of five thousand inhabitants and under, if there is a magistrate, his salary is fixed by the council and may be altered by that body at any time. Those having over five and not more than six thousand are directed by statute to pay \$800, and those above that number \$1000. Other sums are indicated for large cities. In some instances the government fixes and pays the salaries itself. In case the magistrate is appointed "without salary" he is permitted to retain the dues levied according to a statutory schedule, which dues under other circumstances go to the municipality.

In the light of the foregoing remarks a brief analysis of the magistracy in Ontario may be intelligible. There are in this province 111 magistrates. These are capable of the following division with regard to the way they are paid:

Without salary..... 72 With salary paid by municipalities..... 29 With salary paid by government 10

The 72 without salary are divided as follows: In towns..... 33 In Villages..... 23 In municipalities..... 9 In villages and municipalities..... 3 In towns " "..... 4

Total..... 72 The 29 magistrates that are paid by the municipalities in which they serve are located thus:

In cities..... 12 In towns..... 14 In county..... 1 In county and town..... 1 In county and village..... 1

The ten officials who are paid by government hold court in the following places and receive the sums placed opposite:

Part of Algoma at..... \$900 Parts of Renfrew \$3 per day while engaged.

Provisional Co. of Haliburton 800 Port Arthur and Thunder Bay 1000 Part of Rainy River district... 800 Town of Niagara and district. 1000 Thunder Bay and Rainy River 800 Part of Algoma and Nipissing 1400 Parts of Muskoka and Parry... 500 Rat Portage and pt. of Rainy River..... 800

It will be noticed that those parts in which the government pays the salary are, with the exception of Niagara, new and not fully organized districts. In most of them the appointments are of comparatively recent date. The following important towns pay no salary: Paris-Galt, Collingwood, Deseronto, Napance, Brampton and Oshawa.

Towns, our own and others of similar size that pay salaries and the amounts they pay, may be interesting for the sake of comparison with Lindsay:

Table with 2 columns: Town Name and Salary. Includes Peterboro (\$1200), Woodstock (1200), Trenton (600), Port Hope, 800, pays only (600), Orillia (400), Owen Sound (1000), Lindsay (800).

With regard to Port Hope the official return says the salary paid is \$860 but a letter received from the Mayor of that town states that they have had the amount reduced to \$600. It is worthy of remark that Lindsay is the only place concerning which the return prefaces the amount payable with the words "not to exceed." They are words of great significance at the present juncture.

The fact that the magistrate for Galt was appointed in January without salary and for Lindsay in February with salary is evidence that at the present time both systems are in vogue with the government. Furthermore the fact that the statute requires towns of Lindsay's population to pay \$1000 and yet an appointment is made on the condition that the salary shall not exceed \$800, indicates that the government does not take the statute seriously.

THE THREE METHODS OF PAYMENT. Both the manner of appointment and the method of payment have been under discussion. It has been thought by some that all magistrates would be better appointed by the municipal councils. In opposition to that method it is urged that local feeling would enter into the matter and there would be too much room for wire-pulling. The majority is likely favorable to the present system of appointment since it is largely removed from the local arena. Lindsay's experience with its officials under municipal control, lends force to this view.

With regard to the method by which the magistracy should be paid there is probably not such general agreement. The three systems, at present in vogue, are all open to more or less objection. In the majority of cases, as shown by the foregoing table, the magistrate is appointed without salary and receives only the fees attached to the different cases coming before him. Many people maintain that this is the only proper method. It has one very serious defect however. There are some thirteen items from which fees arise in the duties of a magistrate. As may be expected certain of these are for services in connection with convictions. As a matter of fact about 25 per cent. of the fees are so connected. In cases where no conviction is made these fees are not chargeable. So that it is to the magistrate's financial interest to find as many people guilty as possible. This is a very undesirable state of affairs since it provides an inducement to convict that should not exist, and is unfair to the person on trial. It appears evident that the decisions of a magistrate should have no relation at all to the amount of his pay. We never want to come before a judge who profits by our conviction.

The salary system is not open to this objection, but as at present administered it is not free from defects. When the municipality pays the salary the peculiar condition is created of one authority appointing an officer and another paying him. It is a good old-fashioned idea that people like to have the hiring of the servants whose salaries they pay. When the government both makes the appointment and pays the salary, as is done in some ten cases the objection mentioned above, disappears, but a new one arises. These ten salaries are paid from the general fund, so that the entire province contributes to them. As a result other places pay both their own magistrate and assist to pay theirs as well. The injustice is apparent.

It seems then that the proper system of paying police magistrates is not any easy thing to find, and in three distinct attempts the Ontario government has failed to find it. It may be hoped that the government's whole administration is not so confused and defective as that part pertaining to police magistrates. Since the fee system is vicious, and it is not desirable that municipalities should appoint their own magistrates it seems that the third method is the proper one if universally applied. That is to say, let the government pay the salaries of the officials appointed by it, and make that the rule in every place so that the salaries could be paid from the provincial treasury with no injustice to any section of the province. This method would at least be uniform and consistent, and would do away with the present confusion.

WITH REGARD TO LINDSAY. Lindsay has had four police magistrates. The first, the late Mr. Jas. Dunford was appointed on the 28th of April, 1875, or just 25 years ago. Mr. Arthur O'Leary took the office in November, 1882, and ten years later Mr. J. D. McIntyre was appointed and held it until his recent elevation to the position of judge of Ontario county, when he was succeeded in the magistracy by Mr. W. Steers, the present officer. The former incumbents received \$1000 a year, but Mr. Steers has been appointed with directions to the town that his salary is not to exceed \$800. In 1897 the number of cases that came

before the magistrate was 116. His salary of \$1000 a year gave him about \$9 a case. In '98 the cases were six less but the convictions exactly the same—97. We are informed that roughly speaking the statutory fees would average \$3.50 in each case followed by a conviction and \$2.50 in those where no conviction followed. On that basis the income of a magistrate "without salary" in this town would have been \$340 in '97 and \$325 in '98. As a matter of fact, the fees and fines both in these years were \$172.80 and \$172.95 respectively. It is explained that the magistrate on salary need not levy the full fee and the town treasury suffers while the culprits rejoice greatly. We understand that Mr. Steers has charged the full amount of fees pertaining to the cases that have come before him, so that the town will receive a larger revenue than formerly from this source. In this Mr. Steers is to be commended.

The administration of justice cost this town \$2,140.50 in '97 and \$2,147 in '98. For the trial fees and small number of cases these are large sums but it is better to have the law kept than to have penalties imposed. When the council of the city of Hamilton recently complained to Magistrate Jelfs, of that city, because his fines had dropped from \$5,000 to \$2,000 in three years. Mr. Jelfs replied: "I am glad of it. That our city has improved in its morals and is no longer the stamping-ground for the lawless element is a thing I am prouder of than that we should have to collect heavy fines." That is good sentiment. It is a matter of congratulation that the order of our town is such that the fees and fines together amounted to less than \$173 in a year. The magistrate in Lindsay could not work for the fees alone. They are too insignificant, and wholly out of proportion to the qualifications required.

ABOUT THE SALARY. At the same time the salary ought not to be wholly out of proportion to the work entailed. The good order of the town should surely result in some decrease in the cost of administering justice. This is the sentiment underlying the present agitation for a reduction of the magistrate's salary. The idea that the magistrate ought to be well paid is no less, because the idea that the salary ought not to be exorbitant has made headway. In the calm, unprejudiced judgment of '98 council at a time when the office of magistrate was vacant, the sum of \$500 was an equitable remuneration for the work required. The present council has re-affirmed that conviction and in this opinion, public sentiment sustains them. Since, as has been shown throughout this article, the statute regarding salaries is a dead letter and the government itself does not conform to it even roughly, it is not amiss to assume that it is not binding on this town and presents no barrier to reducing the salary if it appears wise to do so. Furthermore the government has probably as a concession to our appeals—omitted to fix the salary that this town shall pay and in place of that merely names a maximum and says it is "not to exceed \$800." What amount below that maximum it shall be we think the town council is, therefore, free to determine and we trust that that body will at an early date announce that it can provide no larger sum than \$500 for the salary of police magistrate for this town.

LINDSAY PUBLIC SCHOOLS INSPECTOR'S EXAMINATION SECOND CLASS—MISS WRAY—SENIOR DIVISION.

Table with 4 columns: Name, Reading, Spelling, Writing, Arithmetic, Total. Includes Wilson, Jean (16 20 16 30 82), Johnston, Meta (17 20 16 25 78), Emerson, Cyrus (16 20 14 25 75), Williamson, Wallace (16 20 14 25 75), Bate, Harold (14 20 16 25 75), Cowie, Mildred (16 20 17 20 73), Wilson, Bruce (15 20 13 25 73), Lee, Ella (16 20 16 20 72), Koyl, Leon (16 20 16 20 71), Hunter, Wilbert (15 18 17 20 70), Geach, Mamie (14 20 15 20 69), Carew, Annie (16 20 13 20 69), Armitage, Artie (15 18 15 20 68), Cathro, Grace (15 18 15 20 68), Naylor, Stanley (15 20 16 15 66), Mark, Ambrose (15 20 11 20 66), Brooks, Lottie (15 20 15 10 60), Sharp, Harry (15 20 14 10 59), Clendenan, Walter (14 20 10 10 54), Wright, Louisa (17 18 12 5 52).

JUNIOR DIVISION. Allan, Louisa (16 20 19 30 85), Stewart, Edith D. (15 20 18 30 83), Robinson, Lillian (15 20 18 25 78), McCrimmon, Vera (15 20 16 25 76), Coombs, James (16 20 15 25 76), Cresswell, Fordie (16 20 17 20 73), Sherman, Annie (15 20 13 25 73), Patterson, Roy (14 18 15 15 65), Anderson, Harold (14 18 15 15 63), Jackson, Flora (15 18 15 15 63).

MISS CAMERON—SENIOR DIVISION. Lamont, Sadie (16 20 17 30 83), Bruce, Nelson (15 20 18 30 83), White, Amy (13 20 15 30 81), Murtagh, Tom (15 20 16 30 81), Hart, Harold (14 20 16 30 80), Way, Charlie (15 20 14 30 79), Wells, Ford (13 20 15 30 78), Stinson, John (14 20 14 30 78), Gifford, Dottie (15 20 17 25 77), King, Willie (16 20 16 25 77), Wallace, May (15 20 16 25 76).

Wilkinson, Arlie (15 20 15 25 75), Bell, Laura (14 20 15 25 74), Bruce, Milton (15 20 14 25 74), Paton, Herb (16 20 17 20 73), Robinson, Lillie (14 20 17 20 71), Wilkinson, Willie (15 20 15 20 70), Cook, Fred (14 18 17 20 69), Stewart, Ross (13 20 15 20 68), King, Howard (14 20 13 20 67), Fee, Joe (14 20 17 15 66), Laidlaw, Vivian (18 20 17 10 65), Lack, Annie (16 20 18 10 64), Goldie, Marion (17 20 14 10 61), Lukey, Nella (14 18 13 15 60), Gage, Ethel (14 18 16 10 58).

JUNIOR DIVISION. Burke, Ned (15 20 15 25 75), Pepper, Alvin (17 20 17 20 74), Cunningham, Sara (14 20 15 25 74), Topley, Sydney (16 20 17 20 73), Andros, Harold (14 20 16 20 70), Yarnold, Bert (14 20 16 20 70), Sandford, Bertha (14 18 18 20 70), Robertson, Robert (14 20 15 20 69), Irwin, Max (14 20 15 20 69), Pepper, Ora (15 20 18 15 63), Bruce, Hannah (13 20 15 20 68), Stinson, Fred (15 18 14 20 67), Peters, Willie (16 18 17 15 64), Cunningham, Mary (15 16 17 15 63), Peters, Harry (15 18 14 10 57), Hall, Mable (15 16 14 10 55), Thorburn, James (15 18 15 5 53), Allison, May (13 16 14 4 43).

MISS TWAMLEY—SENIOR DIVISION. McWatters, Percy (15 20 18 30 83), Timms, Mary (16 20 17 30 83), Reid, Ethel (16 20 16 30 82), Gobeen, Leonard (15 20 17 30 82), Pearson, Jennie (15 20 17 30 82), Jobbitt, Harold (16 20 15 30 81), Perrin, Alma (16 20 18 25 79), Mullett, Reggie (16 18 19 25 78), Hepburn, Herb (16 20 17 25 78), Sharpe, May (17 20 16 25 78), Crandell, Gusie (17 18 17 25 77), Crandell, Arthur (14 20 15 25 74), Mitchell, Hazel (16 20 18 20 74), Elliott, Florence (15 20 18 20 73), Sadler, Fred (16 20 14 15 65), Gucker, Clinton (14 18 18 15 65), Bullick, Robert (16 20 19 5 60), Baldwin, George (20 15 25 60), Moore, Eva (15 14 30 59), Killaby, Mossom (15 20 20 55), Miles, Tom (15 14 29 29).

JUNIOR DIVISION. Poulton, Lottie (16 20 19 25 80), Moore, Muriel (16 20 19 25 80), Calvert, Fred (15 20 18 25 78), McGill, Elmer (14 20 18 25 77), Henderson, Ethel (16 20 16 25 77), Ellsworth, Annie (15 20 16 25 76), Elliott, Harold (16 20 18 20 74), Perrin, Elias (17 20 17 20 74), Broad, Mable (16 20 17 20 73), Martin, Harvey (16 20 18 20 73), Abercrombie, Lulu (15 20 18 20 73), Fegan, Henry (16 20 16 20 72), McGinnis, Walter (15 20 17 20 72), Windrim, Ackland (16 18 18 20 72), Elliott, Leslie (16 20 14 20 70), Short, Stella (16 20 15 10 61).

MISS SCOTT. Harrington, Ray (16 20 19 30 85), Smyth, Murray (16 20 16 30 82), Paddon, Hubert A. (14 20 15 30 79), Moynes, Hazel (16 20 18 25 79), Ferris, Hattie (16 18 15 30 79), Martin, Ellen (15 20 17 25 77), Cowie, Myrtle (16 18 16 25 75), Champion, Walter (15 16 16 25 72), Brown, Edwood (15 18 14 25 72), Dolly, Gordon (15 14 16 25 70), Crossen, Ruby (14 20 14 20 68), Topley, Mossie (14 20 16 15 65), McDonald, Albert (15 14 15 20 64), Terry, Lillie (14 20 15 15 64), Sandford, Willie (12 12 15 30 59), Hollingsworth, Rollie (15 10 15 15 53), Clarke, Enid (15 12 14 10 51), Mosley, Cora (20 25 45).

MISS LUMSDEN. McPhaden, Norris (16 20 17 25 78), Bartlett, Mable (15 20 16 25 76), Chambers, Eddie (13 20 15 25 73), May, Hattie (16 20 17 20 73), Kenny, Maggie (14 18 16 25 73), Edmonds, Jennie (16 20 15 20 71), Hopkins, Edwards (16 20 14 20 67), Nesbitt, Maud (15 18 14 20 67), Pepper, Mary (15 18 14 20 67), Touchburn, Stanley (14 20 16 15 65), Perkins, Rachel (15 18 11 20 64), Parkin, Alfred (15 20 13 15 63), Logan, Sarah (15 18 14 10 57), Carr, John (10 18 13 15 56), Walker, Cecil (15 16 14 10 55).

MISS WELDON—SENIOR DIVISION. Rogers, Walter (14 20 18 30 82), Touchburn, Kenneth (15 20 15 30 80), Allan, Robbie (13 20 17 30 80), Preston, Edith (15 18 16 30 79), Hussey, Wilfrid (15 20 14 25 74), Lockwood, Manson D. (15 18 16 25 74), Griffith, Philip (14 20 15 25 74), Haugh, Grace (15 20 15 20 70), Baldwin, John (13 20 16 20 69), Starr, Norman (15 20 16 15 64), Edmunds, Robert (14 20 15 15 64), Richards, Ernest (15 18 12 15 60), Hudson, Willie (20 13 25 58).

JUNIOR DIVISION. Brooks, Hubert (14 20 18 25 77), Anderson, Stewart (15 20 14 15 64), Edmunds, Harold (14 20 13 15 62), Miller, Fred (14 18 15 15 62), Hudson, Lillie (11 20 15 15 61), Higgs, Jimmy (10 12 17 30 59), Edwards, May (20 12 14 5 54), McConnell, Laura (10 16 12 15 53), Higgs, Stella (20 16 15 51), Stallard, Lilly (20 12 0 32), Armstrong, Osborne (0 15 15 30).

—The remains of the late "Jack Slaven," son of Dr. Slaven of Orillia, who was killed in the battle before Santiago, Cuba, were received in Orillia a couple of weeks ago and buried in the family burial plot in the R. C. cemetery.

Two Specials LAND PLASTER LAND SALT! We have Grey Oswego Plaster in Sacks and Barrels, Land Salt in 200 pound Sacks. Easy to load at our Store house on William-st. Drop in and see our 25 cent TEA. ARCH. CAMPBELL, Family Grocer

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A CARD... The birds will soon begin to build. Perhaps you are thinking of doing the same thing. It may be you will put up a barn or house next spring. If so I am anxious to let you know that I have the Building Material you require, from Rough Lumber and Planks to make a silo, up to the finest Turned and Carved Stuff for the interior of an elegant house. Think over what you need in Doors, Sash, Mouldings, Shutters, Planed and Turned Goods, then drop in and get figures. J. P. RYLEY, THE VICTORIA PLANING MILL

CARRIAGES AND BUGGIES FOR THE SPRING OF 1899. I have something new in the above line of goods to offer this spring to intending purchasers. About four years ago I introduced the first set of the justly celebrated RICHARDS long distance axle, and they gave such satisfaction that I handled quite a number of them last season. Mr. Lang of Mariposa, Mr. Fanning of Cambray, Mr. Cayley of Ops, Mr. O'Connor of Ennismore and Mr. Howard Davidson of Little Britain were a few of the purchasers, and those gentlemen would not exchange them for any other axle made. They are a high price, but with a cheap axle, all their good qualities considered. They are guaranteed to travel 1000 miles with one oiling, and are perfectly dust proof. The oil is distributed from the cups in such a manner that it reaches just the spot where it is needed. This year I have gone into this style of axle very largely, and I want every intending purchaser to call and be convinced that it is the axle, and the only first-class axle in use to-day. Don't fail to see the 1000 mile axle before you buy. It will pay you to have a sett. I have something new in shafts that I want you to see also. RICHARD KYLIE