

Bill No. 32 of 1939.

A BILL TO AMEND THE MAGISTRATES AND
JUSTICES ACT.

NOTE.

This Bill amends *The Magistrates and Justices Act* as to section 2 by making provision to the effect that where a police magistrate ceases to be a police magistrate and another police magistrate is appointed as his successor, the successor has the same power of dealing with any information, complaints, matters or things pending before his predecessor as the predecessor would have had if he had not ceased to be a police magistrate; and when a police magistrate ceases to be a police magistrate, and no person is appointed as his successor, any other police magistrate when directed by the Attorney General, is given the same power of dealing with matters pending before the ex-police magistrate as the ex-police magistrate would have had if he had not ceased to be a police magistrate. (Section 2.)

A further amendment to section 11 amplifies the existing provisions as to the transfer of jurisdiction over a matter from a police magistrate to another police magistrate or to two justices of the peace, or from one justice of the peace to another, or from two justices of the peace to a police magistrate or two other justices of the peace. (Section 3.)

A further provision does away with any right of action for the recovery of damages in respect of any order or warrant made or sentence imposed at any time, whether before or after the provision comes into force, by a police magistrate acting in the place of another police magistrate who has ceased to be a police magistrate, against or in respect of any person who had been convicted by such other police magistrate but had not been sentenced by him, if such order, warrant or sentence could have been lawfully made or imposed by such other police magistrate.

It also provides that no action shall lie against any person whatsoever in respect of the execution of any such order, warrant or sentence. (Section 4.)

R. ANDREW SMITH,
Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 32 of 1939.

An Act to Amend The Magistrates and Justices Act.

(Assented to _____, 1939.)

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

1. This Act may be cited as "*The Magistrates and Justices Act Amendment Act, 1939.*"

2. *The Magistrates and Justices Act*, being chapter 78 of the Revised Statutes of Alberta, 1922, is hereby amended as to section 2 by striking out subsections (1) and (2) thereof and by substituting therefor the following:

"**2.**—(1) The Lieutenant Governor in Council may from time to time appoint one or more police magistrates for the Province, with jurisdiction in every part of the Province.

"(2) Every police magistrate appointed under the provisions of this Act shall within the Province have and exercise all the powers and authority now or hereafter vested in two justices of the peace sitting and acting together.

"(2a) In case a police magistrate ceases for any reason to be a police magistrate and another police magistrate is appointed as his successor the police magistrate so appointed shall have the power to do all the acts and things with respect to any information, complaint, matter or thing pending before such first mentioned magistrate which that magistrate might have done in his capacity of a police magistrate if he had not ceased to be a police magistrate.

"(2b) In case any police magistrate ceases for any reason to be a police magistrate and no person is appointed to succeed him, any other police magistrate appointed under the provisions of this Act shall whenever directed so to do by the Attorney General and to the extent that he is so directed have the power to do all the acts and things with respect to any information, complaint, matter or thing pending before such first mentioned magistrate, which he might have done in his capacity of a police magistrate, if he had not ceased to be a police magistrate."

3. The said Act is further amended as to section 11 by striking out the same and by substituting therefor the following:

“11.—(1) Where any proceedings relating to any information, complaint, matter or thing are pending before,—

“(a) a police magistrate, he may request in writing any other police magistrate or any two justices of the peace to act in his stead in relation to such proceedings;

“(b) one justice of the peace, he may request in writing any other justice of the peace to act in his stead in relation to such proceedings;

“(c) two justices of the peace, they may jointly request in writing any police magistrate or any other two justices of the peace to act in their stead in relation to such proceedings or either of them may request in writing any other justice of the peace to act in his stead in relation to such proceedings.

“(2) Upon any such request being made and upon the police magistrate or justice of the peace as the case may be to whom the request is made commencing to act in compliance with such request, the police magistrate, justice of the peace or two justices so commencing to act shall have the same jurisdiction in relation to such proceedings as the police magistrate or justice of the peace or justices of the peace by whom such request is made, and the jurisdiction in relation to such proceedings of the magistrate, justice of the peace or justices of the peace by whom such request is made shall cease and determine.”

4. The said Act is further amended by adding at the end thereof the following new section:

“16.—(1) No action for the recovery of damages shall lie in respect of any order or warrant made or sentence imposed at any time whether before or after the coming into force of this Act by a police magistrate whilst acting in the place of any other police magistrate who has then ceased for any reason to be a police magistrate against or upon or in respect of any person who had been previously convicted by such other police magistrate but had not been sentenced by him if such order, warrant or sentence could have been lawfully made or imposed by the police magistrate by whom the conviction was made.

“(2) No action for the recovery of damages shall lie against any person whatsoever in respect of any act or thing done at any time, whether before or after the coming into force of this Act, in the execution of any order, warrant or sentence to which subsection (1) relates, or purporting to be done in compliance with or incidentally to any such order, warrant or sentence.”

5. This Act shall come into force on the day upon which it is assented to.

EIGHTH SESSION
EIGHTH LEGISLATURE
3 GEORGE VI
1939

BILL

An Act to Amend The Magistrates
and Justices Act.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. ABERHART.

EDMONTON:
A. Shnitka, King's Printer
1939