

JUSTICES OF THE PEACE BILL

EXPLANATORY NOTE

THIS Bill is a consolidation, with some minor amendments, of the provisions of Division I of the Justices of the Peace Act 1927 and its amendments relating to the appointment of Justices of the Peace. The remaining provisions of the Justices of the Peace Act 1927 are being consolidated in two separate Bills, the Summary Proceedings Bill and the Oaths and Declarations Bill.

Clause 3 re-enacts in a simpler form the existing provisions relating to the appointment of Justices. The clause provides for appointments to be made by the Governor-General and gazetted, and authorises the gazetting from time to time by the Minister of Justices. The clause omits the existing procedure for the issue by the Governor-General of a Commission of the Peace.

Clause 4 defines in general terms the functions and powers of Justices. No functions or powers are conferred on them by this Bill, but are conferred specifically by other enactments.

Clause 5 re-enacts the existing provision authorising the Governor-General to remove from office any Justice. The clause omits the existing provision for the automatic vacation of office by any Justice who becomes bankrupt, and substitutes a new provision in *subclause (3)* requiring Registrars of the Supreme Court or of any Magistrate's Court to notify the Secretary for Justice when any Justice is convicted of an offence punishable by imprisonment, and requiring Official Assignees to notify the Secretary for Justice when any Justice is adjudicated a bankrupt.

Clause 6 requires the Registrar of every Magistrate's Court to keep and correct from time to time a list of the Justices who reside within ten miles of the Courthouse and are not exempt from attendance under *clause 7*. When the attendance of Justices is required at the Court, the Registrar is to summon as many Justices as may be necessary, but no Justice whose name is not on the list may be summoned without his consent. This clause considerably simplifies the existing provisions relating to the keeping of a rota of Justices and their attendance at Court.

Clause 7 specifies the Justices who are exempt from attendance at Court. The clause re-enacts the existing exemptions for members of the House of Representatives, barristers, solicitors, medical practitioners, and public servants, and also exempts any Justice who has notified the Registrar that he has attained the age of 72 years and does not wish to attend.

Clause 8 re-enacts without substantial change the existing provisions that any Justice who fails to attend on two successive occasions when summoned to attend the Court will vacate his office unless he satisfies the Governor-General that he had reasonable cause for his absence. *Subclause (2)* is new, and provides that any Justice who holds office as such by virtue of holding some other office and who vacates his office as Justice under this clause will again become a Justice if he is re-elected to that office.

Clause 9 declares that the legality of anything done by a Justice shall not be affected by his ceasing to be a Justice.

References to the existing law are shown as footnotes to the clauses in the Bill.



Hon. Mr Marshall

JUSTICES OF THE PEACE

ANALYSIS

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A BILL INTITULED

An Act to consolidate and amend certain enactments of the General Assembly relating to the appointment of Justices of the Peace

5 **BE IT ENACTED** by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title and commencement**—(1) This Act may be cited as the Justices of the Peace Act 1957.

10 (2) This Act shall come into force on the first day of April, nineteen hundred and fifty-eight.

2. **Interpretation**—In this Act the term “Justice” means a Justice of the Peace for New Zealand.

Cf. 1927, No. 37, s. 2

15 3. **Appointment of Justices of the Peace**—(1) The Governor-General may from time to time, by Warrant under his hand, appoint fit and proper persons to be Justices of the Peace for New Zealand.

(2) Notice of every such appointment shall be published in the *Gazette*, and in addition the Minister of Justice may from time to time cause to be published in the *Gazette* a list of the names of Justices then holding office.

(3) Publication in the *Gazette* of notice of any such appointment or of any such list shall be evidence of the appointment of every Justice whose name appears in the notice or in the list, as the case may be. 5

(4) Every person appointed a Justice shall continue in office until he dies or resigns by notice in writing to the Secretary for Justice or ceases to be a Justice under section five or section eight of this Act. 10

Cf. 1927, No. 37, ss. 4-6

4. Functions and powers of Justices—The functions and powers of Justices shall be— 15

(a) To take oaths and declarations under the provisions of the Oaths and Declarations Act 1957 or any other enactment;

(b) To carry out such functions and exercise such powers as are conferred on Justices by the Summary Proceedings Act 1957 or by any other enactment. 20

5. Removal of Justice from office—(1) The Governor-General may from time to time as he thinks fit, by notice in the *Gazette*, remove any person from the office of Justice, and any person so removed shall cease to be a Justice on the day of the publication of the notice. 25

(2) Notwithstanding anything in any other Act, the provisions of subsection one of this section shall apply with respect to any person who is a Justice by virtue of his holding any other office. If any such person is removed from the office of Justice, he shall not, by reason of his being re-elected to that other office at the next succeeding election, become a Justice by virtue of holding that other office. 30

(3) For the purposes of this section, and without limiting the generality of the powers conferred on the Governor-General by subsection one of this section to remove any person from the office of Justice on any other ground,— 35

(a) Every Registrar of the Supreme Court or of a Magistrate's Court shall notify the Secretary for Justice whenever any person whom the Registrar knows to be a Justice is convicted of an offence punishable by imprisonment: 40

(b) Every Official Assignee shall notify the Secretary for Justice whenever any person whom the Official Assignee knows to be a Justice is adjudicated bankrupt.

5 Cf. 1927, No. 37, s. 8

6. Attendance of Justices at Court—(1) The Registrar of every Magistrate's Court shall keep, and correct from time to time as occasion may require, a list of Justices residing within ten miles of the Courthouse, not being persons exempt from
10 attendance under section seven of this Act.

(2) When the attendance of Justices is required at any such Court, the Registrar shall summon as many Justices as he thinks necessary to attend:

15 Provided that no Justice whose name is not on the list may be so summoned without his consent.

Cf. 1927, No. 37, ss. 9, 11; 1952, No. 44, s. 15

7. Justices exempt from attendance—The following persons who are Justices shall be exempt from attendance at a Magistrate's Court, namely:

20 (a) Any Justice who has notified the Registrar in writing that he has attained the age of seventy-two years and does not wish to attend:

(b) Any member of the House of Representatives:

25 (c) Any barrister or solicitor or medical practitioner in the actual practice of his profession:

(d) Any employee of the Crown.

Cf. 1927, No. 37, s. 10

8. Failure to attend—(1) Where any Justice fails to attend on two successive occasions when so summoned,—

30 (a) The Registrar shall notify that fact to the Secretary for Justice; and

35 (b) The Justice shall, unless within one month from the date of the second absence he satisfies the Governor-General that he had reasonable cause for that absence, and notwithstanding anything in any other Act, cease to be a Justice as from a date to be fixed for that purpose by the Minister of Justice and notified in the *Gazette*.

(2) Where any person who holds office as a Justice by virtue of his holding some other office ceases to be a Justice under subsection one of this section and is re-elected to that other office at any succeeding election, then, subject to the provisions of section five of this Act, that person shall as from the date of his re-election be a Justice during the time he holds that other office. 5

9. Legality of acts done by person ceased to be a Justice—
The legality of anything done by any person while he is a Justice shall not be affected by his ceasing to be a Justice; 10
but anything done by any person after he has ceased to be a Justice in purported exercise of any of the powers or duties of a Justice shall be void.

10. Repeals—The following enactments are hereby repealed, namely: 15

- (a) Division I of the Justices of the Peace Act 1927:
- (b) Section fifteen of the Justices of the Peace Amendment Act 1952.