

# Ontario Justice Education Network

## *A Brief History of the Justice of the Peace Bench*



### **The Origins in England**

The office of the justice of the peace extends back over 650 years to 1340 when knights in each shire were appointed to guard against crimes being committed at home while the King fought his overseas wars. Thus, the office began as keeper of the peace rather than justice of the peace. These keepers of the peace were the first “police force”.

In 1361, the *Justice of the Peace Act* was promulgated by Edward III. The act called for the appointing of “one lord and with him three or four of the most worthy in the country, some learned in the law....to pursue, arrest, take and chastise them according to their trespass and offence....and also to hear and determine at the King’s suit all manner of felonies and trespasses....according to the laws and customs aforesaid.”

Under the Act the justices of the peace operated as police in pursuing and arresting criminals. They also tried the vast majority of criminal and civil cases. They were not permitted to try the most serious cases, but were charged with making sure the accused appeared for trial when one of the King’s traveling courts arrived and ensuring that the person committed no further crimes until the trial. Thus, these justices were also jailers.

### **The Justice of the Peace in Canada**

The office of justice of the peace was transplanted from England to Canada in 1763 as a result of the Royal Proclamation of 1763, which decreed that the law of England, both civil and criminal, was to be imposed upon all the territory of what subsequently became Canada. Much has changed since then.

With Confederation in 1867 and the British North American Act, two levels of government, federal and provincial were established. Section 92(14) of that Act gave to the provinces the power to appoint and set qualifications for justices of the peace.

### **Justices of the Peace in Ontario Today**

The Association of Justices of the Peace of Ontario was formed in 1980 when the Toronto Regional Association and the Ontario-wide Association joined forces, with the mandate to represent Justices of Peace in Ontario as judicial officers in all matters of general interest as per their Constitution.

The *Justice of the Peace Act 1989* came into effect on August 30, 1990. It is the legislation under which justices of the peace in Ontario are appointed and under which they perform their duties.

A justice of the peace is a judicial officer who is appointed by the Ontario Cabinet through an order-in-council and under the authority of the *Justice of the Peace Act*. A justice of the peace, like a provincial judge, is a provincially appointed judicial officer whose position is created by statute (i.e. the *Justices of the Peace Act* or the *Indian Act*). Consequently, the powers the justice may exercise, and the duties the justice may perform, are defined by legislation. Before a justice of the peace can exercise any of their duties, they must be sworn in and take the oath of office of a justice of the peace.

There are many pieces of federal and provincial legislation that give powers to a justice of the peace. Two of the most important Acts, which give jurisdiction to a justice of the peace, are the *Criminal Code* and the *Provincial Offences Act*.

### Duties of Justices of the Peace

A justice of the peace is often the first, and sometimes the only judicial officer that a member of the public will ever meet.

Justices of the peace deal with most matters in a criminal case prior to trial for both adults and young persons. They preside in Bail court, to decide whether an accused person should be free or detained in jail until their trial. Most court appearances prior to trial will be presided over by a justice of the peace.

Justices of the peace also perform a role outside the formal court setting. They consider and issue search warrants. They are responsible for swearing informations to commence the court process and summons witnesses to court.

Justices of the peace have jurisdiction to hear and decide Provincial Offences cases, both for adults and young persons. There is a wide range of Provincial Offences which include matters dealing with trespassing, liquor violations, traffic offences, workplace safety, environmental protection, dog owner's liability, education matters, parking and noise by-laws.

Some of the other duties justices of the peace perform are:

- Deciding if someone should be prohibited from possessing firearms
- Issuing warrants to apprehend children in need of protection
- Deciding if someone should be bound by a peace bond
- Ordering the assessment of someone apparently suffering from a mental disorder under the Mental Health Act

Justices of the peace are distinguished in by their green sash and are addressed as "Your Worship".