

(2) The *Bills of Sale Act* 1900, as subsequently amended, is in this Act referred to as the Principal Act.

**2** Section four of the Principal Act is amended—

Interpre-  
tation.

(a) by omitting from the definition of “bill of sale” in subsection (1) the words “ship or vessel” and substituting therefor the words “registered ship”; and

(b) by inserting in that subsection, after the definition of “stock”, the following definition:—

“‘registered ship’ means a ship registered under the Imperial Act known as the *Merchant Shipping Act* 1894 as amended from time to time;”.

**3**—(1) Where before the commencement of this Act there is purported to have been made under the Principal Act a registration of a transfer or assignment of a ship or vessel or any share thereof the Principal Act applies and shall be deemed always to have applied to that transfer or assignment as if it were a bill of sale within the meaning of the Principal Act.

Assignments  
and transfers  
of ships and  
vessels regis-  
tered before  
commence-  
ment of Act.

(2) Failure before the commencement of this Act to file an affidavit renewing the registration of such a transfer or assignment as is referred to in subsection (1) of this section arising from a knowledge of the fact that that transfer or assignment was not then a bill of sale within the meaning of the Principal Act shall, for the purposes of section thirty-two of the Principal Act, be regarded as a failure that was due to inadvertence.

(3) This section does not apply in respect of any ship or vessel that is a registered ship.

## STIPENDIARY MAGISTRATES.

### No. 20 of 1969.

AN ACT to make provision with respect to the appointment, remuneration, and tenure of office of stipendiary magistrates, and matters incidental thereto. [28 November 1969.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1**—(1) This Act may be cited as the *Stipendiary Magistrates Act* 1969.

Short title  
and com-  
mencement.

(2) This Act shall commence on a day to be fixed by proclamation.

Interpretation.

**2—**(1) In this Act, unless the contrary intention appears—  
 “district” means a magisterial district constituted under this Act;  
 “stipendiary magistrate” means a person who is appointed as a stipendiary magistrate under this Act, and includes a person who, by virtue of subsection (3) of section four, is deemed to have been so appointed.

(2) The provisions of—

- (a) section six;
- (b) subsection (2) of section eight; and
- (c) sections nine, ten, eleven, twelve, and thirteen,

do not apply to or in relation to a person who is appointed as a temporary stipendiary magistrate under subsection (5) of section four, but, except as provided in this subsection, the provisions of this Act apply to temporary stipendiary magistrates as they apply to other stipendiary magistrates.

Magisterial districts.

**3—**(1) The Attorney-General may, by notice in the *Gazette*, constitute such magisterial districts as he may consider necessary for the purposes of this Act.

(2) A magisterial district may comprise such parts of the State as the Attorney-General may determine and as may be specified either in the notice constituting the district or in a subsequent notice under this section.

(3) A magisterial district may be designated by such name as the Attorney-General, either by the notice constituting the district or by a subsequent notice under this section, may assign to it.

Appointment of stipendiary magistrates.  
 Cf. 1947.  
 No. 16 (N.Z.).  
 s. 5.

**4—**(1) Subject to this Act, the Governor may appoint such stipendiary magistrates as he thinks fit.

(2) A stipendiary magistrate is not subject to the provisions of the *Public Service Act* 1923, but if a person who is an officer of the Public Service is appointed as a stipendiary magistrate he retains all his existing and accruing rights as if his service as a stipendiary magistrate were a continuation of service as an officer of the Public Service.

(3) The several persons holding office as police magistrates at the commencement of this Act shall be deemed to have been appointed as stipendiary magistrates under this Act.

(4) On the commencement of this Act, the provisions of the *Public Service Act* 1923, by virtue only of this subsection, cease to apply to the persons mentioned in subsection (3) of this section, but those persons are entitled to continue in office, and to retain all their existing and accruing rights, as if this Act had not commenced.

(5) The Governor may, for any temporary purpose, appoint such number of persons as he considers necessary as temporary stipendiary magistrates, and each person so appointed shall

hold office for such period, upon such terms, subject to such conditions, and with entitlement to such remuneration, as is specified in the instrument of his appointment.

**5**—(1) A stipendiary magistrate shall be assigned to such district, and shall be stationed in such city or town, as may be determined by the Attorney-General.

Where stipendiary magistrates are to be stationed.

(2) When so directed by the Attorney-General, a stipendiary magistrate shall preside over or sit in all courts over or in which some other stipendiary magistrate is entitled to preside or sit, or such of those courts as the Attorney-General may direct, whether those courts are held within the district to which the first-mentioned magistrate is assigned or not.

*Ibid.*, s. 9 (1).

(3) A stipendiary magistrate who, pursuant to a direction under subsection (2) of this section, presides over or sits in a court over or in which some other stipendiary magistrate is entitled to preside or sit may, within the district in which that court is held, exercise and perform all or any of the jurisdiction, powers, and duties of a stipendiary magistrate who is assigned to that district.

(4) The fact that a stipendiary magistrate (whether in the district to which he is assigned or not) presides over or sits in a court, or exercises a jurisdiction or power, or performs a duty, is conclusive evidence of his authority to do so, and the exercise of a jurisdiction or power, or the performance of a duty, by a stipendiary magistrate shall not be questioned, and is not subject to appeal or review, on the ground that he was not assigned to the district within which the jurisdiction or power was exercised or the duty was performed.

(5) Notwithstanding the provisions of subsection (1) of this section, a person who is holding office as a police magistrate before the commencement of this Act shall not, by virtue of a determination of the Attorney-General under that subsection, be stationed in a city or town other than the city or town in which he is stationed at that commencement except with that person's consent.

**6**—(1) Subject to subsection (2) of this section, where two or more stipendiary magistrates are assigned to the same district the stipendiary magistrate who has had the longest continuous service as a stipendiary magistrate in that district is responsible for the administrative co-ordination, and the allocation of the work, between those stipendiary magistrates.

Senior stipendiary magistrates. *Ibid.*, s. 9 (2).

(2) If two or more stipendiary magistrates are assigned to the same district and none of them has had a longer continuous service as a stipendiary magistrate in that district than the other or others of them, such one of those stipendiary magistrates as the Attorney-General may direct shall exercise the responsibility that is mentioned in subsection (1) of this section.

(3) For the purposes of this section, service as a police magistrate before the commencement of this Act in any part of the State that is included within the boundaries of a district shall be deemed to be service as a stipendiary magistrate in that district under this Act.

Oaths to be taken.

**7** A stipendiary magistrate shall, before exercising any of the functions of his office, take and subscribe the oath of allegiance and the judicial oath prescribed by the *Promissory Oaths Act 1869*.

Qualification for appointment.

**8**—(1) A person is not eligible for appointment as a stipendiary magistrate unless—

- (a) he is a practitioner (within the meaning of the *Legal Practitioners Act 1959*) of not less than five years' standing; or
- (b) having been admitted to practise in this State as a practitioner under section eleven of that Act or as a barrister under section fifteen of that Act, is of not less than five years' standing in the aggregate as such a practitioner or as a barrister, or as both.

(2) A person is not eligible for appointment as a stipendiary magistrate if he has attained the age of sixty-five years.

Tenure of office.  
Ct. No. 6230  
(Vic.), s. 9.

**9**—(1) Subject to this section, a stipendiary magistrate is entitled to hold office during good behaviour but may be suspended or removed from office by the Governor on the address of both Houses of Parliament.

(2) Except as provided by subsection (1) of this section, the Governor shall not, either with or without the advice of the Executive Council, suspend a stipendiary magistrate or remove a stipendiary magistrate from office.

(3) Notwithstanding anything in the foregoing provisions of this section but subject to subsection (4) of this section, a stipendiary magistrate shall retire from office on attaining the age of sixty-five years.

(4) The Governor may authorize a stipendiary magistrate to continue in office after attaining the age of sixty-five years for such period or periods as the Governor determines, but an authority under this subsection shall not be given in respect of a period—

- (a) exceeding twelve months at any one time; or
- (b) occurring after the stipendiary magistrate attains the age of seventy years.

Remuneration of stipendiary magistrates.

**10**—(1) A stipendiary magistrate shall be paid such salary as the Governor determines, and the salary so payable, together with any allowance that is payable to the stipendiary magistrate under or by virtue of this Act, is a charge on, and is payable out of, the Consolidated Revenue (which, to the necessary extent, is appropriated accordingly).

(2) A stipendiary magistrate is entitled to be paid such travelling allowances and other allowances as may be prescribed, and, until regulations are made under this Act prescribing the allowances to be paid to stipendiary magistrates, is entitled to be paid the same travelling allowances and other

allowances as are prescribed in respect of permanent heads of departments in any award applicable to them that is in force for the time being under the *Public Service Tribunal Act 1958*.

**11**—(1) A stipendiary magistrate is entitled to such leave of absence for recreation or on account of sickness as may be prescribed. Leave of absence.

(2) Until regulations are made for the purposes of subsection (1) of this section, a stipendiary magistrate is entitled to such leave of absence for recreation or on account of sickness as is prescribed in the regulations made under the *Public Service Act 1923* in respect of persons who are officers within the meaning of that Act.

(3) In the case of a person who is holding office as a police magistrate at the commencement of this Act, that person's service as a police magistrate before that commencement shall be treated as service as a stipendiary magistrate for the purpose of calculating his entitlement to leave of absence under this section.

(4) A stipendiary magistrate is an employee for the purposes of the *State Employees (Long-Service Leave) Act 1950*.

**12** A stipendiary magistrate shall devote himself wholly to the performance of the functions and duties of his office as a stipendiary magistrate and of any office lawfully held by him in conjunction therewith or by virtue thereof, and shall not engage in, or continue the practice of, his profession as a practitioner or barrister of the Supreme Court. Stipendiary magistrates not to engage in private practice.

**13** A stipendiary magistrate is an employee for the purposes of the *Superannuation Act 1938*. Superannuation.

**14**—(1) A stipendiary magistrate has jurisdiction as such throughout the State. Jurisdiction and powers of stipendiary magistrates.

(2) A stipendiary magistrate, by virtue of his office and without further commission or authority—

(a) is a justice for the State and a coroner for the State; and

(b) may exercise and perform, throughout the State, all the jurisdiction, powers, and duties conferred on stipendiary magistrates by or under any law of the State.

**15** After the commencement of this Act, a reference to a police magistrate in an Act, or in any regulation, rule, by-law, proclamation, order-in-council, order, summons, warrant, notice, or other instrument or document made, issued, given, or filed under or for the purposes of an Act, shall be construed as a reference to a stipendiary magistrate. References to stipendiary magistrates in other Acts, &c.

**16** The Governor may make regulations for the purposes of this Act. Regulations.