

No. XXXIII.

An Act for the regulation of the Police Force. POLICE REGULATION. [21st December, 1852.]

WHEREAS it is deemed expedient to repeal the Act of Council passed in the fourteenth year of Her present Majesty's reign numbered thirty-eight and to provide for a Police Force as hereinafter mentioned Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof as follows:—

1. The said Act of the fourteenth year of Her said Majesty's reign shall be and the same is hereby repealed but all acts matters and things made done or commenced to be done under that Act shall be and be continued as if the said Act remained in force excepting in so far as the same shall be inconsistent with the provisions hereof and all appointments of Chief and other Constables made under the said Act shall remain valid and be deemed to have been renewed under this Act. Repeal of 14 Vic. No. 38.

2. It shall be lawful for the Governor by warrant under his hand to appoint one fit and proper person to be Inspector General of the Police Department who shall be charged and invested with the general superintendence of the Police Force within the Metropolitan District of the Colony. Inspector General of Police to be appointed.

3. It shall be lawful for the Governor in like manner to appoint one Superintendent of Police for the Metropolitan District and one or more Superintendents of Mounted Patrol for Roads and Gold Escorts who shall be subject to the general control of the Inspector General. Superintendent for Metropolitan District and Superintendents of Mounted Patrol &c. to be appointed.

4. It shall be lawful for the Inspector General to appoint all Chief and other Constables for the Metropolitan District and the Constables for the Mounted Patrols Gold Escorts and Gold Police and for the several Benches of Magistrates in all other districts to appoint Chief and other Constables for such districts respectively and such Chief and other Constables shall unless and until their appointments respectively

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respectively shall be disallowed or annulled by the Governor have all such powers authorities privileges and advantages and be liable to all such duties and responsibilities as any Constable duly appointed now has or hereafter may have either by the Common Law or by virtue of any Statute or Act now or hereafter to be in force in the Colony.

Additional Constables may be appointed at the cost of the individuals applying.

5. It shall be lawful for the Inspector General if he shall think fit on the application of any person or persons shewing the necessity thereof to appoint and swear any additional number of Constables to keep the peace at any place within the City of Sydney and Metropolitan District at the charge of the person or persons by whom the application shall be made but subject to the orders of the said Metropolitan Superintendent and every such Constable shall have all the powers privileges and duties of other Constables belonging to the Police Force Provided always that the amount of pay to be received by any such Constable shall be the same as any other Constable appointed under this Act and the amount of such pay shall be paid into the hands of the Metropolitan Superintendent quarterly in advance and no person appointed a Constable under this section shall be entitled to any gratuity reward or superannuation allowance under the provisions of this Act and it shall be lawful for the person or persons on whose application such appointment shall have been made upon giving three calendar months' notice in writing to the Metropolitan Superintendent to require that the Constables so appointed be discontinued and thereupon the Superintendent shall discontinue such additional Constables.

Inspector General with the approval of the Governor to frame rules and to alter or amend the same.

6. It shall be lawful for such Inspector General with the approbation of the Governor to frame rules orders and regulations for the general government of the members of the Police Force within the Metropolitan District as well with respect to the places of their residence their classification rank and particular services their distribution and inspection as to the description of the arms accoutrements and other necessaries to be furnished to them and which of them shall be supplied with horses and all such other rules orders and regulations relative to the said Police Force as may be necessary for the purpose of preventing neglect or abuse and for rendering the said Force efficient for the discharge of the several duties thereof.

Qualifications of Chief and other Constables to be appointed under this Act.

7. No person shall be appointed to be a Chief or other Constable unless he shall be of a sound constitution able-bodied and under the age of forty years of a good character for honesty fidelity and activity and unless circumstances shall render it necessary to dispense with this qualification in any case he shall be required to read and write Provided nevertheless that so much of this enactment as relates to the age of persons to be appointed Chief or other Constables shall not be deemed or taken to apply to any person who at the time of the passing hereof was employed in the Constabulary Force of the said Colony.

Oath to be taken by Officers and Constables.

8. Neither the Inspector General nor the Superintendent of Police for the Metropolitan District nor any Superintendent or other Officer of Mounted Patrol for Roads and Gold Escorts nor any Chief or other Constable shall be capable of holding office or of acting in any way therein until he shall take and subscribe or unless he shall have taken and subscribed under the recited Act the following oath (that is to say)—

“ I A. B. do swear that I will well and truly serve our
 “ Sovereign Lady the Queen in the office of Inspector
 “ General of the Police Department Superintendent of
 “ Police for the Metropolitan District Superintendent of
 “ Mounted Patrol for Roads and Gold Escorts Chief or
 “ other Constable (as the case may be) without favour or
 “ affection malice or ill-will that I will see and cause Her
 “ Majesty's peace to be kept and preserved and that I
 will

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“ will prevent to the best of my power all offences against
 “ the same and that while I shall continue to hold the
 “ said office I will to the best of my skill and knowledge
 “ discharge all the duties thereof in the execution of
 “ warrants and otherwise faithfully according to law and
 “ that I do not now belong to and that I will not while I
 “ hold the said office join subscribe or belong to any
 “ political society whatsoever or to any secret society
 “ whatsoever unless to the Society of Freemasons So
 “ help me God ”

And the said oath shall be administered either at General or Petty Sessions or otherwise by any Justice of the Peace and shall in all cases be subscribed by the person taking the same and the oath so taken by the Inspector General shall be forthwith transmitted to the Colonial Secretary by the Justice or Justices before whom the same was taken and the oaths so taken and subscribed by all other persons appointed under this Act shall be forwarded by the Justice or Justices before whom the same were taken to the said Inspector General.

9. If any Chief or other Constable holding office under this Act shall neglect or refuse to obey and execute any warrant directed to be by him executed or shall be guilty of any neglect or violation of duty in his office every such Chief or other Constable shall forfeit and pay any such penalty not exceeding five pounds as any two or more Justices of the Peace after examination upon oath of one or more credible witness or witnesses or upon confession of the party shall think proper in a summary manner to impose or inflict and the amount of such penalty shall be deducted from and out of any salary accruing due to such offender under this Act upon a certificate thereof to be by the Justices before whom he may have been convicted transmitted to the Colonial Treasurer or other person by whom the payment of such salary shall be made Provided always that it shall be lawful for the Governor to mitigate or remit any such penalty and in any such case it shall be lawful for the Justices assembled in Petty Sessions for the district to which any such Chief or other Constable shall be attached to dismiss such Chief or other Constable from his office Provided nevertheless that it shall be lawful for any Chief or other Constable so dismissed to appeal to His Excellency the Governor against the decision of such Justices and thereupon the said Governor may if he shall see fit confirm the decision of such Justices or order a further inquiry to be made into the matter complained of before the Inspector General Metropolitan Superintendent or any Justice to be nominated by the Governor for the purpose and on obtaining a report of the result of such inquiry the said Governor shall finally decide whether such Chief or other Constable shall be dismissed or restored to his office.

10. When any Chief or other Constable shall be dismissed from or shall cease to hold and exercise his office all powers and authorities vested in him as a Constable shall immediately cease and determine to all intents and purposes whatsoever and if any Chief or other Constable shall not within one week after he shall have been dismissed from or shall have ceased to hold his office deliver over all and every the arms ammunition and accoutrements horse saddle bridle clothing and other appointments whatsoever which may have been supplied to him for the execution of such office to such person as may be appointed by the Inspector General in the Metropolitan District and by the several Benches of Magistrates in all other districts to receive them every such Chief or other Constable shall upon conviction of such offence in a summary manner before any two or more Justices of the Peace be imprisoned and kept to hard labor for any such period not exceeding three

Penalty on Constables for neglect of duty.

Governor may mitigate or remit penalty.

Appeal to the Governor allowed.

All powers and authorities vested in Constables to cease upon dismissal from office &c.

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three calendar months as such Justices may direct and it shall be lawful for such Justices and they are hereby authorized and required to issue their warrant to search for and seize to the use of Her Majesty all and every the arms ammunition accoutrements horses saddles bridles clothing and other appointments whatsoever which shall not be so delivered over wherever the same shall be found.

Three months' notice of resignation to be given by Constables under a penalty.

11. No Chief or other Constable holding office under this Act shall be at liberty to resign his office or to withdraw or absent himself from the duties thereof unless expressly authorized in writing so to do by the Inspector General or Benches of Magistrates respectively under whom he may be placed or unless he shall have given to such Inspector General or to such Benches respectively three months' notice of his intention so to resign or withdraw and if any Chief or other Constable shall so resign withdraw or absent himself without such previous permission or before the expiration of such notice he shall for such offence forfeit and pay a penalty not exceeding ten pounds upon conviction in a summary way before any two Justices of the Peace and it shall be lawful for such Justices in case such penalty shall not be paid to commit such person to gaol there to be kept to hard labor for any period not exceeding three calendar months and every such Chief or other Constable so resigning withdrawing or absenting himself as aforesaid without such permission or before the expiration of such notice shall also be liable to serve as a Constable for a period corresponding with the time during which he shall so have unlawfully withdrawn or absented himself and any Chief or other Constable who shall resign his office or shall be convicted of unlawfully withdrawing or absenting himself from the duties thereof shall forfeit all claim to any allowance remuneration or superannuation to which he might otherwise have been entitled on retirement under the provisions of this Act.

Exemption from tolls.

12. The Inspector General and the Superintendent of Police for the Metropolitan District and all Chief and other Constables being on actual duty and in proper dress or undress as such and all prisoners under their charge and all carriages and horses exclusively employed in carrying or conveying such persons or their prisoners or baggage or returning therefrom and not otherwise engaged or employed shall be exempt from payment of any tolls or dues otherwise demandable in passing any toll-gate turnpike road bridge or ferry and every toll collector who shall demand or receive any duty or toll contrary to this Act shall forfeit and pay any sum not exceeding ten pounds for every such offence to be recovered by distress and sale of the goods and chattels of the person so offending on conviction before a Justice of the Peace the same to be applied in aid of the Police Reward Fund provided in this Act.

Inquiries as to conduct of Police.

13. It shall be lawful for the Inspector General and Metropolitan Superintendent or either of them or for any Justice or Justices of the Peace to examine on oath into the truth of any charge or complaint preferred against any member of the Police Force holding office under this Act of any neglect or violation of duty in his office and also into the matter of any appeal made under the proviso contained in the eighth clause of this Act.

Witnesses on such inquiries.

14. It shall be lawful for such Inspector General and Metropolitan Superintendent respectively or any Justice as aforesaid to issue a summons or summonses requiring all such persons as shall be named therein to appear before him at a place and time to be therein appointed to give evidence as to all matters and things known to any such person respecting any charge or complaint preferred against any member of the Police Force holding office under this Act of any neglect or violation of duty in his office or touching the matter of any

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any such appeal as aforesaid and all persons duly summoned as aforesaid who shall not attend at the time and place named in such summons or attending shall refuse to be sworn or being sworn shall refuse to give evidence or to answer all such questions as may be legally demanded of them shall forfeit and incur such penalty not exceeding five pounds as the said Inspector General Metropolitan Superintendent or Justice holding such inquiry shall direct and in default of payment thereof such person so offending shall and may be imprisoned for such period not exceeding one calendar month as such Inspector General Metropolitan Superintendent or Justice holding such inquiry may direct and adjudge and the payment of such fine may be enforced or the person liable thereto imprisoned according to the law in force for the time being regulating summary proceedings before Justices of the Peace.

15. If any person not being a member of the Police Force under this Act shall have in his or her possession any arms or ammunition or any article of clothing accoutrements or appointments supplied to any member of the Force and shall not be able satisfactorily to account for his or her possession thereof or shall put on or assume the dress name designation or description of any member of the Force or of any class of such members for the purpose of thereby obtaining admission into any house or other place or of doing or procuring to be done any other act which such person or persons so putting on or assuming such dress name designation or description would not by law be entitled to do or procure to be done of his or their own authority every such person so offending shall in addition to any other punishment to which he or she may be liable for such offence forfeit and pay for every such offence any sum not exceeding ten pounds to be recovered by distress and sale of the goods of such offender on summary conviction before two Justices of the Peace or in default of payment thereof shall be imprisoned and kept to hard labor for any period not exceeding three calendar months such penalty to be applied in aid of the Police Reward Fund provided in this Act.

Penalty for personat-
ing Constables &c.

16. If any question shall arise as to the right of the Inspector General or other officer or other member of the Police Force to hold or execute his office or as to his holding such office common reputation shall to all intents and purposes be deemed to be sufficient *primâ facie* evidence thereof and it shall not be necessary to have or to produce any written appointment or any oath affidavit or other document or matter whatsoever in proof of such right.

Repute to be evi-
dence of appoint-
ment.

17. There shall be deducted from the pay and salary of the several members of the Police Force under this Act the sum of two pounds per centum per annum and so rateably from any pay or salary of whatever amount which sums so deducted shall be invested in such manner as may be directed by His Excellency the Governor with the advice and consent of the Executive Council and the interest and dividends thereof if any or so much of the same as shall not be required for the purposes hereinafter mentioned shall be invested in like manner and accumulate so as to form a fund to be called "The Police Superannuation Fund" and to be applied as occasion may require for the payment of such superannuation or retiring allowances or gratuities as may be ordered or appointed by the said Governor under the powers hereinafter given to him to be charged on the said fund or payable thereout.

Superannuation
Fund.

18. Upon the petition of the Inspector General or other Officer of Police Chief or other Constable who shall have been appointed under this Act or the Act hereby repealed (and in case of any Chief or other Constable upon such recommendations and certificates as the Governor shall require) it shall be lawful for the Governor to order and

Officers how super-
annuated.

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and direct that such Inspector General or other Officer of Police Chief or other Constable shall be superannuated and shall receive such yearly allowance remuneration superannuation or gratuity and upon such conditions and not exceeding such proportion as to age length of service and other circumstances as hereinafter mentioned and provided for and thereupon such person shall cease to hold such office and every such allowance remuneration superannuation or gratuity shall be chargeable upon and paid out of the said "Police Superannuation Fund" so far as the same shall be adequate to discharge such allowance remuneration superannuation or gratuity together with the several allowances remunerations superannuations and gratuities previously charged and made payable out of the said fund Provided always that if the said "Police Superannuation Fund" should at any time be found inadequate to meet any such payment the deficiency shall be made good by a grant from the General Revenue to be proposed and passed in the usual manner.

Conditions of superannuation.

19. The conditions and proportions of such allowance remuneration or superannuation shall be as follows that is to say where any person applying for the same shall be under sixty years of age it shall not be lawful to grant any such allowance compensation remuneration or superannuation unless as hereinafter provided or upon certificate from some legally qualified medical practitioner duly appointed in that behalf by the Governor that such person is incapable from infirmity of mind or body to discharge the duties of his office in which case if he shall have served with diligence and fidelity for fifteen years and less than twenty years it shall be lawful to grant to him by way of superannuation an annual sum not exceeding one-half of the salary of his office if above twenty years and less than twenty-five years any sum not exceeding two-thirds of such salary if above twenty-five years and less than thirty years any such sum not exceeding three-fourths of such salary and if above thirty years any such sum not exceeding the whole of such salary and if such person shall be above sixty years of age and he shall have served fifteen years and less than twenty years it shall be lawful although there shall be no certificate of incapacity from infirmity or injury of body or mind to grant him by way of superannuation any annual sum not exceeding one-half of the salary of his office if he shall have served twenty years and less than twenty-five years any sum not exceeding two-thirds of such salary if he shall have served twenty-five years and less than thirty years any sum not exceeding three-fourths of such salary and if he shall have served thirty years or upwards any sum not exceeding the whole of such salary and if any member of the Force shall be disabled by any wound or injury received in the actual execution of the duty of his office it shall be lawful to grant to him such yearly allowance or remuneration as may in the opinion of the Governor be proportioned to the nature of the injury received without reference to the length of his service provided that such allowance or remuneration shall in no case exceed the whole of such salary and that in calculating the period for which any such person has served the time he may have served in the Police of this Colony previously to the passing of this Act shall be reckoned.

Proviso as to persons disabled in the execution of duty.

Gratuities in certain other cases.

20. It shall be lawful for the Governor to order that a gratuity not exceeding one month's pay for each year's service shall be paid to any officer or other member of the Police Force who shall be duly certified to be unfit for service and to have served with diligence and fidelity for any number of years not exceeding ten and a further gratuity of two months' pay for each year he shall have served exceeding ten years and not exceeding fifteen years.

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21. If any person to whom any allowance compensation remuneration or superannuation shall have been granted under the provisions of this Act shall refuse when called upon by any Magistrate or other officer of the peace to assist in the suppression of any riot or breach of the peace or in the apprehension of any offender or shall be convicted of any felony misdemeanor or other disgraceful conduct or shall have committed any fraud with respect to the claiming obtaining or receiving such allowance compensation remuneration or superannuation or shall conceal his enjoyment of the same for the purpose of evading the provisions of this Act or shall assume a false name or make a false statement as to his place of residence for the same or any other fraudulent purpose or shall fail to conform to the rules applying to notification of residence and changes of residence laid down for his guidance such person shall in addition to any other punishment to which he may be by law liable forfeit at the pleasure of the Governor for the time being the whole or any part of such allowance compensation remuneration or superannuation and if any such person shall without leave previously granted by the Governor depart from the Colony he shall be subject to the like forfeiture for and during the period of his absence.

Officers superannuated &c. to assist in keeping the peace &c.

22. All fines imposed on any Chief or other Constable under this Act and all penalties or portions of penalties and damages awarded to any member of the Police Force by any Justice or Justices of the Peace on any summary conviction as the prosecutor of any information or otherwise shall be paid to the Colonial Treasurer of the said Colony to be by him applied and set apart towards a fund to be called "The Police Reward Fund" out of which shall be paid to the Chief and other Constables appointed under this Act or to the widows of any such persons after their death such rewards gratuities bounties pensions and other allowances as may be directed by any rules or regulations to be for that purpose from time to time established and promulgated by the Governor and Executive Council of the said Colony.

Appropriation of penalties.

23. When any action shall be brought against any Chief or other Constable for any act done in obedience to the warrant of any Magistrate such Chief or other Constable shall not be responsible for any irregularity in the issuing of such warrant or for any want of jurisdiction in the Magistrate issuing the same and such Chief or other Constable may plead the general issue and give such warrant in evidence and upon producing such warrant and proving that the signature thereto is the handwriting of the person whose name shall appear subscribed thereto and that such person is reputed to be and acts as a Magistrate possessing jurisdiction in the case and that the act or acts complained of were done in obedience to such warrant the jury who shall try the said issue shall find a verdict for such Chief or other Constable and such Chief or other Constable shall recover his costs of suit.

For protection of Constables.

24. So much of the following Acts as in any manner relates to the appointment control or supervision of the Constabulary Force of the said Colony or is otherwise incompatible with the provisions of this Act shall be repealed that is to say an Act passed in the fourth year of the reign of His late Majesty King William the Fourth numbered seven and an Act passed in the second year of Her present Majesty's reign numbered two and an Act passed in the eleventh year of Her said Majesty's reign numbered forty-four and an Act passed in the fourth year of Her Majesty's reign numbered seventeen and an Act passed in the seventh year of Her said Majesty's reign numbered twenty-one.

Portions of certain Police Acts repealed.

4 Wm. IV. No. 7

2 Vic. No. 2

11 Vic. No. 44

4 Vic. No. 17

7 Vic. No. 21.

25. All sums of money now in the hands of the Colonial Treasurer for and in respect of the "Police Reward Fund" created by the Act first hereby repealed (fourteen Victoria number thirty-eight) shall

Police Reward Fund under former Acts and Police Superannuation Fund transferred. (14 Vic. No. 38.)

Weights and Measures.

shall be transferred to the Police Reward Fund named in this Act and be dealt with and appropriated accordingly and all sums of money at the credit of the "Police Superannuation Fund" created by the Act first hereby repealed shall be transferred to the Police Superannuation Fund named in this Act and be dealt with and appropriated accordingly and all penalties incurred under the provisions of the Act first hereby repealed shall and may be recovered and appropriated as directed in this Act.

Detailed account of appropriation of Police Reward Fund &c. to be laid before Legislative Council and when.

26. An account in detail of the appropriation of the said Police Reward Fund and Police Superannuation Fund or any part thereof during the preceding year shall be laid before the Legislative Council within thirty days next after the beginning of the Session after such appropriation shall have been made.

Construction of words.

27. In the construction of this Act the words "Metropolitan District" shall be held to include the Police District of Sydney as described in the Schedule annexed to this Act.

Commencement of Act.

28. This Act shall come into operation and be in force on the first of January in the year of our Lord one thousand eight hundred and fifty-three.

SCHEDULE REFERRED TO.

METROPOLITAN DISTRICT.

Bounded on the north and north-west by Broken Bay and Cowan Creek on the west by lines bearing south-westerly and south dividing Hyndes' Grant to Lane Cove River thence by the east side of that River and Cove to the Parramatta River crossing that River thence by the south side of that River upwards to the west boundary of the Parish of Concord thence by the western boundaries of that Parish and the Parish of St. George on the south by George's River and the south shore of Botany Bay to Cape Solander and thence by the waters of the ocean to the entrance of Broken Bay aforesaid and including all the Islands in Port Jackson and the Parramatta River.
