

*Police Regulation.***No. XVI.**

An Act to consolidate and amend the Laws POLICE REGULATION.
 relating to the Police Force. [20th January,
 1862.]

WHIEREAS it is expedient to consolidate and amend the Laws for Preamble.
 the regulation of the whole Police Force of the Colony Be it
 therefore enacted by the Queen's Most Excellent Majesty by and with
 the advice and consent of the Legislative Council and Legislative
 Assembly of New South Wales in Parliament assembled and by the
 authority of the same as follows:—

1. The Acts sixteenth Victoria number thirty-three and seven- Repeal of enact-
 teenth Victoria number fourteen shall be repealed upon and from the ments.
 commencement of this Act.

2. The terms "Police Force" "Inspector General" "Superin- Interpretation.
 tendent" "Inspector" "Sub-Inspector" "Sergeant" "Constable"
 and "Member" shall for the purposes of this Act extend and apply
 to the Force known as "Water Police" and the officers and members
 thereof respectively And the respective words "Metropolitan" and
 "Water" as applied to the Police Force when used in any subsisting
 Act shall apply to the Police Force as regulated hereby.

3. It shall be lawful for the Governor with the advice of the Appointment and
 Executive Council from time to time to appoint an Inspector General authority of Inspec-
 of Police throughout the said Colony hereinafter styled "Inspector tor General.
 General" and such Inspector General shall under the direction of the
 Colonial Secretary be charged with the superintendence of the Police
 Force of the whole Colony And in case of his illness absence from
 the Colony or other cause the Governor with the like advice may
 appoint any person to perform all or any of the duties imposed upon
 the Inspector General by or under this Act.

4. The Governor with the advice aforesaid may appoint such Appointment of
 number of Superintendents Inspectors and Sub-Inspectors of Police Superintendent &c.
 as may be found necessary and such Superintendents shall subject to
 the control and authority of the Inspector General be respectively
 charged with the government direction and superintendence of the
 Police Force stationed within the districts to which they shall be
 respectively assigned by the Governor with the advice aforesaid and
 such Inspectors and Sub-Inspectors shall have such more limited
 authority in relation to the said Police as the Governor with the
 like advice shall direct.

5. The Inspector General may appoint so many Sergeants and Appointment of
 Constables of different grades as he may deem necessary for the Sergeants and Con-
 preservation of the peace throughout the Colony and such Constables stabiles.
 shall unless and until their appointments respectively shall be
 disallowed by the Governor with the advice aforesaid (which disallow-
 ance is hereby authorized) have all such powers privileges and
 advantages and be liable to all such duties and responsibility as any
 Constable duly appointed now has or hereafter may have either by the
 Common Law or by virtue of any Statute or Act of Council now or
 hereafter in force in the Colony Provided that in the event of any
 Sergeant or Constable of the said Force being appointed to or stationed
 at or nearest to a place where any Court of Petty Sessions is held
 within the Colony and where no Chief or District Constable is stationed
 such Sergeant or Constable may and shall do all the acts perform all
 the duties and exercise all the powers and authorities required or
 empowered

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empowered by law to be done performed or executed by such Chief or District Constable respectively.

Rules for govern-
ment and discipline
of Police.

6. The Governor with the advice aforesaid may make rules for the general government and discipline of the members of the Police Force and all such rules when published in the *Gazette* shall if not inconsistent with or repugnant to any provision of this or any other Act have the force of law and copies thereof shall be laid before both Houses of Parliament forthwith if sitting and if not then within fourteen days after the opening of the next Session.

Disqualifications of
Constables.

7. No person shall be appointed Constable unless he shall be of sound constitution able-bodied and under the age of thirty years of good character for honesty fidelity and activity and unless dispensed with for some special necessity able to read and write and no person shall be appointed Constable who shall have been convicted of any felony or who shall be a Bailiff Sheriff's Bailiff or Parish Clerk or who shall be a hired servant in the employment of any person whomsoever or who shall keep a house for the sale of beer wine or spirituous liquors by retail and any Constable who shall be or become a Bailiff Sheriff's Bailiff Parish Clerk or hired servant or shall act in any of the said capacities or shall sell any beer wine or spirituous liquors by retail shall become incapable of acting and shall forfeit his appointment as Constable and all authority privileges salary and gratuity payable to him as such Provided that so much of this enactment as relates to the qualification of persons to be appointed Constables shall not apply to any person employed in the Police Force at the passing of this Act.

Constables &c. to
attend at General
and Petty Sessions
and execute warrants
&c.

8. Every Sergeant and Constable shall when not engaged on actual duty attend at the several General or Quarter Sessions and also at the Petty Sessions held at the respective places where such Sergeants or Constables may be stationed and shall obey and execute in all cases every lawful summons warrant execution order and command of the Chairman of such General or Quarter Sessions and of the Justices at Petty Sessions.

Constable to execute
process.

9. Except as aforesaid every Sergeant and Constable shall execute all process to him directed for levying the amount of any recognizance forfeited to Her Majesty or of any fine imposed on any jurors witnesses parties or persons at any Assizes or Commission of Oyer and Terminer or Gaol Delivery or Sessions of the Peace or any other fine imposed under any Act in force in the Colony And any process or warrant order or command of any Magistrate directed delivered or given to any such Sergeant or Constable may be executed and enforced by any other Sergeant or Constable or assistant and every such last-mentioned Sergeant and Constable and assistant shall have all the same rights powers and authorities for and in the execution of such process warrant order or command as if the same had originally been directed to him by name.

Oaths to be taken
by Officers and
Constables.

10. No person appointed to be Inspector General Superintendent Inspector or Sub-Inspector nor any Sergeant or Constable shall be capable of holding such office or of acting in any way therein until he shall have taken and subscribed the following oath—

“I A. B. do swear that I will well and truly serve our Sovereign
“ Lady the Queen in the office of Inspector General of
“ Police Superintendent Inspector Sub-Inspector Sergeant
“ Officer or Constable (as the case may be) without favour
“ or affection malice or ill-will for the period of
“ from this date and until I am legally discharged that I
“ will see and cause Her Majesty's peace to be kept and
“ preserved and that I will prevent to the best of my
“ power

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“ 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
 “ faithfully according to law So help me God ”

And the said oath shall be administered by any Justice of the Peace and shall in all cases be subscribed by the person taking the same and the oaths so taken and subscribed by all persons appointed to any such office shall be forwarded by the Justice before whom the same were taken to the Inspector General.

11. Every person taking and subscribing such oath shall be deemed to have thereby entered into a written agreement with and shall be thereby bound to serve Her Majesty as a member of the said Force and in the capacity in which he shall have taken such oath at the current rate of pay for such member and from the day on which such oath shall have been taken and subscribed until legally discharged. Provided that no such agreement shall be set aside cancelled or annulled for want of reciprocity. Provided also that such agreement may be cancelled at any time by the lawful discharge dismissal or other removal from office of any such person or by the resignation of any such person accepted by the Inspector General or other person acting in his stead. Oath equivalent to an agreement.

12. Any Constable or other member of the Police Force who shall neglect or refuse to obey any lawful order or execute any process lawfully directed to be by him executed or shall be guilty of any other misconduct neglect violation of or absence from duty shall forfeit and pay any such penalty not exceeding for the first offence five pounds or for the second or any subsequent offence twenty pounds as any two Justices of the Peace shall in their discretion think proper in a summary way to impose. Penalty on Constables for neglect of duty.

13. When any Superintendent Inspector Sub-Inspector Sergeant or Constable of Police shall be dismissed from or cease to hold his office all powers and authorities vested in him shall immediately cease to all intents and purposes and any such Officer Sergeant or Constable as aforesaid who shall not forthwith deliver over all the arms ammunition accoutrements horse saddle bridle clothing and other appointments and things which may have been supplied to him for the execution of such office or which may be in his custody by virtue thereof to some person appointed by any order special or general of the Inspector General shall upon conviction of such offence in a summary manner before any two Justices of the Peace be imprisoned and kept to hard labor for any period not exceeding three calendar months. And any Justice of the Peace may and shall issue his warrant to search for and seize to the use of Her Majesty all and every the arms ammunition accoutrements horses saddles bridle clothing and other appointments and things which shall not be so delivered over wherever the same shall be found. Powers and authorities of Constables to cease upon dismissal or resignation.

14. No Constable or other member of the Police Force shall be at liberty to resign his office or to withdraw from the duties thereof unless expressly authorized in writing so to do by the Inspector General or the officer under whom he may be placed or unless he shall give to such officer three months notice of his intention so to resign or withdraw and any Constable or other member who shall so resign or withdraw without such previous permission or notice shall upon conviction in a summary way before any two Justices of the Peace for every such offence forfeit a sum not exceeding twenty pounds. Three months notice of resignation to be given by Constables.

15. Any Constable or other member of the Police Force who shall take any bribe pecuniary or otherwise either directly or indirectly or who shall in any manner aid abet assist or connive at the escape or Punishment for taking a bribe &c.
 any

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any attempt or preparation to escape of any prisoner from any gaol house of correction watch-house or other place in which such prisoner may be legally confined or otherwise in lawful custody or who shall desert his post or assault his superior officer shall for every such offence upon conviction before any two Justices of the Peace forfeit and pay a penalty not exceeding twenty-five pounds or in the discretion of such Justices be imprisoned and kept to hard labor for any period not exceeding six months.

Exemption from tolls.

16. The Inspector General and all Superintendents Inspectors Sub-Inspectors Sergeants and Constables 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 members 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 in a summary way before a Justice of the Peace.

Penalty for personating Constables &c.

17. Any person not being a member of the Police Force who shall have in his possession any arms or ammunition article of clothing accoutrements or appointments supplied to any member of the Force and shall not be able satisfactorily to account for such possession 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 or shall give or offer or promise to give any bribe recompense or reward or shall make any collusive agreement with any member of the Force to induce him in any way to neglect his duty or conceal or connive at any act whereby any rule made as aforesaid may be evaded whether such offer be accepted or acted upon or not shall in addition to any other punishment to which he may be liable for such offence forfeit for every such offence on summary conviction before any two Justices of the Peace any sum not exceeding ten pounds such penalty to be applied in aid of the Police Reward Fund provided in this Act And any person having been dismissed from the Police Force who shall by concealing the fact of such dismissal or who shall by any false or forged certificate or any false representation obtain admission into and receive pay in the said Force shall be liable on conviction to imprisonment for any period not exceeding three months.

Penalty on persons obtaining admission into Police Force in certain cases.

Repute to be evidence of appointment.

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

Superannuation Fund.

19. 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 the Governor with the advice aforesaid and the interest and dividends thereof 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 be applied as occasion may require for the payment of such superannuation or retiring allowances

or

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or gratuities as may be ordered or appointed by the Governor under the powers hereinafter given to him to be charged on the said fund or payable thereout.

20. Upon the petition of the Inspector General or other officer of Police or Constable in office at the commencement of this Act or appointed under this Act (and in case of any Constable upon such recommendations and certificates as the Governor shall require) it shall be lawful for the Governor to order and direct that such Inspector General or other officer of Police or 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 the same together with those previously charged and made payable out of the said fund.

Officers how superannuated.

21. 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 two legally qualified medical practitioners 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 an annual sum not exceeding two-thirds of such salary—if above twenty-five years and less than thirty years an annual sum not exceeding three-fourths of such salary—and if above thirty years an annual sum not exceeding the whole of such salary And if such person shall be above sixty years of age and 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 an annual sum not exceeding two-thirds of such salary—if he shall have served twenty-five years and less than thirty years an annual sum not exceeding three-fourths of such salary—and if he shall have served thirty years or upwards an annual 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 yearly 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 in the Police of the Colony the time he may have served in any class or grade thereof previously to the passing of this Act shall be reckoned.

Conditions of superannuation.

Proviso as to persons disabled in the execution of duty.

22. 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 of the Police Force who shall be duly certified to be unfit for service and to have served with diligence and fidelity for any

Gratuities in certain other cases

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number of years not exceeding ten and a further gratuity of two months pay for each year he shall have so served exceeding ten years and not exceeding fifteen years.

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

23. 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 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 any rule respecting 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 at the pleasure of the Governor with the advice aforesaid forfeit 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 during his absence.

Appropriation of penalties.

24. All fines imposed on any officer or member of the Force under this Act and all penalties or portions of penalties and damages awarded by any Justice of the Peace on any summary conviction to any member of the Force as the prosecutor of any information or otherwise shall instead of being paid to him be paid to the Colonial Treasurer 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 Constables appointed under this Act or to the widows of any such Constables after their death such rewards gratuities bounties pensions or other allowances as may be directed by any rules made as aforesaid.

Imprisonment in default of payment of penalties.

25. Whenever any penalty or forfeiture shall have been imposed by any Justices under the provisions of this Act and the person convicted shall not forthwith pay the same into the hands of the convicting Justices they may adjudge and order such person to be imprisoned in any gaol or house of correction in the Colony with or without hard labor for a period not exceeding two months if the penalty shall not exceed ten pounds and for a period not exceeding four months if the penalty be above ten pounds and not exceeding twenty pounds and for a period not exceeding six months if the penalty be above twenty pounds and such person shall be detained and kept to hard labor accordingly unless he shall sooner pay the penalty or forfeiture and costs.

Members of Police Force subject to imprisonment may be imprisoned in any place specially appointed by Governor.

26. Any member of the Police Force for whom imprisonment shall have been substituted in lieu of a pecuniary penalty under this Act may be confined in any place especially appointed by the Governor as a police prison instead of a common gaol or other place of confinement and may be kept to such labor therein as the Inspector General may direct. And no imprisonment or confinement of any member of the Police Force under this Act shall be deemed to be part of any period for which he shall have engaged to serve in the said Force. Provided that the period of any such confinement shall in no case exceed the period of imprisonment to which such member may have been duly sentenced.

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27. Any person ordered or adjudged to pay any fine penalty or forfeiture exceeding ten pounds may appeal from any such judgment or conviction to the next Court of General or Quarter Sessions held nearest to the place where such judgment or conviction shall have been given or made and the execution of every such judgment or conviction so appealed from shall be suspended in case such person shall with one or more sufficient surety or sureties immediately before such Justices enter into a bond or recognizance to Her Majesty in the penal sum of double the amount of such fine penalty or forfeiture which bond or recognizance such Justice shall take and the same shall be conditioned to prosecute such appeal with effect and to be forthcoming to abide the determination of the said Court of General or Quarter Sessions and to pay such costs as the said Court shall award on such occasion and such Court shall hear and determine the matter of the said appeal and the decision of such Court shall be final between the parties to all intents and purposes.

Appeal to Quarter Sessions.

28. When any action shall be brought against any officer or constable of the Police Force for any act done in obedience to the warrant of any Magistrate such officer or 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 may plead the general issue and give such warrant in evidence and upon producing such warrant and proving that the signature thereto is in 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 complained of was done in obedience to such warrant the Jury who shall try the said issue shall find a verdict for such officer or constable and he shall recover his costs of suit.

For protection of Constables.

29. In case any member of the Police Force shall die intestate it shall be lawful for the Inspector General or such other officer as the Governor may appoint to cause the effects of the deceased to be disposed of by public auction in such manner as to him shall seem fit and the proceeds of such sale together with any balance of pay or other moneys due to the deceased member shall be applied in the first instance to defray his funeral expenses and debts and the balance not exceeding twenty-five pounds shall be handed by the Inspector General or other officer to the widow or next of kin of the deceased resident in the Colony Provided that if such balance exceeds the sum of twenty-five pounds or if there be no widow or next of kin resident in the Colony such balance shall be paid to the Curator of Intestate Estates.

Disposal of effects of Constables dying intestate.

30. Any goods and chattles which have lawfully come to the possession of any member of the Police Force and which are unclaimed shall be sold and disposed of by the direction of the Inspector General by public auction (a notice of such sale having been previously published thrice in the *Gazette*) and the clear produce of such sale shall unless claimed within twelve months thereafter be applied in aid of the Police Reward Fund and every such sale shall be valid against all persons and no person selling any goods or chattels under this enactment shall be subject or liable to pay any auction or other duty in consequence of such sale.

Unclaimed goods in possession of Police may be sold by Inspector General.

31. All sums of money now in the hands of the Colonial Treasurer for and in respect of the "Police Reward Fund" shall be transferred to the Police Reward Fund named in this Act and all sums of money at the credit of the "Police Superannuation Fund" shall be transferred to the Police Superannuation Fund named in this Act and such

Existing Police Reward Fund and Superannuation Fund transferred to purposes of this Act.

Navigable Waters Protection.

such funds respectively shall be dealt with and appropriated according to this Act And all penalties incurred under the Act hereby repealed may be recovered and appropriated as directed by this Act And an account in detail of the appropriation of the said Police Reward Fund and Police Superannuation Fund or any part thereof during every year shall be laid before both Houses of Parliament within thirty days next after the opening of the Session after such appropriation shall have been made Provided that it shall be lawful for the Governor with the advice aforesaid if it be deemed necessary or convenient at any time to transfer and carry over a portion of either of such funds to the other of them.

Existing laws
affecting Constables
saved.

32. Nothing in this Act contained shall be deemed to diminish the duties or restrict or affect the liabilities of Constables at Common Law or under any Act now in force or hereafter to be passed.

Short title and com-
mencement.

33. This Act shall be styled and may be cited as "The Police Regulation Act of 1862" and shall commence and come into operation on the first day of March next.
