

THE MUNICIPAL POLICE ACT.

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2. Application of provisions of the Act.

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35. Appropriation of Funds.

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40. Short title.

SCHEDULE.

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T A S M A N I A.



1 8 5 7.

ANNO VICESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 13.



AN ACT to vest the Charge and Control of the Police Force of the City of *Hobart Town* and Town of *Launceston* in the Municipal Council of such City and Town respectively.

[22 December, 1857.]

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:—

Control of Police Force vested in Municipal Council.

1 The charge and control of the Police Force of the City of *Hobart Town* and Town of *Launceston* respectively are hereby transferred to and vested in the Municipal Council of the said City and Town respectively, subject to the provisions of this Act.

Charge and control of Police Force of City of *Hobart Town* and Town of *Launceston* vested in Municipal Councils.

Application of Provisions of Act.

2 The provisions of this Act shall apply equally to the City of *Hobart Town* and Town of *Launceston*, and to the Municipal Council and Municipal Officers of the said City and Town respectively; and where in any of such provisions reference is made to the Municipal Council, Mayor, Aldermen, or to any Constable or other Officer, such

Application of provisions of the Act.

provisions shall apply to the Municipal Council, Mayor, Aldermen, Constable, or other Officer of the said City and Town respectively in respect of such City or Town.

Rules for Government of Force.

Rules for the government of Police to be made by the Inspector.

3 Inasmuch as it is desirable that the rules for the government, pay, clothing, accoutrements, and necessaries of all Constables throughout the Colony should be uniform as nearly as may be, such Rules shall be from time to time made by the Inspector of Police, but not so as to increase the number of men proposed to be appointed under this Act, and the Rules so made shall be sent to the Mayor; and it shall be lawful for the Inspector, upon the representation of the Municipal Council setting forth any special reasons, to amend or add to such Rules so as to make them applicable to the special circumstances of the said City or Town, as the case may be; and all such Rules shall be binding on all persons whom they may concern, and copies of such Rules shall be laid before both Houses of the Parliament of *Tasmania* within Fourteen Days after the making thereof if Parliament is then sitting, and if Parliament is not sitting, then within Fourteen Days after the next meeting of Parliament.

Appointment and Regulation of Police Force.

Municipal Council to appoint a sufficient Police Force for the City and Town.

4 The Municipal Council is hereby empowered and required from time to time to appoint and maintain a sufficient number of fit and able men as Constables, for the preservation of the peace by day and by night, the prevention of robberies and other felonies, the protection of the Inhabitants, and the security of property within the said City and Town respectively; and every such appointment may be made by the Mayor, subject to the approval of the Municipal Council.

Power to suspend and dismiss Constables.

5 The Mayor is hereby empowered at any time to suspend, and, subject to the approval of the Municipal Council, to dismiss, any such Constable whom he thinks negligent in the execution of his duty, or otherwise unfit for the same; and during such suspension, or upon dismissal, all powers, authorities, and privileges of a Constable vested in the person suspended or dismissed shall cease.

Superintendent of City and Town to be appointed by Municipal Council.

6 The Municipal Council is hereby empowered and required from time to time to appoint a fit person as and to be Superintendent of the Police Force within the said City and Town respectively, who shall be removeable by the Municipal Council at its discretion; and such Superintendent shall, subject to the lawful orders of the Municipal Council, and the Rules established for the government of the Force, have the immediate disposition, government, and superintendence of the Constables appointed under this Act.

Sub-Inspectors and Sergeants of Police to be appointed by Municipal Council.

7 The Municipal Council is hereby authorised from time to time to appoint as many of the Constables so appointed as aforesaid as may be necessary as and to be Sub-Inspectors and Sergeants of the Police Force, who shall be subordinate to the Superintendent, and shall, besides their powers as Constables, have such authority over other Constables so appointed as may be assigned to them by the Municipal Council or by the Superintendent, subject to such Rules as aforesaid.

All Constables to be sworn in as such.

8 The Superintendent, Sub-Inspectors, Sergeants, and other Constables so appointed shall be sworn as Constables according to the form of the Oath in the Schedule before the Mayor or some other Justice of the

Peace; and all Constables so appointed and sworn shall throughout the Colony have all such powers and privileges, and be liable to all such duties and responsibilities, as any Constable now has or hereafter may have in this Colony, and shall obey all such lawful commands as they may from time to time receive from the Mayor or any Justice of the Peace.

9 All powers and authority by law vested in or exercisable by any Chief District Constable or District Constable shall be vested in and exercisable by any Officer of Police superior to a Sergeant appointed under this Act.

Powers of District Constables vested in Officers appointed under this Act.

10 The Superintendent, Sub-Inspectors, Sergeants, and Constables so appointed shall be paid such salaries, wages, and allowances, and at such periods, as the Municipal Council from time to time appoints.

Salaries to Superintendent and other Constables.

11 In addition to the salary to be paid to the Superintendent, reasonable allowances shall be made to him by the Municipal Council for extraordinary expenses necessarily incurred by him and by the Constables under his orders in the apprehension of offenders and otherwise in the execution of their duty, such expenses having been first examined, audited, and approved by the Municipal Council.

Allowances for necessary expenses incurred by Superintendent and other Constables in the execution of their duty.

12 The Superintendent, and all Sub-Inspectors, Sergeants, and Constables appointed under this Act, 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 and employed, shall be exempt from payment of any tolls or dues otherwise demandable in passing any toll-gate, toll-bar, road, bridge, or ferry; and any Toll Collector who demands or receives any duty or toll contrary to this Act shall for every such offence forfeit a penalty not exceeding Ten Pounds.

Exemption from tolls.

13 Every Constable appointed under this Act who is guilty of any misconduct, neglect, or violation of duty in his office of Constable, shall forfeit a penalty not exceeding Ten Pounds.

Penalty on Constables for misconduct.

14 No Constable appointed under this Act shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do by the Superintendent, or unless he gives to such Superintendent One Month's notice of his intention; and every Constable who so resigns or withdraws himself without such leave or notice shall be liable to forfeit all arrears of pay then due to him, or to a penalty not exceeding Five Pounds.

Constables not to resign without leave or notice.

15 Every Constable appointed under this Act who is dismissed from or ceases to hold and exercise his office, and who does not forthwith deliver over all the clothing, accoutrements, appointments, and other necessaries which may have been supplied to him for the execution of his duty to the Superintendent, shall be liable, on conviction before any Two or more Justices, to imprisonment with or without hard labour for any time not exceeding One Month; and any Justice is hereby authorised to issue his warrant to search for and seize all the clothing, accoutrements, appointments, and other necessaries not delivered over, wherever the same may be found.

Constables dismissed to deliver up accoutrements, &c.

16 Every person, not being a Constable, who has in his possession any article being part of the clothing, accoutrements, or appointments

Penalty on unlawful possession

of accoutrements
and assuming dress
of Constables.

supplied to any Constable appointed under this Act, and who is not able satisfactorily to account for his possession thereof, or who puts on the dress, or takes the name, designation, or character of any person appointed as a Constable, for the purpose of thereby obtaining admission into any house or other place, or of doing or procuring to be done any act which such person would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, shall, in addition to any other punishment to which he may be liable for such offence, forfeit a penalty not exceeding Ten Pounds.

Penalty for
bribing Constable.

17 If any person gives, or offers or promises to give, any bribe, recompense, or reward to, or makes any collusive agreement with, any Constable appointed under this Act to induce him in any way to neglect his duty, or conceal or connive at any act whereby any law or any rule made under this Act may be infringed or evaded, he shall for every such offence, whether such bribe, recompense or reward, or offer, promise or agreement, is accepted or performed or not, forfeit a penalty not exceeding Fifty Pounds.

Rewards, Gratuities, and Superannuation Allowances.

Rewards for ex-
traordinary dili-
gence and com-
pensation for in-
juries may be made
to Constables.

18 It shall be lawful for the Municipal Council, if it thinks fit, either upon the recommendation of any Court of Justice or of the Superintendent, or otherwise, to award and pay to Constables such sums as may be so recommended, or as the Municipal Council thinks just and reasonable, as rewards for extraordinary diligence and exertion, or as compensation for wounds or severe injuries received in the performance of their duty.

Rates of super-
annuation allow-
ance.

19 It shall be lawful for the Municipal Council, upon the recommendation of the Superintendent, if the Council thinks fit, to order that any of the Constables may be superannuated, and receive thereupon a yearly allowance, subject to the following conditions:—if the Constable has served with diligence and fidelity for Fifteen Years and less than Twenty Years, an annual sum not exceeding half his pay; if for Twenty Years or upwards, an annual sum not exceeding two-thirds of his pay: Provided that if he is under Sixty Years of age, it shall not be lawful to grant any such allowance unless upon the certificate of the Superintendent that he is incapable from infirmity of mind or body to discharge the duties of his office, and that if any Constable is disabled by or from any wound or injury received in the actual execution of the duty of his office, it shall be lawful to grant him any allowance not more than the whole of his pay; and it shall also be lawful for the Municipal Council, if it thinks fit, upon the recommendation of the Superintendent, and upon his certifying that any Constable who has not served so long as Fifteen Years is incapable from infirmity of mind or body to discharge the duties of his office, to order that such Constable shall receive such sum in gross as a gratuity upon his retirement as the Council thinks fit.

Gratuity.

Superannuation
allowance or
gratuity to Super-
intendent.

20 It shall be lawful for the Municipal Council, if it thinks fit, to grant to any Superintendent on his ceasing to be such Superintendent, an annual superannuation allowance, subject to the conditions contained in the preceding section as to the period of service, and the proportionate amount of such allowance: Provided that no such allowance shall be granted to any Superintendent under Sixty Years of age, unless the Council is satisfied that he is incapable from infirmity of mind or body, to discharge the duties of his office; and it shall also be lawful for the Municipal Council, if it thinks fit, upon being satisfied

that any Superintendent who has not served Fifteen Years is incapable from infirmity of mind or body to discharge the duties of his office, to order that such Superintendent shall receive such sum in gross as a gratuity on his retirement as the Municipal Council thinks proper.

21 Nothing in this Act contained shall be construed to entitle any Superintendent or other Constable absolutely to any superannuation allowance or gratuity, or to prevent him being dismissed without superannuation allowance or gratuity.

Constables not absolutely entitled to superannuation allowance.

22 Every person to whom any superannuation allowance is granted under this Act shall at all times, when called upon, be liable to fill any office or situation under the Municipal Council for which he may in the opinion of the Municipal Council be eligible; and if he declines, when called upon so to do, to take upon himself such office or situation, and execute the duties thereof satisfactorily, being in a competent state of health, he shall forfeit his right to the superannuation allowance granted to him in respect of former services.

Persons receiving superannuation allowance liable when called upon to take office.

23 In case any person enjoying any superannuation allowance under this Act is appointed to fill any office or situation under the Municipal Council, such allowance shall cease to be paid for any period subsequent to such appointment, if the annual profits of the office or situation to which he is appointed are equal to those of the office formerly held by him; and in case they are not equal to those of his former office, then no more of such superannuation allowance shall be paid to him than what with the salary of his new appointment is equal to that of his former office.

Superannuation allowance to decrease proportionately on new appointments.

Special Constables.

24 In all cases where it appears to the satisfaction of the Mayor and one Alderman at least that any tumult, riot, or felony has taken place or may reasonably be apprehended within the City or Town, and such Mayor and Alderman are of opinion that the ordinary Police Force is not sufficient for the preservation of the peace and for the protection of the Inhabitants and the security of the property within the City or Town, then and in every such case, the Mayor and one Alderman at least are hereby authorised to appoint by precept in writing under their hands so many as they think fit of the Inhabitants who are not legally exempt from serving the office of Constable residing within the City or Town, and also such other persons as may be willing to serve although exempt or not residing within the City or Town, to act as Special Constables for such time and in such manner as to the said Mayor and Alderman seems fit and necessary for the preservation of the public peace, and for the protection of the Inhabitants and the security of property within the City or Town; and every person so appointed a Special Constable shall, before acting as such, take an Oath before the Mayor or any other Justice according to the form in the Schedule.

Mayor and one Alderman, on being satisfied that disturbances exist or are apprehended, may appoint Special Constables.

25 If any Inhabitant residing within the City or Town being appointed a Special Constable who is not legally exempt from serving the office of Constable, neglects or refuses without sufficient cause or excuse to appear at the time and place for which he is summoned by the Mayor and one Alderman for the purpose of taking the said Oath, or refuses to take the said Oath when thereunto lawfully required by the Mayor and one Alderman, he shall forfeit a penalty not exceeding Five Pounds.

Penalty on Special Constable refusing to take the oath of office.

Penalty on Special Constables refusing to serve or guilty of disobedience of orders.

26 If any person being appointed and sworn a Special Constable as aforesaid, and being called upon to serve, neglects or refuses to act as such Special Constable, or to obey such lawful orders and directions as may be given to him for the performance of the duties of his office, he shall for every such offence forfeit a penalty not exceeding Five Pounds, unless he shows to the satisfaction of the Justices adjudicating that he was prevented by sickness or such other unavoidable accident as in their judgment is a sufficient excuse.

Powers of Special Constables.

27 Every Special Constable appointed under this Act shall throughout the Colony have and exercise all such powers, authorities, and privileges, and be liable to all such duties and responsibilities, as any other Constable duly appointed now has or hereafter may have in this Colony.

Special Constables to be paid for their services.

28 Every Special Constable so appointed as aforesaid shall receive for his services such salary, wages, and allowances as the Municipal Council from time to time directs.

Law of *England* to apply as to exemptions from serving as Constable.

29 The like persons shall be deemed to be legally exempted from serving the office of Constable in this Colony as are legally exempt from serving such office in *England*.

Police Fund.

A moiety of all penalties on summary convictions for offences committed in the said City and Town to be paid to Municipal Council and form part of the Police Fund.

30 For the purpose of providing a fund for the expense of maintaining a sufficient Police Force under this Act, a moiety of all fines and penalties whatsoever imposed upon summary conviction before Justices of the Peace in respect of offences committed within the said City and Town respectively shall be paid to the Treasurer of the Municipal Council, and shall be carried by him to the account of a fund to be called the "Police Fund," which Fund shall be kept separately from all other moneys received by the Municipal Council.

Police Rate to be made for creating a sufficient Police Fund.

31 For the purpose of further providing a sufficient fund for the purposes aforesaid, the Municipal Council shall from time to time, at such periods as may be necessary, make and levy a Police Rate in like manner as any Municipal Rate is by law authorised to be made and levied, and all provisions by law relating to Municipal Rates shall be equally applicable to such Police Rate; and such Police Rate, for the purpose of making, levying, and collecting the same, shall be deemed to be a Municipal Rate, but shall be made and kept separately from all other Rates; and all such Police Rates shall be paid into and shall form part of the Police Fund.

Salaries and expenses to be paid out of Police Fund.

32 The salaries and allowances of the Superintendent and other Constables, and for the services of Special Constables, and all other expenses incurred in providing them with such clothing, accoutrements, and necessaries as are allowed by the Rules, and otherwise in putting this Act in execution, shall be paid by the Municipal Council out of the Police Fund.

Reward and Superannuation Fund.

A moiety of all penalties on summary conviction to go to Municipal Council, and

33 For the purpose of providing a fund for the payment of rewards, superannuation allowances, gratuities, and compensations under this Act, a moiety of all fines and penalties whatsoever imposed upon summary conviction before Justices of the Peace, in respect of offences

committed within the said City and Town respectively, shall be paid to the Treasurer of the Municipal Council, and shall be carried by such Treasurer to a separate account, and shall form a fund to be called the "Police Reward and Superannuation Fund." constitute a Reward and Superannuation Fund.

34 All superannuation allowances, gratuities, rewards for extraordinary diligence and exertion, and compensations for injuries received, awarded under this Act, shall be paid out of the said Reward and Superannuation Fund, and not otherwise. Superannuation allowances, gratuities, rewards, &c. to be paid out of such fund.

Appropriation of Funds.

35 The said Police Fund, and Police Reward and Superannuation Fund, shall be appropriated to the purposes hereinbefore mentioned and not otherwise. Appropriation of Funds.

Inspection of Police Force.

36 The Inspector of Police shall from time to time visit and enquire into the state and efficiency of the Police appointed for the said City and Town respectively, and whether the provisions of this Act are duly observed and carried into effect, and also into the state of the Police Stations, charge rooms, cells or lock-ups, or other premises occupied for the use of such Police, and shall report generally upon such matters to the Governor, who shall cause such reports to be laid before Parliament. Inspector of Police to enquire into state and efficiency of Police and report thereupon.

Mandamus.

37 The Municipal Council shall be compellable by the Supreme Court by *Mandamus* to maintain a sufficient Police Force in a state of efficiency for the preservation of the peace, the protection of the Inhabitants, and the security of the property within the said City and Town respectively, and to make and levy a sufficient Police Rate for such purpose; and the report of the Inspector of Police, setting forth the insufficiency or inefficiency of such Force, shall be a sufficient ground for the issue of a rule calling upon the Municipal Council to show cause why a *Mandamus* should not issue. *Mandamus* to compel Municipal Council to maintain efficient Force.

Summary Procedure for Offences.

38 All offences against this Act for which no other mode of proceeding is hereinbefore otherwise specially provided, shall be heard and determined in a summary way by and before any Two or more Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*; and any person aggrieved by any summary conviction may appeal therefrom in the mode prescribed by *The Appeals Regulation Act*. Summary procedure before Two Justices. 19 Vict. No. 8. Appeal. 19 Vict. No. 10.

Commencement of Act.

39 This Act shall commence and take effect on the First day of January, 1858. Commencement of Act.

Short Title.

40 In referring to this Act it shall be sufficient to use the expression *The Municipal Police Act*. Short title.

SCHEDULE.

CONSTABLE'S OATH.

I, *A.B.*, do swear that I will well and truly serve our Sovereign Lady the Queen in the office of Constable for the Colony of *Tasmania*, without favour or affection, malice or ill-will; and that I will to the best of my power cause the peace to be kept and preserved, and prevent all offences against the persons and properties of Her Majesty's subjects; and that, while I continue to hold the said office, I will to the best of my ability, skill, and knowledge discharge all the duties thereof faithfully according to law.

So help me God.

SPECIAL CONSTABLE'S OATH.

I, *A.B.*, do swear that I will well and truly serve our Sovereign Lady the Queen in the office of Special Constable for the City of *Hobart Town*, [*or Town of Launceston, as the case may be*], without favour or affection, malice or ill-will; and that I will to the best of my power cause the peace to be kept and preserved, and prevent all offences against the persons and properties of Her Majesty's subjects; and that, while I continue to hold the said office, I will to the best of my ability, skill, and knowledge discharge all the duties thereof faithfully according to law.

So help me God.