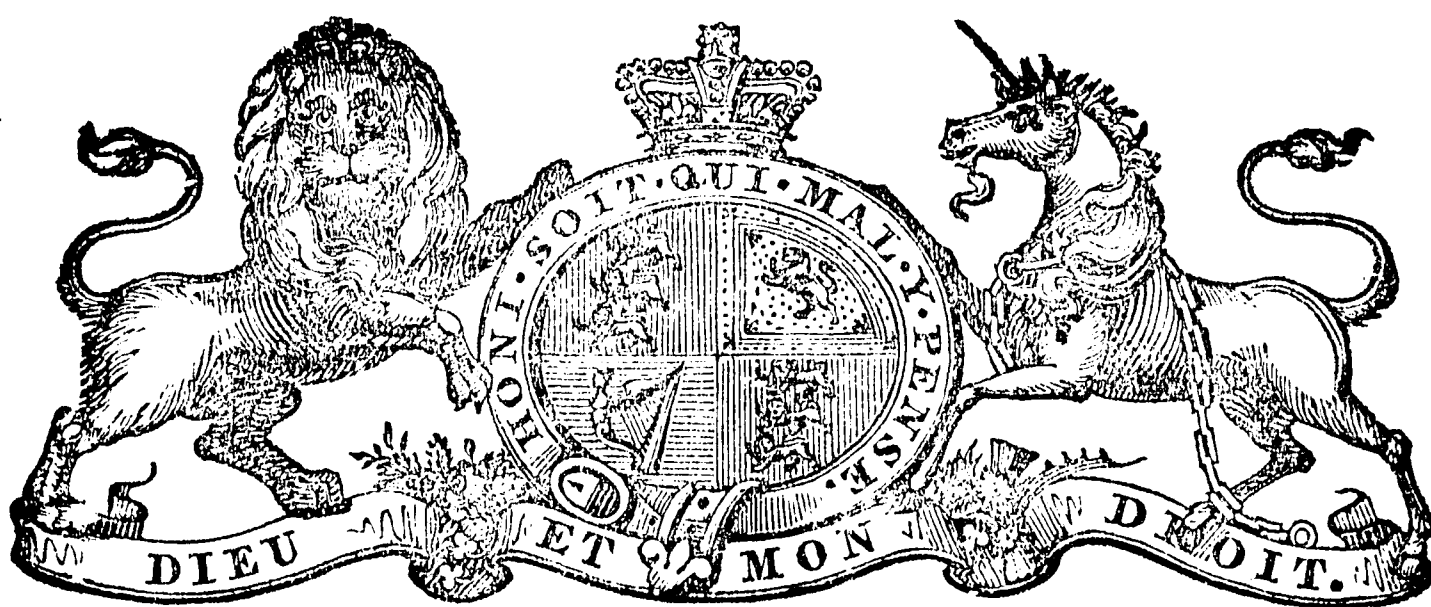


VICTORIA.



ANNO VICESIMO OCTAVO

VICTORIÆ REGINÆ.

No. CCLVII.

An Act to Consolidate the Law relating to the
Police Force in Victoria.

[9th May, 1865.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows—

1. This Act shall come into operation on the first day of June in the year of our Lord One thousand eight hundred and sixty-five and shall be called and may be cited as "*The Police Regulation Statute 1865*" and the sections thereof are arranged in Parts as follows—

- PART I.—Appointment of Officers and Constables ss. 4–11
PART II.—Regulations as to Duties and Discipline ss. 12–22
PART III.—Inquiries into Misconduct ss. 23–26
PART IV.—Miscellaneous Provisions ss. 27–34.

2. The Acts mentioned in the schedule hereto to the extent to which such Acts are in and by such schedule expressed to be repealed shall be and the same are hereby repealed except as to any acts done liabilities incurred property vested or privileges acquired under the said repealed Acts or either of them or as to any appointments rules orders or regulations made thereunder and the Police Reward Fund provided for by the said repealed Acts shall be the Police Reward Fund under this Act.

3. In the interpretation of this Act the term "the force" shall mean the police force of Victoria and the terms "police force" "chief-commissioner" "paymaster" "superintendent" "inspector" "sub-inspector"

inspector" "sergeant" "constable" "officer" and "member" shall include and apply not only to the police force employed on land but also to any force employed upon water and known as the water police and the provisions of this Act shall comprise extend and apply to the water police *mutatis mutandis* as fully as to the police force employed on land and the powers conferred by this Act upon the Chief Commissioner of Police may be exercised by any person appointed by the Governor in Council to act in the place of such Chief Commissioner.

PART I.—APPOINTMENT OF OFFICERS AND CONSTABLES.

Chief Commissioner
of Police to be ap-
pointed.

4. The Governor in Council may from time to time appoint a fit and proper person to be Chief Commissioner of Police throughout Victoria and as occasion may require may remove such person from his office and appoint another in his stead and every such Chief Commissioner of Police shall be charged and invested with the general control and management of the police force of Victoria.

Superintendents In-
spectors and other
officers of police
to be appointed.

5. The Governor in Council may appoint such number of superintendents inspectors sub-inspectors and other officers of police as may be found necessary and such superintendents inspectors and officers shall subject to the general control of the Chief Commissioner of Police be respectively charged and invested with the government direction and superintendence of the police force stationed within such districts as the Governor in Council may direct and such sub-inspectors shall have such more limited authority in relation to the police as the Governor in Council shall direct.

Sergeants and con-
stable to be ap-
pointed.

6. The Governor in Council may appoint so many sergeants and the Chief Commissioner of Police may appoint so many constables of different grades as the Governor in Council shall deem necessary for the preservation of peace throughout Victoria and such constables shall unless and until their appointments respectively shall be disallowed by the Governor in Council (which disallowance is hereby authorized) 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 of Parliament now or hereafter to be in force in Victoria.

Qualifications of con-
stable to be ap-
pointed under this
Act.

7. No person shall be appointed to be a constable unless he shall be of a sound constitution able-bodied and under the age of forty-five 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 and no person shall be appointed to be such constable who shall have been convicted of any felony or who shall be a bailiff or a sheriff's bailiff 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 if any constable shall be or become a bailiff or a sheriff's bailiff

bailiff or a hired servant or shall act in any of the said capacities or shall sell any beer wine or spirituous liquors by retail such constable shall be and become disabled from and incapable of acting and shall forfeit his appointment as constable and all authority and privileges and all salary and gratuity payable to him as a constable under this Act.

8. The Governor in Council may from time to time remove any superintendent inspector sub-inspector officer or sergeant of police appointed under this Act or any Act hereby repealed and upon any vacancy in any of the said offices or appointments by death removal disability or otherwise may nominate and appoint some other fit and proper person to fill the same and the Chief Commissioner of Police may from time to time remove any constable appointed under this Act or any Act hereby repealed and appoint another in his stead.

Removal and appointment of officers.

9. No person appointed to be Chief Commissioner of Police paymaster superintendent inspector sub-inspector officer sergeant or constable (except aboriginal natives attached to the police) shall be capable of holding the said office or of acting in any way therein until he shall have taken and subscribed the following oath (that is to say)—

Oaths to be taken by officers and constables,

“I A. B. do swear that I will well and truly serve our Sovereign Lady the Queen in the office of [*Chief Commissioner of Police paymaster superintendent inspector sub-inspector officer sergeant or constable (as the case may be)*] without favor 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 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 and according to law So help me God.”

And the said oath shall be administered by any justice who before administering such oath shall inquire of the person appearing before him to take the same if he is fully aware of the provisions of this Act and such oath shall in all cases be subscribed by the person taking the same and the oath so taken by the Chief Commissioner of Police shall be forthwith transmitted to the Chief Secretary by the justice before whom the same was taken and the oaths so taken and subscribed by all other persons appointed to any office under this Act shall be forwarded by the justice before whom the same were taken to the Chief Commissioner of Police.

10. Every person taking and subscribing such oath as aforesaid shall be deemed and taken to have thereby entered into a written agreement with and shall be thereby bound to serve Her Majesty as a member of the force and in the capacity in which he shall have taken such oath at the current rate of pay for members of the force acting in the same

Taking an oath equivalent to entering into an agreement.

capacity and until legally discharged from the day on which such oath shall have been taken and subscribed. No such agreement shall be set aside cancelled or annulled for want of reciprocity but every 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 acceptance of the resignation of any such person by the Chief Commissioner of Police.

Three months' notice of resignation to be given by constables.

11. No constable or other member of the force shall be at liberty to resign his office or to withdraw himself from the duties thereof notwithstanding the period of his engagement shall have expired unless expressly authorized in writing so to do by the Chief Commissioner of Police 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 if any constable or other member shall so resign or withdraw himself without any previous permission or notice he shall upon conviction in a summary way before two justices for every such offence forfeit a sum not less than five and not exceeding forty pounds.

PART II.—REGULATIONS AS TO DUTIES AND DISCIPLINE.

Sergeants and constables to attend at general and petty sessions and execute warrants &c.

12. Every sergeant and constable shall when not engaged on actual duty attend on the justices at their several general sessions and also at their petty sessions which may be held at the respective places where such sergeant or constable may be stationed and shall obey and execute all the lawful summons warrants executions orders and commands of such justices at such sessions in all cases civil and criminal.

Sergeants and constables to execute process.

13. 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 circuit court or any session of the Supreme Court or sessions of the peace or any other fine imposed under any Act in force in Victoria and any process or any warrant order or command of any magistrate directed delivered or given to any such sergeant or constable shall and may be executed and enforced by any other sergeant or constable or his assistants and every such last-mentioned sergeant and constable and his assistants shall have all and every 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 or them expressly by name.

Constable to act in the absence of the sergeant.

14. In the event of the non-appointment or in the absence of any sergeant in at or for any place or district any constable of the force for the time being appointed to or stationed at or nearest to the place of holding any court of petty sessions in at or for such place or district shall and may do all the acts perform all the duties, and exercise all

all the powers and authorities required or empowered by any law statute or Act of Parliament to be done performed or exercised by such sergeant.

15. The Governor in Council may from time to time frame rules orders and regulations for the general government of the members of the police force 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 necessities to be furnished to them, and as to the supply of horses for and the proportion of mounted men in the force, and all such other rules orders and regulations relative to the force as may be necessary for rendering the force efficient for the discharge of the several duties thereof and for the purpose of preventing neglect or abuse and may vary alter and repeal such rules orders and regulations and frame others in their stead.

The Governor in Council to frame rules and to alter or amend the same.

16. The Chief Commissioner of Police and all superintendents inspectors sub-inspectors sergeants constables and other members of the force being on actual duty 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 from such employment and not otherwise 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 appropriated to the Police Reward Fund provided in this Act.

Exemption from tolls.

17. Any member of the force who shall take any bribe pecuniary or otherwise either directly or indirectly to forego his duty as a member of the force or who shall in any manner aid abet assist or connive at the escape or any attempt or preparation to escape of any prisoner from any gaol watch-house or any other place in which any such prisoner may be legally confined or otherwise in lawful custody or who shall desert his post or assault his superior officer or shall neglect or refuse to obey and execute any process hereby directed to be by him executed or shall be guilty of any other misconduct insubordination neglect violation of or absence from duty shall for every such offence upon conviction thereof before any two justices forfeit and pay a penalty not exceeding twenty-five pounds.

Punishment for taking bribe &c.

18. When any member of the force shall be dismissed from or cease to hold and exercise his office all powers and authorities vested in him as a member of the force shall immediately cease and determine to all intents and purposes whatsoever and if any such person shall not forthwith 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 and things whatsoever which may have been supplied to him for the execution of such office or which may be in his custody by virtue thereof to such person

All powers and authorities vested in officers of police to cease upon dismissal from office &c.

person as may be appointed by any order special or general issued by the Chief Commissioner of Police every such person shall upon conviction of such offence before two justices be imprisoned and kept to hard labor for any period not exceeding three months and any justice 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 whatsoever which shall not be so delivered over wherever the same shall be found.

Penalty for personat-
ing constables &c.

19. If any person not being a member of the force shall have in his 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 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 members of the force 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 shall conceal or connive at any act whereby any such rule order or regulation in force in Victoria may be evaded every such person so offending and whether such offer be accepted or performed or not shall in addition to any other punishment to which he may be liable for such offence forfeit for every such offence on conviction before any two justices a sum not exceeding fifty pounds, to be appropriated to the Police Reward Fund provided in this Act.

Members incapable
of voting at elect-
ions of Members of
Legislative Council
and Legislative
Assembly.

20. No member of the force shall during the time he shall continue in the force or within six months after he shall have quitted the same be capable of giving his vote for the election of a member to serve in the Legislative Council or Legislative Assembly of Victoria nor shall by word message writing or in any other manner endeavor to persuade any elector to give or dissuade any elector from giving his vote for the choice of any person to be a member to serve in such Council or Assembly and if any person being or having been within the time aforesaid a member of the force shall offend herein he shall forfeit the sum of one hundred pounds to be recovered by any person who will sue for the same by action to be commenced within six months after the commission of the offence but nothing in this enactment shall subject any member of the force to any penalty for any act done by him at or concerning any of the said elections in the discharge of his duty.

Penalty on publican
permitting con-
stables to become
intoxicated on his
premises.

21. The holder of any license to sell or dispose of fermented or spirituous liquors under any law now or hereafter to be in force in Victoria who shall by himself or his servants permit any constable to become intoxicated on his premises or to be supplied with fermented or spirituous liquors whilst intoxicated or whilst on duty knowing him in every such case to be a constable shall for every such offence forfeit and pay a sum not exceeding twenty pounds to be recovered in a summary way before any two justices by any person who may sue for the same.

Penalty on persons
obtaining admis-
sion into police

22. Any person having been dismissed from the force who shall by concealing the fact of such dismissal and any person who shall by any

any false or forged certificates or any false representations obtain admission into and receive pay in the force shall be liable on conviction to imprisonment for any period not exceeding three months.

force in certain cases.

PART III.—INQUIRIES INTO MISCONDUCT.

23. The Chief Commissioner of Police superintendents inspectors or any other person to be nominated for the purpose by the Governor in Council may examine on oath into the truth of any charge or complaint preferred against any member of the force as to any neglect or violation of duty in his office and report thereon to the Governor in Council.

Inquiries as to conduct of police.

24. The Chief Commissioner of Police superintendent inspector or other person nominated as aforesaid may issue summonses requiring any persons 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 them respecting any charge or complaint preferred against any member of the force as to any neglect or violation of duty in his office and all persons duly summoned as aforesaid who shall not attend at the time or 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 Chief Commissioner of Police superintendent inspector or other person holding such inquiry may direct and adjudge.

Witnesses on such inquiries.

25. Any superintendent of police or other officer appointed by the Governor in Council may examine on oath into any charge of insubordination or misconduct against the discipline of the force preferred against any constable of the force, and on conviction thereof may sentence such constable to pay a fine not exceeding three pounds or to confinement for any period of not more than three days and every such sentence shall be subject to the approval of the Chief Commissioner and shall be enforceable as any order or adjudication of justices under this Act and every such superintendent or officer shall have the same power to summon and examine witnesses and administer oaths as a justice.

Superintendent or other officer may enquire into charge of insubordination &c.

26. Any member of the force not being a superior officer accused of any act of insubordination or act of misconduct against the discipline of the force or any superintendent or inspector accusing such member under this Act may require that every such case instead of being heard before any justice shall be heard by a board and thereupon a board appointed by the Governor in Council, consisting of three persons of whom only one may be a member of the force (not being the Chief Commissioner) and two at least shall be in the commission of the peace, may summarily hear and determine such cases and award and sentence such constable or other member to such fine or imprisonment as justices would for the like offence be authorized to award or sentence under the provisions hereof and every such sentence shall be subject to the approval

Members of force accused of misconduct may demand inquiry by a board

approval of the Governor in Council and when approved shall be final and shall be enforceable as any order or adjudication of justices under this Act and every such board shall have the same power to summon and examine witnesses and administer oaths as justices.

PART IV.—MISCELLANEOUS PROVISIONS.

Imprisonment may be substituted for pecuniary penalties.

Imprisonment in default of payment of penalties.

Members of police force subject to imprisonment may be imprisoned in any place specially appointed.

Appropriation of penalties.

27. Imprisonment with hard labor may in the discretion of the justices adjudicating be substituted in lieu of any pecuniary penalty for any of the offences mentioned in this Act provided that such imprisonment does not exceed fifteen days where such pecuniary penalty is not more than five pounds or two months where such penalty is more than five pounds and less than twenty pounds or four months where such penalty is more than twenty pounds. Whenever any penalty or forfeiture shall have been imposed by any justices under the provisions hereof and the person convicted shall not forthwith pay the same such justices may direct that such person be imprisoned in any gaol with or without hard labor as they shall think fit 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 and costs.

28. Any member of the force who shall be subject to punishment of imprisonment under this Act or for whom imprisonment shall have been substituted in lieu of a pecuniary penalty for any act of insubordination or misconduct against the discipline of the force shall be confined in any place especially appointed by the Governor in Council as a police prison instead of a common gaol or other place where he might be confined under this Act and may be kept to such labor therein as the Chief Commissioner may direct and no imprisonment or confinement of any member of the force under this Act shall be deemed to be part of any period for which he shall have engaged to serve in the force and the period of any such confinement shall in no case exceed the period of imprisonment to which such member may have been sentenced.

29. All fines imposed on any member of the force under this Act and all penalties or portions of penalties and damages awarded to any member of the force by any justice or justices on summary conviction as the prosecutor of any information or otherwise shall be paid to the Treasurer of Victoria 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 sergeants and constables appointed under this Act or to the widows of any such persons after their death at the recommendation of any court of petty sessions or of the Chief Commissioner of Police or any superintendent or inspector of police such rewards gratuities bounties pensions and other allowances as may be directed by any rules or

or regulations to be for that purpose from time to time established and promulgated by the Governor in Council and an account showing the receipts and distributions of such Police Reward Fund shall be published annually in the *Government Gazette*.

30. Any goods and chattels which have lawfully come to the possession of any member of the force and which are unclaimed shall and may be sold and disposed of by the direction of the Chief Commissioner of Police by public auction (a notice of such sale having been previously published thrice in the *Government Gazette*) and the clear produce of such sale shall be paid to and shall form part of the consolidated revenue and every such sale shall be valid against all persons and no person selling any goods or chattels under the provisions hereof 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 Commissioner.

31. In case any constable being a member of the force shall die intestate, the Chief Commissioner of Police or such other officer as the Governor in Council may appoint may cause the effects of the deceased to be disposed of by public auction in such manner as to the commissioner or other officer shall seem fit and the proceeds of such sale together with any balance of pay or other moneys due to the deceased or such constable shall be applied in the first instance to defray the funeral expenses and debts of the deceased and if after defraying such expenses and debts the sum remaining shall not exceed twenty-five pounds it may be handed over by the said commissioner or other officer to the widow or next of kin of the deceased resident in Victoria and the receipt of the person so entitled shall be sufficient discharge although no letters of administration shall have been taken out but if the widow or next of kin entitled as aforesaid be not resident in Victoria or if the sum so remaining shall exceed twenty-five pounds it shall be paid to the Curator of the Estates of deceased persons.

As to disposal of effects of constables dying intestate.

32. If any question shall arise as to the right of the Chief Commissioner of Police or other officer or member of the force to hold or execute his office common reputation shall to all intents and purposes be deemed sufficient 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.

Repute to be evidence of appointment.

33. When any action shall be brought against any member of the force for any act done in obedience to the warrant of any magistrate such member shall not be responsible for any irregularity in the issuing of such warrant or for want of jurisdiction in the magistrate issuing the same and such member 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 acts complained of were done in obedience to such warrant the jury who shall

For protection of constables..

shall try the said issue shall find a verdict for such member and such member shall recover his costs of suit.

No *certiorari* permitted.

34. All proceedings under this Act shall be had in a summary way and no complaint conviction order or other proceeding before or by any justices under this Act shall be quashed or set aside or be deemed void or insufficient for want of form only or be removed or removable by *certiorari* or other writ or process whatsoever into the Supreme Court.

SCHEDULE.

Date of Act.	Title of Act.	Extent of Repeal.
16 Victoria No. 24 ...	" <i>An Act for the Regulation of the Police Force.</i> "	So much as has not been already repealed.
17 Victoria No. 25 ...	" <i>An Act to amend an Act intituled 'An Act for the Regulation of the Police Force.'</i> "	The whole.

MELBOURNE:

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