

Constabulary Act 1846

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No. II.

An Ordinance to provide for the establishment and maintenance of a Constabulary Force.

Preamble.

For the purpose of providing for the establishment maintenance and discipline of an armed Constabulary Force:

Be it enacted by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

1 Power to Governor to embody an armed Police Force.

It shall be lawful for His Excellency the Governor to cause a sufficient number of fit and able men to be embodied to serve as an armed police force, who shall be sworn before a Justice of the Peace to act as constables in and throughout the Colony for preserving the peace, and preventing robberies and other felonies, and apprehending offenders against the peace.

2 And to appoint officers.

It shall also be lawful for His Excellency the Governor, by warrant under his hand, to appoint Commissioners and Inspectors of such Police Force, or such other officers as he may deem expedient for the general superintendence and management of the said force, and such Commissioners, Inspectors, and other officers from time to time to displace and remove, and to appoint others in their place, as to him shall seem meet.

3 And make regulations.

It shall also be lawful for His Excellency the Governor from time to time to make such regulation respecting the training arms and accoutrements clothing and equipment of such force and respecting all other matters connected therewith as may be required for promoting the discipline and efficiency thereof, and also to direct the employment and distribution of the said force as to him shall seem meet.

4 Duty of officers.

It shall be the duty of the Commissioners, Inspectors, and other officers of the said force to suppress all tumults riots affrays or breaches of the peace, and all public nuisances and offences against the law, in any part of the Colony where they may be on duty.

5 General powers &c. of constables.

The constables so sworn as aforesaid shall throughout the Colony have all such powers and privileges, and be liable to all such duties and responsibilities, as any constable may by law have or be liable to, and shall obey all lawful directions touching the execution of their office which they may from time to time receive from such Commissioner, Inspector, or other officer.

6 Special power of constables.

It shall be lawful for any such constable to apprehend all loose drunken idle disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of any evil designs.

7 Penalty for breach of regulations.

For the purpose of securing obedience to the regulations from time to time to be made for promoting the discipline and efficiency of the said force, it shall be lawful for the Commissioner or Inspector to stop from the pay of any constable offending against any such regulation any sum not exceeding twenty shillings in respect of every such offence, or to cause such constable to be taken before any such Commissioner or any two Justices of the Peace; and every such constable, upon conviction of any offence against the regulations so to be made as aforesaid, shall forfeit and pay any sum not exceeding twenty pounds nor less than five shillings, to be recovered in a summary way; and shall in addition to such fine or in default of payment thereof be liable to be imprisoned for not less than one week nor more than six calendar months in any gaol or place of confinement within the Colony.

8 Power to Commissioner or Inspector to dismiss constables.

It shall be lawful for the Commissioner or Inspector for the time being to suspend or dismiss from his employment any such constable whom he shall think remiss or negligent in the execution of his duty or otherwise unfit for the same; and when any such constable shall be so dismissed or shall otherwise cease to belong to said force, all powers and authorities vested in him by virtue of this Ordinance shall cease and determine.

9 Penalty for constables taking bribes &c.

If any such constable shall take a bribe or any gratuity whatever for suffering any person lawfully in his custody to escape, or shall wilfully neglect to execute any warrant intrusted to him, or to make any seizure, or who shall show favour to any person so in custody as aforesaid, every such constable shall forfeit and pay for every such offence any sum not exceeding twenty pounds, or be imprisoned and kept to hard labour for any period not exceeding six calendar months, as to the convicting Justice shall seem meet.

10 Penalty for desertion &c.

If any such constable shall during the period for which he shall have engaged to serve in the said force desert from the same or refuse to serve therein, every such offender shall forfeit and pay for every such offence any sum not exceeding twenty pounds, to be recovered in a summary way.

11 Disposal of fines penalties &c.

All fines or penalties which may be recovered by virtue of this Ordinance shall be given and paid one-third to the informer or prosecutor, if demanded, and the residue for the use of Her Majesty, her heirs and successors, for the public uses of the Colony and the support of the Government thereof: Provided always that when any constable belonging to the said force shall be entitled to the whole or a proportion of any forfeiture penalty or seizure under this or any other Ordinance in force for the time being, the amount or proceeds thereof shall go to a general fund to be distributed at the end of every year among the officers and men belonging to the said force in such proportions and according to such regulations as the Governor shall direct and determine; and in default of any such regulations and directions, the same shall be paid to the person entitled thereto immediately upon the recovery thereof.

12 Penalty for harbouring constables.

If any victualler or licensed publican or other person shall knowingly harbour or entertain any constable belonging to the said force, or permit such constable to abide or remain in his house shop room or other place during any part of the time appointed for his being on duty elsewhere or after the hours appointed for closing public houses by "The Licensing Ordinance," No. 12, Session II., unless such constable shall have entered therein for the *bonâ fide* execution of his duty and shall remain there so long only as shall be requisite in that behalf, every such victualler publican or other person shall for every such offence forfeit and pay any sum not exceeding five pounds, to be recovered in a summary way.

13 Rewards for services &c.

It shall be lawful for His Excellency the Governor to award to any of the constables belonging to the said force such sum of money as to him shall seem meet as a reward for extraordinary diligence or exertion, or as a compensation for wounds or severe injuries received in the performance of their duty, or as an allowance to such of them as shall be disabled by bodily injury received or shall be worn out by length of service.

14 Protection to constables &c. acting under this Ordinance.

For the protection of persons acting in the execution of this Ordinance, all actions and prosecutions to be commenced against any person for anything done in pursuance of this Ordinance shall be commenced within four calendar months after the fact committed and not otherwise, and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the

defendant, together with the costs incurred up to that time; and if a verdict shall be given for the defendant, or the plaintiff he nonsuited, or discontinue any such action after issue joined, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the trial shall he shall certify his approbation of the action and of the verdict obtained thereupon.

15 Interpretation.

For the purposes of this Ordinance, the word “Governor” shall be taken to include the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being.