

Armed Constabulary Act 1867

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An Act to provide for the Establishment and Maintenance of an Armed Constabulary.

Preamble.

Whereas it is expedient to provide for the establishment maintenance and discipline of an Armed Constabulary

Be it therefore enacted by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

1 Short Title.

The Short Title of this Act shall be "The Armed Constabulary Act 1867."

2 Constabulary Force Ordinance not to apply to persons enrolled under this Act.

The Ordinance intituled "An Ordinance to provide for the establishment and maintenance of a Constabulary Force" passed in the seventh session of the

Governor and late Legislative Council of New Zealand shall not be deemed to apply to persons enrolled under the provisions of this Act.

3 Repeal clause.

On the coming into operation of this Act “The Colonial Defence Force Act 1862” and “The Colonial Defence Force Act Amendment Act 1863” shall be repealed.

4 Governor may enrol persons to serve as an Armed Constabulary Force.

It shall be lawful for the Governor to cause a sufficient number of fit and able men whether Europeans or of the Native race to be embodied from time to time to serve as an Armed Constabulary Force who shall be sworn before a Justice of the Peace or such other persons as the Governor may appoint to act as constables in and throughout the Colony for putting down rebellion quelling disturbances preserving the peace preventing robberies and other felonies and apprehending offenders against the peace.

5 Designation.

The designation thereof shall be “The New Zealand Armed Constabulary” hereinafter called the “Armed Constabulary.”

6 Interpretation.

In the interpretation of this Act and of any regulation made under its authority the term “Armed Constabulary” shall include all commissioned officers and constables appointed or enrolled under this Act The term “officer” shall mean any commissioned officer appointed under this Act The term “constable” shall mean any other person enrolled under this Act in the Armed Constabulary.

7 The Governor may disband the whole or any part of the Armed Constabulary.

It shall be lawful for the Governor at any time and from time to time to disband the whole or any portion of the Armed Constabulary raised under authority of this Act.

8 The Governor may appoint officers.

The Governor may in the name and on behalf of Her Majesty from time to time appoint commandants inspectors sub-inspectors or such other officers as he may deem expedient for the general superintendence of the said Armed Constabulary and may displace and remove such commandants inspectors sub-inspectors and other officers and appoint others in their place as to him shall seem meet and may make such of the said appointments as he shall think fit by commission under the Public Seal of the Colony.

9 Relative rank.

Commissioned officers of the Armed Constabulary shall rank with officers of Militia and Volunteers according to the dates of their respective commissions in the following manner—

A Commandant shall rank with a Lieutenant-Colonel

An Inspector as a Major

A Sub-Inspector as a Captain

and shall at all times and places when serving with the Militia and Volunteers take rank and shall command as though they held commissions in the Militia or Volunteers of their respective relative rank Provided always that officers of the Militia and Volunteers when serving with the Armed Constabulary shall in like manner take rank and command as though they held commissions in the Armed Constabulary.

10 “The Military Pensions Act 1866” to apply to Armed Constabulary.

All the provisions of “The Military Pensions Act 1866” shall apply to the Armed Constabulary.

11 All persons to be enrolled voluntarily and only for three years.

No person shall be enrolled in the Armed Constabulary except voluntarily nor for a longer period than three years.

12 Oath of office.

Every officer shall on his appointment to and every other person shall on his enrolment in the said Armed Constabulary take the following oath before a Justice of the Peace or such other person as the Governor may appoint to administer such oath—“I A.B. do swear that I will well and truly serve our Sovereign Lady the Queen in the Armed Constabulary without favour or affection malice or ill-will for the period of three years from this date and until I am legally discharged that I will see and cause Her Majesty’s peace to be kept and preserved 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 according to law So help me God” and the said oath shall be administered by any Justice or such other person as the Governor may appoint who before administering the same 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 oaths so taken and subscribed by all persons appointed to any office under this Act shall be forthwith transmitted to the officer commanding the Armed Constabulary by the Justice or such other person as aforesaid before whom the same shall be taken.

13 All persons taking the oath shall be deemed to have entered into Written agreement.

Every person taking and subscribing such oath as aforesaid shall be deemed and taken to have thereby entered into a written agreement and shall be thereby bound to serve Her Majesty in New Zealand as a member of the Armed Constabulary until legally discharged from the day on which such oath shall have been taken and subscribed no such agreement shall be annulled cancelled or set aside 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 Governor or commandant as herein provided.

14 No person shall resign or withdraw from duty without being duly authorized to do so.

No member of the Armed Constabulary 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 commandant or the officer under whom he may be placed and if any member shall so resign or withdraw himself without any previous permission he shall upon conviction in a summary way before one or more Justices of the Peace forfeit a sum not less than five and not exceeding forty pounds or in default of payment thereof or in addition thereto shall be liable to imprisonment for any period not exceeding six months Provided always that no member of the Armed Constabulary shall be compelled to serve for a longer time than two months after the period of his engagement shall have expired.

15 Commandants and inspectors to be *ex officio* Justices of the Peace.

Every commandant and inspector after having taken the above recited oath shall thereupon be and become without further qualification or appointment and continue so long as he shall hold the said office but no longer a Justice of the Peace for the Colony.

16 The Governor may appoint paymasters who must give security.

The Governor may by warrant under his hand nominate and appoint one or more of the inspectors or some other fit and proper person or persons to the office of paymaster and every paymaster shall before entering upon the duties of his office give security to Her Majesty in such manner and for such amount as the Colonial Treasurer shall direct such security to be conditional for the faithful accounting and due application of all public moneys which shall come to his hands and for the due and faithful execution of all other duties of his office.

17 The Governor may make and alter regulations.

The Governor may from time to time make and alter regulations respecting the enrolment discipline training arms accoutrements clothing equipment conveyance pay rations and lodgings of and apportionment of rewards amongst and for the duties to be performed by the Armed Constabulary and generally for the effectual carrying out of this Act and all such regulations shall have the same force and effect as though they formed a part of this Act and shall affect and govern all persons whom they may purport to affect and govern whether in the Armed Constabulary or not Provided always that the regulations so to be made shall not be in any way repugnant to the provisions of this Act and that should any reduction be made by the Governor in the rates of pay of the Armed Constabulary any members thereof affected thereby shall thereupon have the right of claiming their discharge.

18 The Armed Constabulary are to suppress tumults riots &c.

It shall be the duty of the Armed Constabulary 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.

19 Privileges and duties of constables.

The constables so sworn as aforesaid shall subject to the provisions of this Act and to any regulations made hereunder have throughout the Colony 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 commandant inspector or other officer.

20 A commandant or inspector may inflict a fine not exceeding £1 or any commissioned officer may place any constable under arrest to be tried by a Board who may inflict fine or imprisonment.

For the purpose of promoting proper discipline in the Armed Constabulary and of securing obedience to the regulations from time to time to be made it shall be lawful for a commandant or inspector (appointed under this Act) to stop from the pay of any constable offending against any such regulations any sum not exceeding one pound in respect of every such offence or a commandant inspector or sub-inspector (appointed under this Act) may direct any constable to be placed under arrest for the purpose of being tried by a Resident Magistrate or two Justices of the Peace one of such justices not being in the Armed Constabulary or by a Board of officers as hereinafter constituted and every such constable upon conviction by such Resident Magistrate Justices of the Peace or Board of officers of any offence against the regulations so to be made as aforesaid or for desertion during the period for which he shall have engaged to serve or for refusing to serve or for taking a bribe or any gratuity whatever for suffering any person lawfully in his custody to escape

or for wilfully neglecting to execute any order given to him by his superior officer may be reduced to a lower grade and shall forfeit and pay any sum not exceeding twenty pounds nor less than five shillings 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 Provided always that the keeper of any gaol or place of confinement or his deputy shall on production of a warrant signed by the President of the said Board of officers receive such constable and keep him in safe custody in all respects as if he were committed by warrant of Justices of the Peace And subject to the provisions of this Act every conviction order or judgment of such Board shall be carried out and enforced in the same manner as a conviction order or judgment made by Justices of the Peace may be carried out and enforced according to the law for the time being in force relating to summary convictions and orders by justices.

21 Constitution of Board how when and where the members are to be summoned and form of summons.

It shall be lawful for any commandant or inspector (appointed under this Act) to summon in manner hereinafter contained any commissioned officer of the Armed Constabulary or of the Militia or of the Volunteers to form a Board which shall consist of not less than three commissioned officers of whom the senior officer present shall be the President thereof to examine into the truth of any charges or complaint preferred against any officer or constable of the Armed Constabulary And if any officer of the Armed Constabulary or Militia or Volunteers so summoned as aforesaid shall refuse or neglect to attend at such time and place as may be named in such summons for the meeting of the Board he shall render himself liable to have his commission cancelled Provided always that no officer may be summoned to attend as a member of any Board when the place of meeting is distant more than two miles from his usual place of residence and that every summons must be delivered personally to the officer summoned at least twenty-four hours before the time appointed for the meeting of the Board And provided further that every member of any Board appointed under this Act to inquire into the conduct of an officer of the Armed Constabulary shall be of equal or superior rank to the officer whose conduct is so to be inquired into.

Form of Summons.

I A. B. (commandant or inspector of the Armed Constabulary) do hereby summon you in terms of the twenty-first section of "The Armed Constabulary Act 1867" to attend at at the hour of eleven o'clock in the forenoon to examine into the truth of certain charges to be preferred against of the Armed Constabulary.

(Signed)

22 Boards to take evidence on oath.

All Boards of officers as hereinbefore constituted shall have power and authority and are hereby required to administer an oath to every witness or other person who shall be examined before such Board in any matter relating to any proceeding before the same and every witness who may be required to give or produce evidence before such Board shall be summoned by the convener thereof and all witnesses or other persons so duly summoned who shall not attend such Board or attending shall refuse to be sworn or shall not produce the documents being under their power and control required to be produced by them or being sworn shall refuse to give evidence, or to answer all such questions as the Board may legally demand of them shall be liable to the same pains and penalties as if such witness or other person had after being duly summoned or subpoenaed neglected to attend on a trial in any proceeding before a Resident Magistrate or Justices of the Peace And any person who shall give false evidence or take a false oath and be thereof duly convicted shall be deemed guilty of wilful and corrupt perjury and shall be liable to such pains and penalties as persons convicted of wilful and corrupt perjury are or may be subject or liable to.

23 Boards convened to hear charges against commissioned officers to take evidence and report only.

In cases where charges or complaints are preferred against any commissioned officer of the Armed Constabulary such commissioned officer may be placed under arrest by the senior officer present and such charges or complaints shall with all convenient speed be heard before a Board of officers convened and constituted as provided in the twenty-first section of this Act but the duties of such Board shall be confined to taking evidence upon oath and reporting upon such evidence such report and evidence shall forthwith be forwarded by the President of the Board to the Senior Commandant of the Armed Constabulary who shall submit the same with his recommendation for the decision of the Governor.

24 Remuneration to officers comprising Boards and to witnesses.

All officers comprising a Board as hereinbefore constituted shall if they are not at the time being in receipt of consecutive pay from the Colonial Government be entitled to a remuneration of one guinea for each day or part of day during which they shall respectively sit as members of such Board and all witnesses duly summoned by the President of a Board of Officers shall be entitled to the same fees and privileges as if such witnesses had been duly summoned or subpoenaed to attend on a trial in any proceeding before the Supreme Court of New Zealand.

25 A commandant may suspend or dismiss a constable. Constable when dismissed must give up arms. Penalty on default.

A commandant may suspend or dismiss from the Armed Constabulary any constable whom he may consider remiss or negligent in the execution of his duty and when any such constable shall be so dismissed or shall otherwise cease to belong to the Armed Constabulary all powers and authorities vested in him by virtue of this Act shall cease and determine And if any constable shall not within one week after he shall be dismissed from or shall cease to hold and exercise 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 his commanding officer or to such person and at such time and place as shall be directed by the said commanding officer every person making default herein shall upon conviction for such offence before one or more Justice or Justices of the Peace upon oath of one or more credible witness or witnesses or upon his own confession be subject and liable to imprisonment in any gaol or place of confinement within the Colony for any period not exceeding two calendar months and it shall be lawful for the Justice or Justices of the Peace to issue his or 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.

26 No member of the Armed Constabulary shall vote for or take any part (except in his official capacity) in the election of members of General Assembly or of any Provincial or Municipal Council.

It shall not be lawful for any commandant inspector sub-inspector or other officer or for any constable during the time he shall continue in the Armed Constabulary to vote for the election of a member of the General Assembly or of any Provincial Council nor shall by word message writing or in any other manner endeavour 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 the General Assembly or in any Provincial Council And if any inspector sub-inspector or other officer or any constable shall offend therein he shall forfeit and pay the sum of fifty pounds to be recovered by any person who will sue for the same by action of debt to be commenced within six calendar months after the commission of the offence Provided always that nothing in this enactment contained shall subject any such commandant inspector sub-inspector or other officer or any constable to any penalties for any act done by him at or concerning any of the said elections in the discharge of his official duty.

27 Fines and penalties to go to “Armed Constabulary Reward Fund.”

All fines or penalties which may be recovered under this Act shall be paid into the Colonial Treasury to be placed to the credit of an account to be called

the "Armed Constabulary Reward Fund" which shall be appropriated for the benefit of the Armed Constabulary in such manner and at such times as the Governor shall direct and determine Provided always that all rewards given for special services shall be paid at once to the persons entitled to receive the same.

28 The intestate estate of any constable being under £50 may be administered by a commandant or such other person as the Governor may appoint.

In case any constable of the Armed Constabulary shall die intestate the commandant or such other officer as the Governor may appoint may cause the effects of the deceased to be disposed of by public auction in such manner as to the commandant 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 fifty pounds it may be handed over by the said commandant or other officer as aforesaid to the widow or next of kin of the deceased 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 sum so remaining shall exceed fifty pounds it shall be paid to the curator of the estates of deceased persons.

29 Penalty for selling of arms &c.

If any constable of the Armed Constabulary shall sell or pawn any of his arms clothes accoutrements or ammunition or if any person shall knowingly and wilfully buy take in exchange conceal or otherwise receive any arms clothes accoutrements or ammunition whatever belonging to the Armed Constabulary every such offender shall forfeit and pay for every such offence any sum not exceeding twenty pounds to be recovered in a summary way before any Justice of the Peace in addition to the value of such arms or other things so sold or otherwise dealt with as aforesaid.

30 Exemption from serving on juries or in the Militia.

Every commandant inspector sub-inspector or other officer and every constable shall while serving in the Armed Constabulary be exempt from serving on juries or in the Militia within the Colony.

31 Arms exempt from seizure.

The arms and accoutrements of every officer of the Armed Constabulary and of every constable of the Armed Constabulary and the horses used by any of the same while in discharge of their duties as members of the Armed Constabulary shall be exempt from seizure in execution and from distress.

32 Exemption from tolls &c.

All commandants inspectors sub-inspectors or other officers of the Armed Constabulary and all constables of the Armed Constabulary 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 duty or toll leviable at any pier wharf quay landing-place or bridge ferry or at any turnpike-gate or bar or at any other gate or bar on a public road and every toll collector or other person 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 "Armed Constabulary Reward Fund" provided in this Act.

33 Limitation of actions and costs of same.

For the protection of persons acting in the execution of this Act all actions and prosecutions to be commenced against any person for anything done in pursuance of this Act 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 be nonsuited or discontinued 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 solicitor 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.

34 When Act to come into operation.

This Act shall come into operation on and after a day to be fixed by the Governor by proclamation in the *New Zealand Gazette*.