

POLICE ORDINANCE, 1868.

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No. 7.—1868.

7th April.

AN ORDINANCE for the better Organisation and Discipline of the Police Force.

(L.S.) ARTHUR GORDON.

BE it enacted by His Excellency the Governor, with the advice and consent of the Legislative Council, as follows:—

Interpretation
of terms.

1. The following words and expressions in this Ordinance shall have the meaning hereby assigned to them unless there be something in the subject or context repugnant to such construction; that is to say:—

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number;

Words importing the masculine gender shall include females;

The words "Justice" and "Justice or Justices" shall mean any Stipendiary or other Justice and Justices of the Peace having jurisdiction;

The word "Vessel" shall include all schooners, droghers, flats, rafts, punts, scows, boats, canoes, corials, or other craft;

The word "Month" shall mean calendar month;

The word "Prison" shall include the royal gaol or any lock-up house, police-cell, or other duly authorised place of detention;

The word "Keeper" shall mean the keeper or other officer having the charge of any such prison,

And the word "Oath" shall include affirmation in the case of quakers and any solemn affirmation which by law may be made instead of an oath.

2. The police force of the colony shall consist of an Inspector Commandant, and such other officers, non-commissioned officers and constables as the Governor may appoint, not exceeding such number as the Legislative Council may by resolution from time to time determine. Constitution of police force.

3. The Inspector Commandant, so long as he shall hold such office, but no longer, shall be without further qualification or appointment, a Justice of the Peace for the whole Island. Inspector Commandant to be Justice of the Peace.

4. Every officer and non-commissioned officer of police shall in all instances have the same power and authority and the same protection and immunity as any police constable, except where herein otherwise provided. Authority of officers.

5. It shall be lawful for the governor from time to time to issue for the use of the police, arms, uniforms, accoutrements and ammunition. Issue of arms, &c.

6. It shall be lawful for the Governor, with the consent of the Legislative Council, from time to time to regulate the pay of the several officers, non-commissioned officers and constables, and in case of the imposition on any of them of any fine or penalty, it shall be lawful to retain the amount thereof out of his pay by the deduction of not more than half the amount which may be due to him on any day of payment until the whole be paid. Regulation of pay and stoppages.

7. It shall be lawful for the Governor from time to time to grant rewards or gratuities to such non-commissioned officers and constables as he may think deserving of such reward or gratuity; and the sums so granted to such non-commissioned officers and constables shall be paid from and out of the general revenues of the Colony upon the warrant of the Governor. Rewards.

8. There shall be deducted from the pay of every non-commissioned officer and constable a sum after such yearly rate as the Governor shall from time to time direct, not being a greater rate than two pounds ten shillings in a hundred pounds, and all sums so deducted, and the moneys now standing in the books of the Colonial Treasury to the credit of the account entitled "The Police Reward Fund," and all fines and Deduction from pay for Superannuation Fund, and investment thereof.

forfeitures imposed upon and deducted from the pay of any non-commissioned officer or constable shall from time to time be invested at interest, and the interest thereof, or so much of the same as shall not be required for the purposes hereinafter mentioned, shall be likewise invested at interest on such real securities and on such terms as the Governor may from time to time direct, to accumulate and form a fund to be called "The Police Superannuation Fund," and all such securities shall be taken to and in the names of the Colonial Secretary and the Receiver General for the time being, and in the event of the death, retirement or removal of any such Colonial Secretary or Receiver General all such securities and the right to recover all moneys and interest thereby secured shall from time to time vest in the Colonial Secretary and Receiver General for the time being, and the said Police Superannuation Fund shall be applied from time to time for payment of such superannuation or retiring allowances as may be ordered by the Governor at any time to any of the said non-commissioned officers and constables as hereinafter provided.

Conditions upon which superannuation is to be granted.

9. It shall be lawful for the Governor to order that any of the said non-commissioned officers and constables may be superannuated and may receive thereupon out of the Police Superannuation Fund a yearly allowance subject to the following conditions, and not exceeding the following proportions, that is to say: if he shall have served with diligence and fidelity for fifteen years and less than twenty years, an annual sum not exceeding one half of his pay, and after twenty years service an annual sum not exceeding two-thirds of his pay; provided that if he shall be under fifty-five years of age, it shall not be lawful to grant any such allowance unless upon the certificate of the Inspector Commandant that he is incapable from infirmity of mind or body to discharge the duties of his office; provided also that if any non-commissioned officer or constable 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 any allowance not more than the whole of his pay; but nothing herein contained shall be construed to entitle any non-commissioned officer or

constable absolutely to any superannuation allowance or to prevent him from being dismissed without superannuation allowance.

10. It shall be lawful for the Governor from time to time, as he shall see fit, to make, alter, and amend orders and regulations for the discipline and government of the police force, and for the ordering and management of cells or lock-up rooms at police stations.

Rules to be made for police force.

11. It shall be lawful for any commissioned officer of police to suspend from employment any non-commissioned officer or constable. The Inspector Commandant shall as soon as may be thereafter report such suspension, and the cause thereof, to the Governor, who may thereupon, if he shall see fit, order such non-commissioned officer or constable to be dismissed; and every non-commissioned officer or constable so dismissed shall forfeit all pay then due to him, or such part thereof as the Governor may direct.

Constables, &c., may be suspended by officer.

12. Any non-commissioned officer or constable who shall not forthwith, after he shall have been dismissed from, or ceased to hold his office, deliver all arms, accoutrements, ammunition, horses, and appointments whatsoever which may have been supplied to him, or may be in his possession at the time of his dismissal or resignation, to such person and at such time and place as shall be directed by the Inspector Commandant or other officer under whom he may be placed, shall be imprisoned with or without hard labour for any term not exceeding three months, and any Justice of the Peace may thereupon issue his warrant to search for and seize to the use of her Majesty all such arms, accoutrements, ammunition, horses, and appointments whatsoever which shall not have been so delivered up, wherever the same may be found.

Constables, &c., on dismissal to deliver up arms, &c.

13. Any non-commissioned officer or constable who, unless expressly authorised so to do by writing under the hand of the Colonial Secretary or the Inspector Commandant, shall resign his office or withdraw himself from the duties thereof without three months' notice previously given to the Inspector Commandant; or who, having given such notice, shall so withdraw him-

Constables, &c., must give notice of withdrawal from the force.

self before the expiration of three months from the day of giving such notice, shall be imprisoned with or without hard labour for any term not exceeding three months, or forfeit a sum not exceeding twenty pounds, nor less than ten pounds, and in default of immediate payment shall be imprisoned with or without hard labour for any term not exceeding three months.

Court of
Inquiry may
be appointed.

14. It shall be lawful for the Governor from time to time by warrant under his hand to nominate such number of officers of police and others, as he may see fit, not exceeding five nor less than three, according to the gravity of the charge, to form a court to inquire into the truth of any charges brought against any member of the police force by his commanding officer.

Powers of
such Court.

15. Such Court may summon before it any person to give evidence on such inquiry, and may examine him upon oath, and any person who being duly summoned shall not appear at the time and place specified in such summons, not having any sufficient excuse for his absence to be allowed by such Court, or who appearing shall not submit to be examined as a witness, or shall refuse to answer any question, or to produce any document or chattel in his possession or under his control, when lawfully required to do so, shall forfeit any sum not exceeding five pounds, and in default of immediate payment shall be imprisoned for any term not exceeding thirty days.

President for
trial of
officers.

16. When any such Court shall try any commissioned officer of police, some person specially appointed by the Governor shall preside at the inquiry.

Sentence to be
confirmed.

17. No sentence of such Court shall be put in execution till confirmed by the Governor.

Court may
order
stoppage of
pay and re-
duction of
rank.

18. In addition to any other punishment which such Court may award, such Court may further sentence any offender to be put under stoppages of pay until he shall have made good any loss or damage or injury to any property whatsoever occasioned by his misconduct or neglect, or any expense incurred by reason thereof; and any non-commissioned officer may be reduced to the rank of constable by the sentence of such Court, or by order of the Governor.

19. Every officer, non-commissioned officer, or constable who shall disobey the lawful command of his superior officer shall, on conviction before such Court, if an officer be dismissed the force, and if a non-commissioned officer or constable, be imprisoned for not more than one month, nor less than two days. Disobedience of orders.

20. Any non-commissioned officer or constable, who without leave from his superior officer, shall absent himself from duty shall, on conviction before such Court, be punished by imprisonment or forfeiture of pay, or both, according to the degree of his offence as the Court shall determine; but if such absence shall not exceed three days, such non-commissioned officer or constable may be imprisoned by order in writing under the hand of the Inspector-Commandant in any cell or lock-up house at any police station for any term not exceeding twenty-four hours, and shall forfeit all pay for the time of such absence. Provided always, that any non-commissioned officer or constable so ordered by the Inspector Commandant to be imprisoned shall, if he so request, have a right to be tried by a Court as hereinbefore provided. Absence without leave.

21. Any officer, non-commissioned officer or constable, who being under arrest or in prison, shall leave or escape from confinement before he is set at liberty, or who shall fail to appear at any place of parade or rendezvous appointed by his superior officer, or shall go from thence without leave before he shall be relieved; or shall not within twenty-four hours after the commitment of any prisoner to his charge report the same; or shall without proper authority release any prisoner committed to his charge, or shall wilfully or negligently suffer him to escape; shall, on conviction before such Court, if an officer be dismissed the force, and if a non-commissioned officer be reduced to the rank of a constable, and if a constable, be imprisoned for one month, or dismissed the force. Breaking arrest or suffering prisoner to escape, or not duly reporting commitment.

22. Any non-commissioned officer or constable who shall be drunk when on any duty or parade, may in addition to any other punishment, be deprived of his pay for any period not exceeding thirty days. Drunkenness

23. Any non-commissioned officer or constable who Habitual Drunkenness.

shall have been drunk four times within twelve months, or twice when on duty, may be charged with habitual drunkenness, and shall on conviction before such Court be imprisoned for thirty days and dismissed the force.

Malingering,
&c.

24. Any non-commissioned officer or constable who shall malingering, feign, or wilfully produce in himself any disease or infirmity, shall, on conviction before such Court, be imprisoned with hard labour for thirty days.

Officer
ill-treating
constable.

25. Any officer or non-commissioned officer who shall strike or otherwise ill-treat any constable shall, on conviction before such Court, be dismissed the force, and such dismissal shall not operate as a bar or release from any proceedings, civil or criminal, for the same cause which the said constable shall or may have.

Offences
against
discipline.

26. All acts, omissions or neglects of any officer, non-commissioned officer or constable, which may be to the prejudice of good order and discipline may be heard and tried by such Court, and where no punishment is expressly provided by this Ordinance, the offender shall suffer such punishment by fine or imprisonment as the Court may award; such fine not to exceed the sum of ten pounds and such imprisonment not to exceed three months.

* * * * *

Section 27 is repealed by Ordinance 16 of 1880.

Appointment
of special
constables.

28. In all cases where it shall appear to any Justice of the Peace, or to any warden of any ward that any tumult, riot or felony has taken place, or may be reasonably apprehended within his district or ward, such Justice of the Peace or warden is hereby authorised to appoint by precept under his hand so many as he shall think fit of the householders or other persons, under sixty years of age, residing in such district or ward, to act as special constables for the preservation of the public peace, and the protection of property; and notice of such appointment and of the circumstances which have rendered such appointment expedient, shall be forthwith transmitted by such Justice or warden to the Colonial Secretary and to the Chief Officer of Police in that division of the Island.

29. Every assistant or special constable appointed under this Ordinance shall, within the district for which he is appointed, have all the powers and immunities, and be liable to all the duties and responsibilities of any constable appointed under this Ordinance.

Powers and duties of assistant and special constables.

30. Any person appointed a special constable who, being called upon to serve, shall neglect or refuse to do so, or to obey such lawful orders and directions as may be given to him, shall, on conviction thereof forfeit any sum not exceeding five pounds, unless such person shall prove to the satisfaction of such Justice that he was prevented by sickness or other sufficient cause.

Special constable refusing to act.

31. Every special constable shall, when called upon to do so, deliver over to such person and at such time and place as may be directed by any Stipendiary Justice of the Peace acting for the district or by the warden of the ward within which such special constable may have been appointed every staff, weapon, and other article which shall have been provided for such special constable; and any such special constable omitting or refusing so to do shall, on conviction thereof, forfeit any sum not exceeding five pounds.

Special constable to deliver up weapons, &c.

32. The warden of any ward within which any special or assistant constable shall have served may from time to time order the payment to such special or assistant constable of such reasonable sum for his services and expenses as to such warden shall seem proper; and such warden may also order the payment of such expenses as may be incurred in providing necessary articles for such special or assistant constables: And such sums shall be paid by the Receiver General from the funds of such ward to the person entitled to receive the same.

Payment of assistant and special constables.

33. Any person who shall assault or resist or aid or incite any other person to assault or resist any officer, non-commissioned officer or constable, or assistant or special constable in the execution of his duty, or any person aiding or assisting such officer, non-commissioned officer or constable or assistant or special constable in the execution of such duty, shall be imprisoned with hard labour for any term not exceeding three months.

Assaulting and resisting constables.

34. Any person who not being a member of the

Possession of

police arms,
&c., by per-
sons not
belonging to
the force.

police force shall have in his possession any arms, ammunition, accoutrements or appointments belonging to Her Majesty the Queen or to any member of the police force and shall not satisfactorily account for his possession thereof, or shall assume the dress, name or designation of an officer, non-commissioned officer, or constable of police for the purpose thereby of obtaining admission into any house or place, or of doing or procuring to be done any act which such person would not by law be entitled to do or procure to be done of his own authority shall, in addition to any other punishment to which he may be liable for any such offence, forfeit any sum not exceeding ten pounds, and in default of payment shall be imprisoned with or without hard labour for any term not exceeding three months.

Using false
certificate of
character for
admission into
police force.

35. Any person who shall knowingly use or attempt to pass off any forged or false certificate or character for the purpose of obtaining admission into the police force shall upon conviction be imprisoned with or without hard labour for any term not exceeding three months.

Exemption
from service
on juries.

36. Every officer, non-commissioned officer or constable of the police force shall be exempted from serving as a juror in any Court of Criminal or Civil Jurisdiction.

Constables
not to be
arrested for
debt.

37. No officer of police not being a commissioned officer or an assistant or special constable shall be liable to be taken out of the service of the police force by any writ, order, judgment, execution, or any process whatever issued by authority of any Court of Law, or any other authority whatsoever, for any original debt not amounting to thirty pounds, or for the breach of any engagement whether by parol or in writing where such debt shall have been contracted or such engagement entered into during any portion of the time of such service; and any Judge or Stipendiary Justice may examine into any complaint made by any constable or non-commissioned officer or commissioned officer, and by warrant under his hand discharge such non-commissioned officer or police constable without fee, he being shewn to have been arrested contrary to the intent of this Ordinance.

Custody and

38. In some part of every police station or adjacent

thereto there shall be some secure place for the temporary confinement of offenders, and at least one police constable shall always be in attendance at every such police station; and where any person shall be given into the custody of any police constable during his attendance at such police station, and from the lateness of the hour or other circumstances it shall be impossible at once to bring him before a Justice of the Peace, it shall be lawful for such constable to cause such person to be safely secured until he can be brought before some Justice of the Peace or until the next day of sitting of the Stipendiary Justice of the district of the police station where such offender is brought; and if any person charged with any offence punishable on summary conviction shall be brought before the constable without the warrant of any Justice of the Peace, such constable may take bail by recognizance conditioned that such person shall appear for examination at such police office, at a day and hour to be named therein, which shall be the earliest day at which it may be possible to bring such offender before a Justice of the Peace, and such constable shall enter in a book to be kept for that purpose the names, residence and occupation of the party and his surety or sureties (if any) entering into such recognizance together with the condition thereof and the sums respectively acknowledged, and if the party does not appear at the place and time mentioned in such recognizance, any Justice of the Peace then and there present may by indorsement on such recognizance declare the same to be forfeited and may issue his warrant for the imprisonment of the defendant and his surety or sureties for any term not exceeding six months, unless the amount mentioned in such recognizance be sooner paid.

39. The Inspector Commandant or any other officer of police subject to the approbation of the Governor shall from time to time direct such non-commissioned officer or constable as he shall appoint to attend on the Stipendiary Justice of the Peace for any district, and such non-commissioned officers or constables shall obey all commands of such Justice.

40. When any warrant or order of any Justice of the Peace shall be delivered to any constable, he shall,

bail of
prisoners at
police stations

Constables to
attend on
Stipendiary
Justice.

Warrants to
be executed.

if the time will permit, deliver the same to the officer or non-commissioned officer under whose immediate command such constable shall then be, and such officer or non-commissioned officer shall direct one or more of the constables under his orders, and such assistant or assistants as he shall think proper to execute such warrant, or order, and every such warrant or order may be executed by any police constable.

Police boats to be maintained.

41. There shall be provided and kept at the public expense one or more boats with necessary oars, tackle and appendages to be termed police boats, and such boats shall be stationed in such places and placed under the charge of such persons as the Governor may from time to time appoint.

Powers of officers of police boats.

42. It shall be lawful for any officer or non-commissioned officer in command of any such police boat to enter with one or more of the men employed in such boat on board any vessel in any bay, roadstead or river and to remain on board any such vessel such reasonable time as he may deem expedient, and if he shall have reasonable ground to suspect that there is on board of any such vessel any property stolen or unlawfully obtained, it shall be lawful for him to search, with any assistance, any and every part of such vessel, and, after demand and refusal of the keys, to break open any receptacle, and upon discovery of any property which he may reasonably suspect to have been stolen or unlawfully obtained to take such property and the person in whose possession the same shall be found before any Justice of the Peace, to be dealt with according to law: And it shall be lawful for any such officer or non-commissioned officer to pursue and detain any person who shall be in the act of conveying any such property away from any such vessel or after such person shall have landed, together with the property so conveyed away or found in his possession.

Protection of Constables acting under warrant.

43. When any action shall be brought against any constable for any act done in obedience to the warrant of any Justice of the Peace, such constable shall not be responsible for any irregularity in the issuing of such warrant or for any want of jurisdiction in the Justice issuing the same, and such constable 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 Justice whose name shall appear subscribed thereto, and that the act or acts complained of were in obedience to such warrant, the jury who shall try the said issue shall find a verdict for such constable, and such constable shall recover his costs of suit as between solicitor and client.

44. If any question shall arise as to the right of any officer, non-commissioned officer, constable, or assistant constable to hold or exercise such office, common reputation shall be deemed sufficient evidence of such right. Evidence of right of constable.

45. All persons punishable by fine or imprisonment under this Ordinance (except in the cases for which a different procedure is provided) may be proceeded against before any Justice of the Peace. Procedure.

46. Every police constable shall have the same protections and indemnities as any constable duly appointed has by the law of England. Powers of constables.

47. In every case in which any non-commissioned officer or constable shall be adjudged to suffer imprisonment, such non-commissioned officer or constable shall forfeit all pay accruing to him during such imprisonment. Constable to forfeit pay during imprisonment.

Passed in Council this seventh day of April in the year of our Lord one thousand eight hundred and sixty eight.

R. LECHMERE GUPPY,

Clerk of the Council.

No. 18.—1868.

11th August.

(L. S.) C. H. KORTRIGHT.

11th August, 1868.

AN ORDINANCE for ascertaining the times when Ordinances shall commence.

WHEREAS it is expedient to make provision for the better ascertaining the times when Ordinances