

Bill No. 72 of 1953

A BILL RESPECTING THE POLICING OF THE
PROVINCE OF ALBERTA

NOTE

This Bill enacts a new Act which repeals and replaces *The Alberta Police Act*, being chapter 109 of the Revised Statutes of Alberta, 1942, and *The Constables Act*, being chapter 114 of the Revised Statutes of Alberta, 1942, and which will be known as "*The Police Act*".

The Act is divided into three Parts. Part I deals with the Provincial Police force which may be established by the Lieutenant Governor in Council. Its provisions are similar to the provisions now found in *The Alberta Police Act* but not now in force (until such time as they may be proclaimed) by reason of the subsisting agreement for the policing of the Province by the Royal Canadian Mounted Police first made with the Government of Canada in 1932. If this agreement should terminate, the provisions of Part I could be applied.

Part II deals with the municipal police forces and its provisions are generally similar to the provisions relating to such police found in the former *The Alberta Police Act*. Substantive additions have been made in this Part, however, in respect of police bargaining and arbitration proceedings. Section 24 provides that members of municipal police forces shall not be associated with trade unions. They may associate with police organizations and associations. Full-time members of a police force are permitted to bargain collectively with the council or Board of Police Commissioners employing them, and if unable to arrive at settlement thereby, they may take the question to an arbitration board of three members. The arbitration board is appointed by the police members and the employing body; the third member is appointed by the first two appointed. In certain cases where the Board cannot be satisfactorily set up, the Attorney General may appoint a member in lieu of the party or person in default in appointing. The finding of the Board is binding upon the police members and the employing body.

Part III deals with special constables, policing agreements and other miscellaneous matters. Section 37 authorizes the Lieutenant Governor in Council to enter into an agreement for the policing of the Province by the Royal Canadian Mounted Police and ratifies any such existing

agreement. Section 38 sets out the results following any agreement of this kind and is similar to provisions in the former *The Alberta Police Act*.

This Bill comes into force on the 1st day of July, 1953.

J. W. RYAN,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 72 of 1953

An Act respecting the Policing of the Province of Alberta

(Assented to , 1953)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Police Act*".

Short title

Interpretation

2. In this Act, unless the context otherwise requires,

Interpre-
tation

- (a) "collective agreement" means an agreement in writing between a municipality on the one hand and the bargaining committee of the municipal constables of the municipality on the other hand, containing provisions with reference to rates of pay, hours of work or other terms or conditions of employment of the municipal constables and signed by the parties thereto; "collective agreement"
- (b) "Commissioner" means the Commissioner of the Alberta Provincial Police; "Commis-
sioner"
- (c) "force" means the Alberta Provincial Police force established by the Lieutenant Governor in Council pursuant to this Act; "force"
- (d) "full-time members" means those members of the municipal police force who are employed on a permanent basis for policing duties and duties incidental thereto in the municipality; "full-time
members"
- (e) "municipal constable" means a constable appointed for a municipality in the manner provided by the Act applicable to the municipality; "municipal
constable"
- (f) "municipality" means a city, town, village or municipal district; "municipal-
pality"
- (g) "police association" means an association limited to one police force and having among its objects the improvement of conditions of service or remuneration of the members of a police force. "police
association"

PART I

PROVINCIAL POLICE FORCE

Force

Alberta
Provincial
Police

3. (1) For the preservation of peace and good order and the enforcement of law in the Province, the Lieutenant Governor in Council may establish a police force to be known as the "Alberta Provincial Police".

Commis-
sioner

(2) The force shall be under the direction of an officer to be known as the Commissioner, who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure.

Control by
Attorney
General

(3) The Commissioner and the force shall be under the control of the Attorney General of Alberta.

Enforcement
of law

4. (1) The Commissioner and the Alberta Provincial Police and every member thereof are charged with the enforcement of the penal provisions of all laws in force in the Province.

Ex officio
offices of
Commis-
sioner, etc.

(2) The Commissioner and every officer and constable of the force shall be *ex officio*

- (a) a game guardian under *The Game Act, 1946*,
- (b) a fire guardian under *The Forests Act*,
- (c) an inspector under *The Noxious Weeds Act*,
- (d) an inspector under *The Vehicles and Highway Traffic Act*,
- (e) an inspector under *The Amusements Act*,
- (f) an inspector under *The Billiard Rooms and Bowling Alleys Act*,
- (g) an inspector under *The Factories Act*,

and the Commissioner and every officer and constable shall have all the powers necessary for the enforcement of the provisions of any of these Acts.

Exemption

(3) The Lieutenant Governor in Council may except from among the laws to be enforced by the Alberta Provincial Police any Act or portion of an Act.

Duties of
force

(4) Without restricting the generality of subsection (1) and subject to the direction of the Commissioner, the members of the force

- (a) shall perform all duties which now or hereafter are assigned to constables in relation to
 - (i) the preservation of peace, and
 - (ii) the prevention of crime and of offences against the laws in force in the Province, and
 - (iii) the apprehension of criminals and offenders and others who may lawfully be taken into custody,

- (b) shall execute all warrants and perform all duties and services thereunder or in relation thereto which under the laws in force in the Province may lawfully be executed and performed by constables,
- (c) shall perform all duties that may lawfully be performed by constables in relation to escort and conveyance of convicts and other persons, and mentally incompetent persons to or from any courts, places of punishment or confinement, hospitals or other places,
- (d) shall perform such other duties as may from time to time be assigned to them by the Commissioner.

5. (1) Every member of the force, before entering upon the duties of his office, shall take the oath of allegiance and also the official oath prescribed in *The Oaths of Office Act*. Oaths required

(2) The oaths may be taken before a justice of the peace in and for the Province.

(3) The oaths shall be forwarded to the Commissioner by the person taking the oath.

6. (1) Subject to the provisions of *The Public Service Act, 1947*, but on the recommendation of the Commissioner, the Lieutenant Governor in Council may appoint and determine the remuneration of such inspectors, detectives, constables, clerks and other assistants as the Commissioner may deem necessary for the efficient working of the force. Appointment of inspectors, etc.

(2) Only British subjects shall be employed as constables, other than temporary constables.

(3) The Commissioner may employ a person as a temporary constable or in any other temporary capacity for a period not exceeding one month and may pay that person such remuneration as the Commissioner deems proper. Temporary constable

7. (1) A person appointed a provincial constable, upon appointment to the force, shall sign articles of engagement for a term of service of not less than two years, and the engagement shall be made with the Commissioner and enforced by him. Articles of engagement

(2) A provincial constable may be suspended and may be discharged by the Commissioner at any time before the expiration of his term of engagement. Suspension

(3) A provincial constable may purchase his discharge at any time during the term of his engagement on payment of the sum of fifty dollars. Purchase of discharge

8. Where a member of the force is punished by imprisonment for offences or breaches of discipline under this Act or the regulations, the pay of the offender shall be forfeited during the period of punishment. Forfeiture of pay

Rules and
regulations

9. (1) The Commissioner may make such rules and regulations as he may deem necessary

(a) for defining the rank, positions and duties of the members of the force,

(b) for the punishment of offences and breaches of discipline on the part of any member of the force.

(c) generally respecting the organization, government, control, discipline, well-being and efficiency of the force.

Effective
date

(2) The rules and regulations shall come into effect only upon the approval of the Lieutenant Governor in Council.

Financial

Application
of *The
Public
Service
Act, 1947*

10. (1) Except as otherwise provided in this Act, *The Public Service Act, 1947*, applies to the members of the force.

Force upon
salary

(2) Every member of the force shall be upon salary and all fees, costs and other charges collected or collectible by a constable on the force under section 770 of the Criminal Code, or any provincial statute, shall be paid to the Commissioner and by him remitted to the Provincial Treasurer to be deposited to the credit of the General Revenue Fund of the Province.

Disposition
of fees and
costs

Offices,
lock-ups, etc.

11. (1) The Lieutenant Governor in Council may make such provision as may be deemed necessary for the purchase, lease, erection, equipment and maintenance of offices, lock-ups and such other accommodation as the force may require.

Travelling
and
incidental
expenses

(2) The Provincial Treasurer may advance from time to time to the Commissioner necessary moneys for the travelling and incidental expenses of the force, and such moneys shall be accounted for as the Provincial Treasurer may direct.

Rewards
to go to
benefit fund

12. (1) All rewards earned by members of the force shall be paid to the Commissioner and shall be placed by him in a benefit fund.

Committee
administers
benefit fund

(2) The benefit fund shall be administered for the benefit of the force by a committee composed of the Commissioner and one inspector, or constable from each of the judicial districts of the Province, who shall be elected for a period of two years by the inspectors and constables in each such district.

Credits to
benefit fund

(3) All pecuniary penalties imposed under this Act or the regulations on a person who is or was a member of the force and all pay due to deserters at the time of their desertion, and all money paid for the purchase of a discharge, shall be credited to the benefit fund.

Expendi-
tures from
benefit fund

(4) The moneys in the benefit fund may be expended

(a) for rewards for good conduct or meritorious service,

(b) for the establishment of libraries and recreation rooms,

- (c) for such other objects for the benefit of members of the force as the Lieutenant Governor in Council approves.

Inquiries

13. In any case where the Commissioner deems it advisable to make any special inquiry Inquiry

- (a) into the conduct of a member of the force, or
- (b) into any complaint against a member of the force, or
- (c) any complaint respecting the enforcement of a penal law in force in the Province by a member of the force,

he may examine any person under oath or affirmation and may compel the attendance of any witness in the same manner as if the proceedings were before a justice of the peace under *The Summary Convictions Act* or Part XV of the Criminal Code.

14. (1) A member of the force or any person acting under instructions given by the Attorney General or the Commissioner shall not be convicted of a violation of *The Government Liquor Control Act of Alberta* if it is made to appear to the justice or magistrate before whom the complaint is heard that the person charged with any such offence committed it pursuant to instructions for the purpose of obtaining evidence. Exemption from conviction

(2) A certificate signed by the Attorney General or the Commissioner shall be accepted by the justice of the peace or police magistrate before whom the member of the force or other person is charged as conclusive evidence of the fact that the member of the force or other person was instructed as mentioned in subsection (1). Certificate

PART II

MUNICIPAL POLICE

Organization

15. (1) A municipal police force consisting of one or more municipal constables who shall be British subjects shall be maintained in every municipality by and at the expense of the municipality. Municipal police force

(2) If a municipality fails to appoint one or more municipal constables, the Attorney General may direct the municipality to appoint such constables and if the municipality neglects or refuses to appoint municipal constables upon being directed to do so the Attorney General may appoint municipal constables for that municipality at such salaries as he deems proper. Appointment by Attorney General

Salaries

(3) The salaries of municipal constables appointed by the Attorney General shall be paid by the municipality.

Notice to
Attorney
General

16. (1) The clerk or secretary-treasurer of a municipality shall forward to the Attorney General notice in writing of the appointment or termination of employment of a municipal constable within three days of the appointment or termination of employment, as the case may be.

(2) Subsection (1) does not apply in the case of an appointment of a constable for a period not exceeding fifteen days.

(3) The notice shall give the full name and address of each municipal constable in respect of whom it is forwarded to the Attorney General.

Badges and
uniforms

17. The Attorney General may prescribe the type, size, material and insignia of the badge and uniform of office to be worn by municipal constables appointed within villages and municipal districts.

Municipal
lock-up

18. (1) The council of a municipality shall provide police lock-up accommodation adequate for the requirements of the municipality.

Access to
prisoner

(2) Any person duly authorized by the Attorney General shall be permitted access at any time to any prisoner confined in a municipal police lock-up.

Constables
in
improvement
district or
special area
Salary

19. (1) The Attorney General may appoint one or more constables for the enforcement of law and order in an improvement district or special area.

(2) The salary of a constable appointed pursuant to subsection (1) shall be paid by the Department of Municipal Affairs.

Powers and Duties

Jurisdiction
of municipal
constables

20. A municipal constable and a constable appointed pursuant to section 19 shall have and possess all the powers of a provincial constable under this Act

(a) within the limits of the territory for which he is appointed, or

(b) within the Province when he is acting outside the territory for which he was appointed at the request of

(i) the Attorney General or Commissioner, or

(ii) a provincial constable.

Collection
and re-
tention of
fees

21. A municipal constable and a constable appointed under section 19 may collect and retain for his own use and benefit all fees, costs and other charges as provided for under Part XV of the Criminal Code or any provincial statute, or any municipal by-law, unless it is otherwise provided

- (a) by resolution or by by-law of the municipality for which the constable is appointed, or
- (b) by the Minister of Municipal Affairs in the case of a constable appointed under section 19.

22. (1) The Attorney General or the Commissioner may at any time, with the verbal or written consent of the mayor, chief of police or reeve of a municipality, direct a member of the municipal police force to serve in any part of the Province outside the boundaries of the municipality.

Direction
to serve
outside
municipality

(2) The municipality shall be reimbursed by the Attorney General for the salaries and expenses of any municipal constables serving outside the municipality pursuant to a direction under subsection (1).

Reim-
bursement

23. (1) The Attorney General may notify the mayor, chief of police or reeve of a municipality, either verbally or by writing, that he has assumed the conduct of the investigation or prosecution of a crime committed in or in the vicinity of the municipality and thereafter a member of the municipal police force

Investigation
by provincial
police

- (a) shall render to the Attorney General or any member of the provincial police force charged with the investigation or prosecution of the crime all possible assistance and information, and
- (b) shall carry out and obey the order of the Attorney General or member, as the case may be.

(2) A municipal constable or a constable appointed under section 19, upon the request of the Attorney General, shall deliver to a person named by the Attorney General all warrants, papers, exhibits, photographs and other information or records in the possession or under the control of the constable dealing with any criminal case which is the subject of investigation by the provincial police force.

Delivery
of warrants,
etc.

Bargaining and Arbitration

24. A member of a municipal police force shall not remain or become a member of a trade union or of an organization that is affiliated, directly or indirectly, with a trade union.

Trade union

25. (1) When requested in writing by a majority of the full-time members of the municipal police force, the council of the municipality, or where there is a Board of Police Commissioners, the Board, shall bargain in good faith with a bargaining committee of the members of the municipal police force for the purpose of defining, determining and providing for remuneration and working conditions of the members of the municipal police force other than the chief constable.

Bargaining
committee

(2) Where not less than fifty per cent of the full-time members of the municipal police force belong to a police association a request made under subsection (1) shall be made by the association.

Bargaining
committee
members

(3) In every case the members of a bargaining committee shall be full-time members of the municipal police force.

Advisory
member

(4) Notwithstanding subsection (3),

(a) where the police association is affiliated with a police organization, or

(b) where not less than fifty per cent of the full-time members of the municipal police force belong to a police organization,

at all meetings held with the council of the municipality or any committee thereof, or the Board of Police Commissioners, as the case may be, the bargaining committee may be accompanied by one member of such organization who is actively engaged in the occupation of a police officer and who shall attend in an advisory capacity only.

Reference
of dispute
to board of
arbitration

26. (1) Where after bargaining under section 25

(a) the council of the municipality, or where there is a Board of Police Commissioners, the Board, or

(b) the members of the police force, or where there is a bargaining committee, the bargaining committee, is or are satisfied that a collective agreement cannot be reached, it or they, as the case may be, by notice in writing to the other party, may require all matters in dispute to be referred to a board of arbitration of three members.

Chairman
of board of
arbitration

(2) Where the matters in dispute are referred to a board of arbitration, the parties shall each appoint a member and the third member, who shall be the chairman, shall be appointed by the two members so appointed.

Failure to
appoint
member

(3) Where either party

(a) fails to appoint a member of the board of arbitration as required by subsection (1) within seven days after receipt of the notice to refer the dispute to a board of arbitration is received, or

(b) having appointed a person who is unable or unwilling to act, fails to appoint another member of the board of arbitration within seven days after receiving notice of the inability or unwillingness of the member to act,

the Attorney General, upon the written request of the other party, may appoint a member in lieu thereof.

Failure to
appoint
third member

(4) Where the two members of the board of arbitration appointed by the parties, within five days of the appointment of the one last appointed, fail to agree upon a third member, the Attorney General, upon notice in writing of the failure given to him by either of them or by either of the parties, may appoint the third member.

Decision of
chairman

(5) Where, upon an arbitration, a majority of the members of the board of arbitration fail to agree upon a matter of procedure, the ruling of the chairman upon the matter shall be deemed to be the ruling of the board of arbitration.

(6) Each party shall assume its own costs of the arbitration proceedings and shall share the cost of the third arbitrator equally. Costs

27. (1) A collective agreement made under section 25 and a decision or award of a majority of the members of the board of arbitration under section 26 shall be binding upon the council of the municipality, the Board of Police Commissioners where there is such a Board, and the full-time members of the municipal police force. Agreement binding on parties

(2) Nothing in this Act shall require the continuance in force of an agreement, decision or award for more than one year from the date upon which it commenced to be in force. Duration of agreement

28. (1) A collective agreement, decision or award shall have effect upon the first day of the fiscal period in respect of which the council of the municipality can include provision in its estimates for an expenditure incurred in the agreement, decision or award, whether such day is before or after the date of the agreement, decision or award, unless another day is specified in the agreement, decision or award in lieu thereof. Effective date of award

(2) Where, pursuant to subsection (1), another day is specified in a collective agreement, decision or award as the day upon which the agreement, decision or award shall have effect and such day is prior to the first day of the fiscal period in respect of which the council of the municipality may include provision in its estimates for an expenditure involved in the agreement, decision or award, any of the provisions involving expenses shall, notwithstanding the specifying of such day, have effect from the first day of such fiscal period.

29. (1) Where a request in writing is made under subsection (1) of section 25 after the thirtieth day of November in any year and before the first day of December in the year next following and no collective agreement, decision or award has resulted therefrom at the time when the council of the municipality is passing its estimates in the year next following the last mentioned year, the council shall make adequate provision for the payment of such expenditures as may be involved in the request. Provision in estimates for expenditures

(2) Where the council of a municipality fails to comply with subsection (1), the Lieutenant Governor in Council may Withholding of municipal grant

(a) upon being requested in writing by a majority of the full-time members of the municipal police force, and

(b) upon determining the fact of such failure and so certifying in writing,

direct the withholding from the municipality of any grant at any time payable under any Act of the Province to the

municipality and the deposit of the direction with the Provincial Treasurer shall be his authority to withhold a grant accordingly.

(3) Where not less than fifty per cent of the full-time members of the municipal police force belong to a police association, a request made under subsection (2) shall be made by the police association.

(4) Where a direction has been made under subsection (2), the Lieutenant Governor in Council, upon provision being made by the council of the municipality for the making of the expenditures involved, may revoke such direction in whole or in part subject to any terms or conditions which the Lieutenant Governor in Council may deem advisable.

Application
of *The
Alberta
Labour Act*

30. Part V of *The Alberta Labour Act* does not apply to municipal constables except where proceedings have been commenced before the first day of July, 1953, under Part V of *The Alberta Labour Act*, in which case that Part is applicable under the termination of such proceedings.

PART III

GENERAL

Special Constables

Appointment
of special
constables

31. The Lieutenant Governor in Council

- (a) may appoint such special constables as are deemed expedient, and
- (b) may define the offices, positions and duties of special constables, and
- (c) may make rules and regulations governing the office, position, duties and conduct of special constables and any other matter concerning special constables.

Appointment
of special
constables by
Attorney
General

32. The Lieutenant Governor in Council may confer the power to appoint special constables upon the Attorney General and such other person or persons as may be deemed necessary.

Oaths
required

33. Every constable appointed under sections 31 or 32, before entering upon the duties of his office, shall take and subscribe before a justice of the peace the oath of allegiance and the official oath prescribed by *The Oaths of Office Act*.

Compensa-
tion

34. The Lieutenant Governor in Council may fix and determine the compensation payable to constables appointed under sections 31 and 32 and the manner in which and by whom the compensation shall be paid.

35. The Attorney General may suspend from office for any period or cancel the appointment of any constable appointed under the provisions of sections 31 or 32. Suspension

36. Nothing contained in this Part shall be construed as limiting or affecting in particular cases the power of appointment of constables, special constables, peace officers or other officers where such power of appointment now exists. Power of appointment

Policing Agreement

37. (1) The Lieutenant Governor in Council from time to time may enter into an agreement with the Government of Canada Policing agreement

- (a) for the policing of the Province by the Royal Canadian Mounted Police force or any portion thereof,
- (b) to have the Royal Canadian Mounted Police force
 - (i) aid in the administration of justice in the Province, and
 - (ii) carry into effect the laws in force in the Province, and
- (c) for the payment by the Province for the services of the Royal Canadian Mounted Police force such sum as may be deemed advisable.

(2) Existing agreements between the Lieutenant Governor in Council and the Government of Canada for the purposes referred to in subsection (1) are hereby ratified. Ratification of existing agreements

38. While an agreement under section 37 is in force References in agreements

- (a) a reference made
 - (i) in section 4 or in section 14 of Part I or in Part II or section 39 of this Act, or
 - (ii) in any other Act,
 to the Alberta Provincial Police or to the provincial police shall be deemed to be a reference to the Royal Canadian Mounted Police force,
- (b) a reference made
 - (i) in section 4 or in section 14 of Part I or in Part II or section 39 of this Act, or
 - (ii) in any other Act
 to the Commissioner of the Alberta Provincial Police or to the Commissioner shall be deemed to be a reference to the officer commanding for the time being the Royal Canadian Mounted Police force in the Province,
- (c) all members of the Royal Canadian Mounted Police force within the Province shall have and may exercise and enjoy all the powers, duties, rights and privileges that are conferred upon them or any of them by the *Royal Canadian Mounted Police Act* (Canada) as fully and effectively as if that Act had been enacted by the Legislature of the Province,

- (d) the Lieutenant Governor in Council may declare that a reference in an Act to a constable or peace officer shall be deemed to refer to a member of the Royal Canadian Mounted Police force and thereupon that Act shall be construed as if a member of the Royal Canadian Mounted Police force had been mentioned therein.

Miscellaneous

Penalty for
refusal to
give
assistance

39. A person

- (a) who has reasonable notice that he is required to assist a member of the provincial police force or a municipal constable or special constable in the execution of his duty in arresting any person or in otherwise carrying into effect the provisions of any Act of the Legislature, and
- (b) who, without reasonable excuse, omits to do so, in addition to any other penalty prescribed by law, is guilty of an offence and liable on summary conviction to a fine not exceeding twenty dollars and in default of payment to imprisonment for a term not exceeding twenty days.

Expenses

- 40. Expenses incurred in administering this Act shall be paid out of the General Revenue Fund of the Province.**

Repeal

- 41. (1) *The Constables Act*, being chapter 114 of the Revised Statutes of Alberta, 1942, is hereby repealed.**

- (2) *The Alberta Police Act*, being chapter 109 of the Revised Statutes of Alberta, 1942, is hereby repealed.**

Coming into
force

- 42. This Act comes into force on the first day of July, 1953.**

No. 72

FIRST SESSION
TWELFTH LEGISLATURE

2 ELIZABETH II

1953

BILL

An Act respecting the Policing of the
Province of Alberta

Received and read the

First time

Second time

Third time

HON. MR. MAYNARD
