

Chapter 3 - Decline, Legal Basis & Resurrection

HMCS *Victoria*

As well as performing her surveying, rescuing and lighthouse provisioning duties, HMCS *Victoria* found time to engage in mock battles with the shore defences. On Separation Day (1st of July) 1862, 18,000 spectators watched *Victoria*, while flying the Austrian flag and accompanied by the steamer *Lioness*, “attack” St Kilda where the Naval Brigade was landed with cannon and rockets to battle the defenders.⁴³ The 2nd of December of the same year saw Portland successfully “bombarded” by *Victoria*, men and boat guns landed, and the town taken street by street.⁴⁴

The disarming of *Sir Harry Smith* in January 1861 led to the Victorian Navy becoming a one ship navy. One of the problems of such a small navy, with reference to Lieutenant George Austin Woods having been mentioned in despatches in New Zealand, was his lack of prospects for promotion. The *Argus* newspaper⁴⁵ summed up the reasons given by Premier John O’Shanassy, for the Government’s inability to promote Lieutenant Woods⁴⁶ when it wrote -

“However meritorious may be their services-how-ever great their zeal, and successful their enterprises-there is no promotion for them in the Victorian navy. They may be as bold as COCHRANE and as great as NELSON, yet we are unable to reward them. There is no advancement, for the simple reason that there is nothing to which they can be advanced. There being but one vessel and one commander...”

The Armed Vessels Act 1860

To legitimise the role of Victoria’s Navy, an act to provide for the Better Regulation and Discipline of Armed Vessels (Armed Vessels Act)⁴⁷ in the service of Her Majesty’s Local Government in Victoria was passed by the Colonial Government on the 8th of June 1860. By this act men could be recruited to serve on Victorian warships, oaths could be taken, commissions granted, pay rates fixed, rules regarding discipline made and men could be fined. A mechanism for investigating misconduct was established, vessels could be paid off, compensation could be paid for death or injury, service awards could be given and individuals were given legal protection for their actions.

Although *Victoria* and her crew left for New Zealand before the Armed Vessels bill had passed, the men were still signed on under its provisions and the bill was read out to the men hired under it.⁴⁸



**Figure 7 - Main Deck of HMCS *Victoria*
with a 25 cwt 32 pounder Gun c 1861-63**

Captain Norman with telescope & Lieutenant Woods writing.

Photo: State Library of Victoria.

Even though this act was disallowed by the British Government on the 19 July 1861, there was no returning to the practise of swearing in men under the Police Act. Most likely through contract law, the Armed Vessels Act was treated as still in existence until further legislation could be passed.

Throughout *Victoria's* career, depending on the government of the day, there was discussion as to whether the colony could afford to support a warship and crew at all, let alone at higher rates of pay than were paid in the Royal Navy. Sometimes decisions were made to downsize the Navy, such as at the end of 1862⁴⁹, only to be reversed before they were implemented. Even though the 1860 Armed Vessels Act had been disallowed by the British government, its provisions were steadfastly adhered to, to such an extent that although *Victoria* was transferred to survey duties in March 1864,

her crew was not paid off as the men would have been entitled to six month's pay as specified in the 1860 Act.

Punishments

In the 1850s, the Royal Navy still used the lash for punishments of offences aboard its vessels. For the years 1854 -1857, an average of 40,381 lashes were inflicted on the men each year.⁵⁰ The 1860 Armed Vessels Act, as well as future acts under which the Victorian Navy operated, did not allow for any corporal punishment to be used on the men. Instead, fines for minor offences were limited to £1.10.00 and for series offences to £10 or imprisonment not exceeding six months, and or dismissal from the service.

Corporal punishment was however allowed for boys, where birching and caning were permitted.

^a This reflected the view of society in general, where caning of boys was permitted in Government schools until 1982.

The Paid Naval & Military Force Act 1864

As a result of the disallowance of the Armed Vessels Act, the Paid Naval and Military Forces bill was introduced in June 1863. Presumably to avoid the fate of the Armed Vessels Act, most of the clauses were taken from the British Military Act and Queen's Regulations. As the treasurer and unofficial War Minister, George Verdon stated, "There was indeed very little of an original character in the bill. It was considered wisest and best to follow the English law as far as it could be adopted."⁵¹

As there was no permanent Land Force at this stage, the only existing force to which the proposed act would apply was HMCS *Victoria* and her crew.

After lapsing in the Victorian Upper House of Parliament in 1863, being reintroduced in 1864, effectively rejected by the Upper House and then restored, it was finally passed with the following last minute amendments. The permanent force would be limited to 500 men (reduced from 1,000), land certificate grants would be prevented, and the act would expire after one year.⁵² The expiration of the act in one year's time

^a "Birching on the bare breech, 24 cuts.- Boys only. Caning on the breech with clothes on, 12 cuts.- Boys under 17 only." *Victoria Government Gazette*, 20 September 1872, page 64. The birch, a bundle of thin twigs, replaced the cat o' nine tails for boys in the Royal Navy in the 1860s. The cat o' nine tails was used on men in the Royal Navy until 1881.

was not in anticipation of the 1865 Colonial Defence Act, which in any case only empowered colonies to legislate for their own defence, but rather was simply an act of sabotage by the conservative Upper House.

Therefore three years after the Armed Vessels Act was disallowed, an act once again provided a legal basis for the Victorian Navy as well as a proposed militia force which would become the Victorian Naval Reserve, in addition to the Volunteer Force. Once again this legal basis proved to be brief, as when the act expired on the 2nd of June 1865, it was not re-enacted.

HMCS *Victoria* Decommissioned

Although both the 1860 and 1864 Acts required that six month's notice be given before the men could be dismissed, the James McCulloch Government presumably reasoned that, as the men had not been sworn in under the new Act, the required notice did not apply. Therefore, on the 25th of June 1864, just 15 days after the 1864 Act had been gazetted, *Victoria's* crew of ten officers and forty men assembled on board *Victoria* and were paid off up to that day. Although definitely not happy with the short notice given, the men's anger was not directed at the officers, but rather at the government. To quote a reporter, "The most kindly good feeling seemed to exist between officers and men, each of whom appeared heartily sorry to part with the other."⁵³ Over the next month *Victoria* was disarmed and placed out of commission with her guns being transferred to *Sir Harry Smith*. Of *Victoria's* remaining four men and two boys, one of the men and one of the boys were to be stationed on board *Sir Harry Smith*, which was to be prepared by Lieutenant Woods for a return to naval service.

The period from June 1864 until October 1865 marked the lowest point of the permanent Victorian Navy when it effectively consisted of one officer, four men, two boys, one ship without any motive power and the Naval Brigade's new vessel, the *Elder*.

The *Elder*

On the 5th of December 1864, while *Sir Harry Smith* was being prepared for her second period of service in the Victorian Navy, twenty men from the Williamstown division of the Volunteer Naval Brigade sailed the Victorian Navy's newest vessel into the centre of Hobson's Bay at a speed of eight knots. The *Elder*, a Gun Raft, was christened by the treasurer (unofficial Minister for War⁵⁴) George Frederick Verdon when he fired the

first shot. Surprisingly, the recoil of such a heavy calibre 68 pounder gun was not a problem. Propelled at a good pace by sails or laboriously by 24 oars, the Gun Raft was locally designed by Captain Douglas Elder (V.N.B.) and constructed at the Government Marine Yard in Williamstown.

It is not known whether *Victoria's* going out of naval service in June 1864 encouraged the construction of the Gun Raft to fill a gap in the colony's naval defences, but this remains a possibility.

This gun raft with its low profile and heavy 68 pounder gun, gave a foretaste in miniature of the pride of the Victorian Navy's Breastwork Monitor, HMVS *Cerberus*, that was yet to be built.

When exercising on the Saltwater Creek (Maribyrnong River) in 1865, the gun raft's 68 pounder made the Flemington racecourse's grandstand vibrate with each discharge.⁵⁵ In 1866, equipped with two 32 pounders and crewed by thirty men, the *Elder* exercised again along with SS *Pharos*, temporarily fitted with a 32 pounder, and four ship's boats with 12 pounders on the Saltwater Creek.

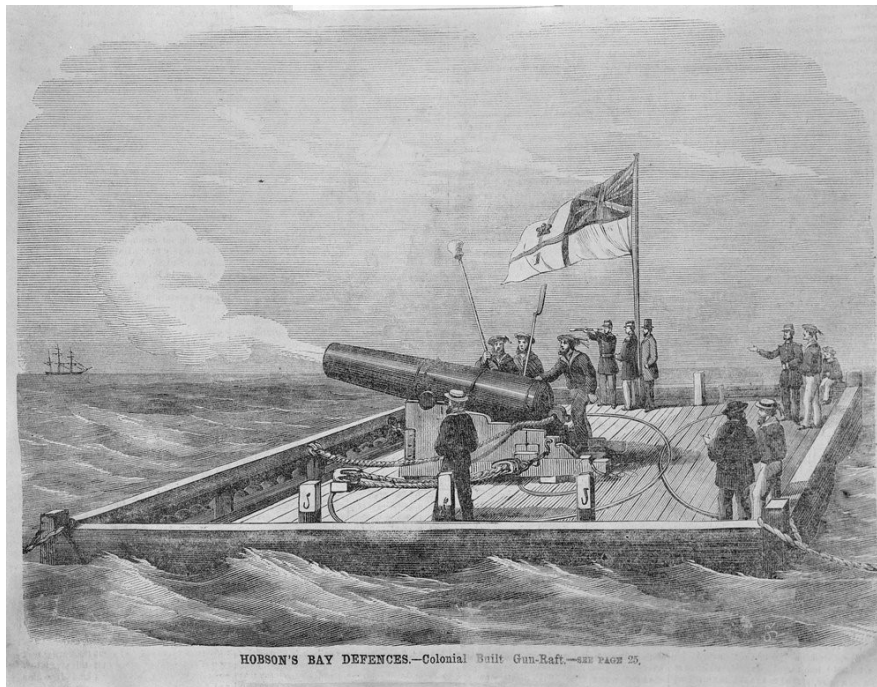


Figure 8 - The *Elder* Gun Raft

The *Elder* flying one of the 1865 Victorian flags.

The initial on the flag is most likely the letter T as Treasury controlled the navy.

Engraving: *The Illustrated Melbourne Post*, 18 February 1865

It appears that the *Elder* was not used a great deal after 1866 but it does reappear again in the Queen's Birthday Manoeuvres of 1876 mounting two 32 pounders. Finally in 1878 the newly appointed Commander of the Victorian Naval Forces, Captain Mandeville, perhaps wielding his new broom, instructed that the Gun Raft *Elder* be sold at auction.⁵⁶

***Victoria* Returns to Service**

In February 1865 the presence of the confederate raider, CSS *Shenandoah*, reminded the government of the colony's vulnerability to attack. A few months later Commodore Wiseman of HMS *Curocoa* made recommendations⁵⁷ regarding the role of HMCS *Victoria* in the colony's defences. Soon after these events a decision was made to return *Victoria* to naval service. In the meantime *Sir Harry Smith* returned to service so as to fill in for a short period as a temporary blockship and Naval Training Ship until the arrival of ex-British Man-Of-War, HMVS *Nelson*.

The Imperial Colonial Defence Act 1865

Eventually the British Government acted to legitimise Victoria's Navy by passing the *Imperial Colonial Naval Defence Act 1865*. Far from being the transformational act as it is often presented to be, the 1865 Act was more a case of the British Government playing catch up with Victoria's 1860 Armed Vessels Act and 1864 Paid Naval & Military Force Act. Even though the 1865 Act allowed colonies to legislate to form a local navy, Victoria was in no hurry to do so. It continued to operate under the expired 1864 Act as if it was still in force.

It seems that the only effect of the 1865 act within Victoria was that HMCS *Victoria* was transferred to the Local Military Department. This meant that *Victoria* moved from the control of the Chief Secretary (Premier) to that of the Treasurer who had responsibility for defence.⁵⁸ This could explain what appears to be the letter T on the Gun Raft's flag as seen in Figure 8.

Sir Harry Smith Returns to Service

In June 1865 Lieutenant Woods finally got his own command when he was placed in charge of *Sir Harry Smith* which had her sides built up and *Victoria's* five 32 pounder guns moved on board. During modifications, *Sir Harry Smith's* gunports were made large enough so that 68 pounders could be accommodated if required.

Sir Harry Smith's second period of service as a blockship was very short lived however and by October 1865 the 32 pounder guns had been returned to *Victoria* so that *Victoria* could return to naval service.

To replace *Sir Harry Smith's* armament, two brass six pounders and two brass twelve pounders from the wrecked schooner *Arrow* were purchased and fitted on board.⁵⁹ Weighing at most 6½ cwt, these guns were more suited to the needs of her complement of 200 boys than were the 25 cwt and 56 cwt guns of *Victoria*. Unlike in her first period of service, *Sir Harry Smith* was no longer used for gun practise by the Naval Brigade, who now exercised on shore.

Following the dismissal of Lieutenant Woods for embezzlement⁶⁰ in September 1866, Lieutenant Handfield, took over command of *Sir Harry Smith*. In March 1867 *Sir Harry Smith* joined forces with HMS *Esk* to make up the naval force "attacking" Melbourne so as to allow practise for the land volunteers. The participation of *Sir Harry Smith* in this exercise does not indicate that she was still considered part of

Victoria's defences. Rather the Training Ship boys and their small calibre guns were simply participating as part of their naval training. Prior to transferring to HMVS *Nelson*, the boys from *Sir Harry Smith* again took part in manoeuvres the following year, when they and the Naval Brigade led the charge on the Saltwater creek at Flemington.⁶¹

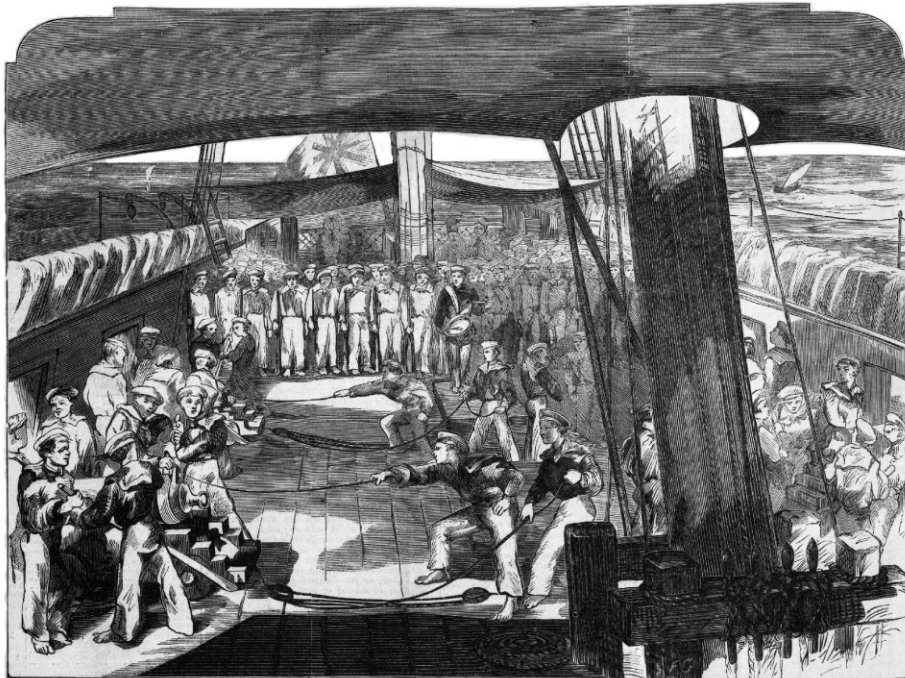


Figure 9 - Repelling boarders on board *Sir Harry Smith* by the Boys with the Bronze Howitzers.

Engraving: *The Australian News for Home Readers*, 20 April 1867. (State Library of Victoria)

Partly established to accommodate neglected, homeless and destitute boys, the Naval Training Ships, *Sir Harry Smith* (Figure 10) and later HMVS *Nelson*, were also intended for “the training of boys for the naval service of the colony”.⁶² That this training role was at least partially successful is demonstrated by the graduation of at least 257 boys between 1865 and 1876 from the training ships to *Victoria*, *Nelson* and *Cerberus* as members of the Victorian Navy.⁶³ As well as naval training, with access to the latest audio visual equipment, a magic lantern, the regular school curriculum of the day was taught to the boys.



Figure 10 - *Sir Harry Smith* c. 1866-07
“Naval Training Ship for Boys, *Sir Harry Smith*.
F. O. Handfield. Lieut. in charge.” (c. 1866)
Drawing: National Library of Australia.

After *Victoria*'s broadside guns had been transferred back to her from *Sir Harry Smith*, the colony again had a warship that could move to where it was required without assistance. In August 1865 six Armstrong 40 pounder rifled breech loading guns arrived in the colony. As these guns were considered suitable as either field guns or for use on board ship,⁶⁴ it was not surprising that two of them had been earmarked⁶⁵ for use on board *Victoria*. This did however depend on whether naval slides could be made in the colony. By March 1866⁶⁶ this had been achieved with one of these 40 pounders mounted on *Victoria* as a pivot bow gun, making her more powerful than ever.

On their discharge from *Sir Harry Smith* in October 1866, twelve of the advanced boys volunteered to serve on *Victoria* in her role as a survey vessel. That same year, crew from *Sir Harry Smith* augmented *Victoria*'s skeleton crew for the trip to King Island.⁶⁷ When in July of 1867 *Victoria* went to assist with the wreck of the *Netherby*, the boys from *Sir Harry Smith* helped prepare *Victoria* for the trip.

If a threat arose, it was assumed that *Victoria's* skeleton crew would be augmented by the Naval Brigade and boys from *Sir Harry Smith*. That the Naval Brigade did not assist in manning *Victoria* during the naval manoeuvres in Geelong in October 1867, suggests that they had not practised on board her as much as had been anticipated, if at all. While steaming to Geelong the members of the Naval Brigade concerned themselves with being fed below while *Victoria's* skeleton crew and boys from *Sir Harry Smith*, had not only prepared *Victoria* for the trip, but also manned her on the way to Geelong. In addition, the boys from *Sir Harry Smith* provided the brass band while *Victoria's* crew, and not the Naval Brigade, manned both of her 32 pounders and the 40 pounder bow gun. The brisk firing from *Victoria's* guns was supported by musketry fire from the Naval Brigade.⁶⁸ A month later, *Victoria's* armament had been increased to six 32 pounders and one 12 pounder brass field piece,⁶⁹ as well as the 40 pounder bow gun.

In December 1868 Governor John Manners-Sutton presented 12 year old Joseph Blacker^A, one of the *Nelson* Training Ship boys, with a medal for saving two boys from drowning. The Governor and Colonel William Acland Douglas Anderson then boarded *Victoria* for one of the ship's last naval duties when they were conveyed to Western Port to evaluate the bay's defence capabilities. By January 1869 most of *Victoria's* men had again been paid off. The ship was described as being laid up *en permanence* with only chief officer George Philip Tandy and a boat's crew remaining.⁷⁰ Chief Engineer Griffiths had transferred to the newly arrived *Nelson*, and Captain Norman was to depart for Britain in March, to supervise the fitting out of *Cerberus* and to bring her to Melbourne. Captain Norman died in the U.K. before the year had ended, and was replaced by Lieutenant William Henry Panter who travelled to Britain to continue Captain Norman's supervisory role of



THE BOY BLACKER.—FROM A PHOTOGRAPH BY A. HIDER.

Figure 11 - Joseph Blacker

Illustrated Australian News, 4 January 1869
State Library of Victoria

^A Joseph Blacker received the Victorian Humane Society's silver medal for saving the life of one boy from drowning on the 1st of January 1868 & a second boy on the 18th of February 1868. In 1870 Joseph received a gold clasp to the medal for saving a third boy from drowning in July 1868.

the construction of *Cerberus*.

In 1868 the Naval Training Ship role of *Sir Harry Smith* was transferred to *Nelson*. *Sir Harry Smith* then took on the role of a Reformatory School for juvenile offenders. It was in this capacity that a salute was fired by both *Sir Harry Smith* and *Nelson* on the 9th of February 1870, on the occasion of the inauguration of the 1870 Victorian Ensign.

In January 1873, now twenty-six years old, *Sir Harry Smith* relinquished her final role as a reformatory and by April she had been sold out of government service. In May 1887, application was made to blast the hulk *Sir Harry Smith* lying in the Saltwater River⁷¹.

HMCS *Victoria* continued to be laid up and unarmed, but manned by Lieutenant Tandy (promoted July 1871)⁷² and the boat's crew, until ordered to undertake a trial trip in September 1872. With her skeleton crew augmented by a Leading Stoker from *Nelson* and a working party from *Cerberus*,⁷³ *Victoria* steamed down the bay until she ran aground in the South Channel. The resulting enquiry partly blamed Captain Panter but assigned most of the blame to Lieutenant Tandy. *Victoria* stayed unarmed and did not undertake any naval duties. Her men did however undertake gun practise⁷⁴ on occasions such as later in September that year when six men from *Victoria* joined 12 men from *Nelson*, 22 men from *Cerberus* and some of the *Nelson* boys to steam down the bay and undertake turret gun practise on board *Cerberus*.

In late 1872 Lieutenant Stanley (RN) took charge of *Victoria* to undertake an Admiralty Survey and over the next five years surveyed the Victorian coast and nearby islands. On the 9th of January 1878 Captain Stanley handed *Victoria* over to the Harbour Department which in turn handed her to the Victorian Navy in September 1878.⁷⁵ Although those serving on *Victoria* when she commenced the survey would have previously been sworn in under The Discipline Act 1870, those who joined the ship during her survey period and later brief control by the Harbour Department were not. Men, such as James Flynn, who had joined the ship after 1872, had to be re-sworn in when *Victoria* returned to the control of the navy.⁷⁶ Stoker Flynn soon ran afoul of Captain Mandeville under the stricter naval regulations and was dismissed. Two years later Flynn won his lawsuit against the government with substantial damages.

During the 1877-78 war scare, *Victoria* was available for naval service having had her deck strengthened to carry a heavier gun than what had been previously fitted. One of

the twenty-five 80 pounder rifled guns, weighing approximately 4 tonnes and specially made for the colony, was fired from *Victoria*. Premier Graham Berry stated that it did not place too great a strain on the ship.⁷⁷ Stoker Flynn however pointed out that “there was only a small quantity of powder put in the 80-pounder”.⁷⁸ Most likely the strengthening would have been taken advantage of to allow a 64 pounder rifled gun from *Nelson*, which weighed less at 2.9 tonnes, to have been mounted at the bow. It was also reported that four 12 pounder howitzers had been fitted to *Victoria*’s quarterdeck.⁷⁹

After an engine overhaul in 1880, *Victoria* achieved a speed of 10.2 knots and continued performing various tasks for the Customs department such as delivering stores to lighthouses and searching for survivors of shipwrecks. In 1885 *Victoria* was referred to as being out of commission. In April of that year Victorian Premier James Service incorrectly congratulated NSW Premier William Bede Dalley on providing Australia’s first contingent to serve overseas (in the Sudan). Lieutenant G. A. Woods (Ret. V.N.) then wrote to Premier Service⁸⁰ reminding him that as HMCS *Victoria* and her men had served in New Zealand in 1860-61, *Victoria* had therefore been the first colony to place forces at the disposal of the Imperial Government. On the 18th of July 1887 *Victoria* was put up for auction and sold out of government service.

The Discipline Act 1870

In 1870 the Colony passed *The Discipline Act 1870* which was based on the 1864 Act. One clear difference was that under the 1870 Act, members of the permanent Naval and Military Forces were forbidden from voting under penalty of one week in prison or a £10 fine. Crucially the act was not limited to one year, as had been the 1864 Act.

This time the act to provide a legal basis for a permanent force was, neither disallowed by London, or limited to one year by the Upper House. Thus a permanent framework was provided for both the permanent force and a part time militia. Effectively this simply legitimised the permanent force once more. It also led to the introduction of a paid militia force, the Naval Reserve, to replace the Volunteer Naval Brigade.