

The Police Act, 1892.

(55th Vict., No. 27.)

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108. Slops, night-soil, &c., to be conveyed away only at certain hours. Penalty, £5.
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110. Persons in charge of stock to remove such as may die on public road or highway or bury the same.
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111. No turf, gravel, &c., to be removed from streets without permission.
112. Drawing or trailing timber, &c.
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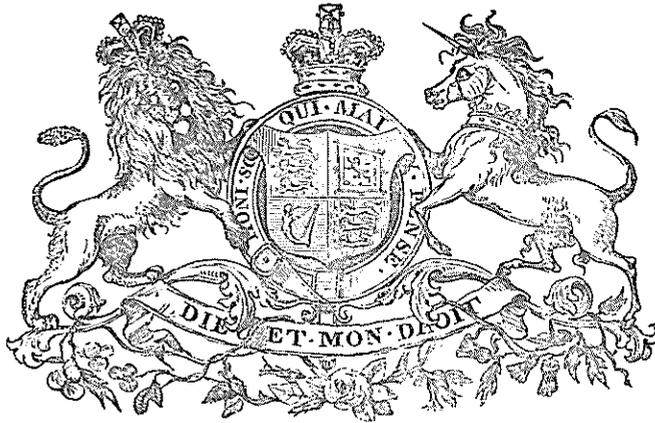
- 133. Proceedings may be taken against master for offences committed by servant under his order or sanction.
 - 134. Offence punishable summarily.
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SCHEDULES.



Western Australia.

ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. XXVII.

AN ACT to consolidate and amend the Law relating to the Police in Western Australia.

[Assented to, 18th March, 1892.]

WHEREAS it is expedient to consolidate and amend the law relating to the Police Force of Western Australia, and to make further provision for the maintenance of the public peace and good order, and the summary prosecution of certain offences, and for other purposes: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia in Parliament assembled, as follows:—

Preamble.

1. THE enactments described in the First Schedule to this Act are hereby repealed, to the extent mentioned in that Schedule, save and except always as to offences committed and matters and things done before the passing of this Act, which said offences, matters, and things shall be dealt with respectively as if this present Act had not been passed.

The Police Ordinance, 1861, and others repealed.

Saving as to past matters and offences.

1. In all cases where in any Ordinance, Act, or Instrument reference is made to the Police Ordinance of 1861, or to any Ordinance or Act hereby repealed, the Ordinance, Act, or Instrument shall be construed and have

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effect as if reference were made therein to the corresponding provisions of this Act.

Interpretation.

2. IN this Act, unless the context otherwise requires,—
- “Governor” means the person for the time being lawfully administering the Government of Western Australia, acting with the advice of the Executive Council :
 - “Minister” means the Responsible Minister in charge of the Department :
 - “Justice,” “Justices,” shall respectively mean a Justice and Justices of the Peace, and “Justice” shall include two or more Justices of the Peace :
 - “Street” includes road, thoroughfare, and public place :
 - “Local Authority” means the Municipal Council, and where there is no municipality means the Town Council :
 - “Chairman” of the local authority includes Mayor.

Short Title and Division of Act.

3. THIS Act may be cited as “The Police Act, 1892,” and shall be divided into nine parts, as follows:—

Sections 4 to 8: PART	I.—As to the appointment of officers and constables of the Police Force :
9 to 33: PART	II.—As to the regulations, duties, and discipline of the Police Force :
34 to 38: PART	III.—As to the appointment and regulation of special constables :
39 only: PART	IV.—As to the establishment of Police Districts :
40 to 52: PART	V.—As to the powers of the Police Force and the apprehension of offenders :
53 to 94: PART	VI.—General provisions as to offences and penalties to be in force throughout the Colony :
95 to 121: PART	VII.—Provisions as to offences applicable only where not the subject of Municipal or other by-law, &c. :
122 to 138: PART	VIII.—Miscellaneous provisions :
139 to 141: PART	IX.—As to appeals.

PART I.—AS TO THE APPOINTMENT OF OFFICERS AND
CONSTABLES OF THE POLICE FORCE.

4. THE Commissioner of Police and all other officers and constables of the Police Force already appointed shall continue to hold office under the provisions of this Act, and shall perform all such duties and possess such powers and functions as by this Act or by any law now or hereafter to be in operation in the said Colony may be imposed or conferred upon them respectively.

Continuation of appointments of officers and constables already made.

5. THE Governor may from time to time appoint a fit and proper person to be Commissioner of Police throughout the said Colony, and as occasion shall require may remove any Commissioner of Police and appoint another in his stead; and every Commissioner of Police shall be charged and vested with the general control and management of the Police Force of the said Colony, and also of any special constables who may be appointed as hereinafter provided.

Governor may appoint Commissioner of Police.

6. THE Governor may appoint such inspectors, sub-inspectors, or other officers of police as may be found necessary, who shall hold commissions under the hand of the Governor for such appointments; and such inspectors, sub-inspectors, and other commissioned officers shall be subject to the control of the Commissioner of Police, and shall be respectively charged with the government and superintendence of such portion of the Police Force as such Commissioner may from time to time direct.

Governor may appoint inspectors and other officers holding commissions.

7. THE Commissioner of Police may appoint so many non-commissioned officers and constables of different grades as he shall deem necessary for the preservation of peace and order throughout the said Colony, subject, however, to the approval of the Governor; and such non-commissioned officers and constables shall have all such powers and privileges, and be liable to all such duties and obligations as any constable duly appointed now or hereafter may have, or be liable to, either by the common law, or by virtue of any statute law now or hereafter to be in force in the said Colony.

Commissioner may appoint non-commissioned officers.

Subject to approval of the Governor.

8. THE Governor may, from time to time as he shall see fit, remove any inspector, sub-inspector, or other commissioned officer of Police, and upon any vacancy in any of the said offices, by death, removal, disability, or otherwise, the Governor may appoint some other fit person to fill the same; and the Commissioner of Police may, from time to time, as he shall think fit, suspend and, subject to the approval of the Minister, remove any non-commissioned officer or constable; and in case of any vacancy in the Police Force by reason of the death, removal, disability or otherwise of

Governor may remove commissioned officers.

And appoint others in their stead.

And Commissioner may suspend and, subject to the approval of the Minister.

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ter, remove non-commissioned officers.

any non-commissioned officer or constable, the Commissioner of Police may appoint another person to fill such vacancy.

PART II.—AS TO THE REGULATIONS, DUTIES, AND DISCIPLINE OF THE POLICE FORCE.

Commissioner may make regulations for general management and discipline of Police Force.

9. THE Commissioner of Police may, from time to time, with the approval of the Minister, frame rules, orders, and regulations for the general government of the members of the Police Force, as well with respect to their places of residence, their classification, grade, distribution, particular service, and inspection, as to the description of the arms, accoutrements, and other necessaries to be furnished to them and all such other rules, orders, and regulations relative to the said Police Force, and the control, management, and discipline thereof as may be necessary for rendering the same efficient for the discharge of the several duties thereof, and for the purpose of preventing neglect or abuse.

Engagement to be subscribed by officers and constables.

10. NO person shall be capable of holding any office, or appointment in the Police Force, or of acting in any way therein, until he shall have subscribed the following engagement, namely:—

“I, A. B., engage and promise that I will well and truly serve our Sovereign Lady the Queen, in the office of [Commissioner of Police, inspector, sub-inspector, or other officer, or constable, as the case may be], without favor or affection, malice, or ill-will, until I am legally discharged; that I will see and cause Her Majesty’s peace to be kept and preserved, and 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.”

And the said engagement shall be subscribed in the presence of and attested by a Justice or Commissioned Officer of the Force.

Person subscribing engagement bound to serve as member of the Police Force.

11. EVERY person, on subscribing such engagement, shall be thereby bound to serve Her Majesty as a member of the Police Force, at the current rate of pay for such member, and until legally discharged, from the day on which such engagement shall have been subscribed: Provided that no such engagement shall be set aside for want of reciprocity: Provided further, that such engagement may be cancelled at any time by the lawful discharge, dismissal, or removal from office of any such person, or by the resignation of any such person being accepted by the Commissioner of Police.

Non-commissioned officer and con-

12. NO non-commissioned officer or constable 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 authorised in writing to do so by the Commissioner of Police, or unless he shall have given to such Commissioner three calendar months' notice of his intention so to resign or withdraw, if stationed beyond two hundred miles from Perth, or one calendar month's notice if stationed within that distance, and every member who shall so resign or withdraw himself without such leave or notice shall, upon conviction thereof by any two or more Justices, be liable to forfeit all arrears of pay then due to him, and to a penalty of not more than Five pounds, or may be committed to prison for a period not exceeding fourteen days.

stable not to resign without leave or notice.

13. EVERY member of the Police Force, whether special or ordinary, having been dismissed from, or having ceased to hold his office, shall forthwith deliver to the Commissioner of Police, or to such person, and at such time and place, as the said Commissioner or a commissioned officer of the force may direct, all and every the clothing, arms, ammunition, and accoutrements, horses, saddles, bridles, appointments, and other property which have been supplied to him for the execution of his duty, or which may be in his custody by virtue of his office; and in default of such delivery shall, on conviction thereof by two or more Justices, be liable to a penalty not exceeding Five pounds, in addition to the value of the property not so delivered, or to imprisonment, with or without hard labor, for any time not exceeding two months; and any Justice may issue his warrant to search for and seize all and every the clothing, arms, ammunition, and accoutrements, horses, saddles, bridles, appointments, and property not so delivered, wherever the same may be found.

Members of the force dismissed or ceasing to hold office to deliver up accoutrements, &c.

14. NOTWITHSTANDING the establishment of any Police District, all officers and constables belonging to the Police Force who may be stationed in any such district shall continue as part of such force, and be subject to the same authority, and be liable, if required, to perform the same duty in any part of the said Colony or elsewhere, as if no such Police District had been established; and if any members of the Police Force be employed beyond the limits of the said Colony, every member so employed shall be amenable to and obey in all respects the lawful commands of his superior officers, and shall be liable to the same penalties, forfeitures, and punishments, in all respects, for any neglect or violation of duty, in any service in which he may be so employed beyond the limits of the said Colony, in the same manner as if such neglect or violation of duty had been committed within the said Colony.

Officers and constables subject to duty in any part of the Colony, as if no Police District had been established.

And if employed out of the Colony to obey orders and perform duties as if within the Colony.

15. ANY member of the Police Force who shall take any bribe, pecuniary or otherwise, either directly or indirectly, to forego his duty, or who shall in any manner aid, abet, assist, or connive at the

Punishment for taking bribe, &c.

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escape, or any attempt or preparation to escape, of any prisoner from lawful custody, or who shall desert his post, or assault his superior officer, shall for every such offence, without prejudice to any other penalties or punishment to which he shall by law be liable, upon conviction thereof before any two or more Justices, forfeit and pay a penalty not exceeding Ten pounds, or may be imprisoned or kept to hard labor for any period not exceeding three calendar months.

Penalty for personating or attempting to bribe, &c., members of the Force.

16. IF any person, not being a member of the Police Force, shall have in his possession any arms or ammunition, or any article of clothing, accoutrements, or appointments supplied to any member of the Police Force and shall not be able satisfactorily to account for his possession thereof, or shall put on or assume the dress, name, designation, or description of any member of the Police Force, or shall pretend or assert that he is a member of such force, or shall give, or offer, or promise to give any bribe, recompense, or reward, or shall make any collusive agreement with any member of the Police Force to induce him to neglect his duty, or to conceal or connive at any act whereby any rule, order, or regulation relating to the Police Force in operation in the said Colony may be evaded, every person so offending shall, in addition to any other punishment to which he may be liable for such offence, forfeit for every such offence, on conviction thereof before any two or more Justices, a sum not exceeding Ten pounds.

Repute to be evidence of appointment.

17. IF any question shall arise as to the right of the Commissioner of Police, or any other officer or member of the Police Force, to hold or execute his office, common reputation shall to all intents and purposes be deemed sufficient evidence of such right, and it shall not be necessary to have or produce any written appointment, or any oath, or other document or matter whatsoever, in proof of such right.

Penalty on persons harboring constables during the hours of duty.

18. ANY person whosoever, who shall, by himself or his servant, permit any constable to be supplied with fermented or spirituous liquors when on duty, except during such time as such constable is travelling on duty, or who shall permit any constable to become drunk on his premises, and knowing him in every such case to be a member of the Police Force; and any person who shall knowingly harbor or entertain any constable, or permit such constable to abide or remain in his premises during any part of the time appointed for such constable to be on duty elsewhere, on conviction thereof by any two or more Justices, shall, for every such offence, forfeit and pay a sum not exceeding Five pounds.

Penalty on police for neglect of duty.

19. EVERY member of the Police Force who shall be guilty of any neglect or breach or violation of duty in his office shall, on

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conviction before any two or more Justices, be liable to a penalty of not more than Ten pounds (the amount of which penalty may be deducted from any salary then due to such offender), or may be imprisoned, with or without hard labor, for any period not exceeding one calendar month.

20. IF any person shall disturb, hinder, or resist any member of the Police Force in the execution of his duty, or shall aid or incite any person thereto, every such offender, being convicted thereof before any two or more Justices, shall, for every such offence, forfeit and pay a sum not exceeding Ten pounds; and also such further sum of money as shall appear to the convicting Justices to be a reasonable compensation for any damage or injury caused by such offender to the uniform, clothing, accoutrements, or horse of such member of the force, or for any medicine or other expenses incurred in consequence of personal injury sustained by him thereby, or may be liable to imprisonment for any time not exceeding two calendar months, with or without hard labor.

Interference with police.

21. EVERY non-commissioned officer and constable of the Police Force shall execute all process to him directed for levying the amount of any recognizance forfeited to Her Majesty, or of any fine imposed on any jurors, witnesses, parties, or persons, at any Court of Judicature, or of any other fine imposed under any Act in force in the said Colony, and any process, or any other warrant or command of any Justice directed, delivered, or given to any such non-commissioned officer or constable, shall or may be executed and enforced by any other such officer or constable, or his assistants; and every such last-mentioned officer, constable, and his assistants, shall have all and every the same rights, powers, and authorities for and in the execution of such process, order, warrant, or command, as if the same had originally been directed to him or them expressly by name. And the amount of any recognizance so forfeited may, in addition to the manner prescribed by the 25th Vic., No. 5, be levied by distress and sale of the goods and chattels of the person bound thereby, and may be otherwise recovered and enforced as in case of an ordinary fine or penalty imposed by a Justice. And a breach of the condition of a recognizance may be proved before a Justice upon *ex parte* proof on oath thereof.

Non-commissioned officers and constables to execute process for levying fines, forfeitures, &c.

And as to recognizance.

22. THE Commissioner or other commissioned officer of police in each Magisterial District shall take care that a sufficient number of Police Constables shall be in attendance upon every Justice sitting at every Police Court in the district for the purpose of executing such summonses and warrants as may be directed to them, and returning the same.

Police Constables to attend Magistrates.

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INQUIRIES INTO MISCONDUCT AND PENALTIES.

Inquiries into misconduct of non-commissioned officer.

23. THE Commissioner or some other commissioned officer of the force appointed by the Governor for the purpose may examine on oath into any charge of insubordination or misconduct against the discipline of the force against any non-commissioned officer, and the evidence taken by any such officer shall be referred for the decision of the Commissioner, and the Commissioner, if he consider the charge is satisfactorily proved, may inflict a fine not exceeding Five pounds, and may recommend to the Minister the reduction, discharge, or dismissal of the accused.

Inquiries into misconduct of constables.

24. THE Commissioner, or any other officer of the force appointed by the Minister for the purpose may examine on oath into any similar charge preferred against any constable, and on proof thereof may sentence such constable to pay a fine not exceeding Three pounds, or to imprisonment for any period of not more than three days, and every such sentence, if by an officer other than the Commissioner shall be subject to the approval of the Minister; and the Commissioner or another officer hearing a charge under either this or the next preceding section shall have the same power to summon and examine witnesses and administer oaths as a Justice, and the fine or imprisonment shall be enforceable in like manner as a fine or imprisonment imposed by a Justice under this Act.

Inquiries into misconduct of superior officers.

25. WHEN any Commissioned Officer is accused of a breach of duty or of any conduct rendering it unfit that he should remain in the Police Force, if he deny the truth of such accusation, and if the Governor nevertheless think that sufficient cause has been shown for further proceedings, the Governor may appoint three or more fit and proper persons (of whom only one may be a member of the Police Force) to inquire as to the truth of such charge, and such persons shall have authority to hear, receive, and examine evidence on oath and shall, after fully hearing the case, report to the Governor in Council their opinion thereon.

Non-commissioned officer and constable accused of misconduct may demand inquiry by a board.

26. ANY non-commissioned officer or constable accused of any act of insubordination or act of misconduct against the discipline of the force, or any person preferring the charge, may require that the charge, instead of being heard as hereinbefore provided, shall be heard by a board and thereupon a board appointed by the Governor, consisting of three persons (of whom only one may be a member of the force, not being the Commissioner), may summarily inquire into on oath and determine the charge and sentence such non-commissioned officer or constable as the case may be, to the fine or imprisonment hereinbefore mentioned; and every such sentence

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shall be subject to the approval of the Governor, and when approved shall be final, and shall be enforceable in like manner as a fine or imprisonment imposed by Justices under this Act, and every such board shall have the same power as Justices exercising an ordinary summary jurisdiction.

27. IN case any non-commissioned officer or constable shall die intestate, the Commissioner of Police, or such other officer as the Governor may appoint, may cause the personal effects of the deceased to be disposed of by public auction, in such manner as to the Commissioner 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, 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 Commissioner or other officer to the widow or next of kin of the deceased resident in Western Australia, 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 widow or next of kin entitled as aforesaid be not resident in Western Australia, or if the sum so remaining shall exceed Fifty pounds, it shall be paid to the Curator of Intestates' Estates.

As to disposal of effects of non-commissioned officers or constables dying intestate.

28. ANY member of the force who shall be subject to punishment of imprisonment under this Act, for any act of insubordination or misconduct against the discipline of the force, shall be confined in any place specially appointed by the Governor as a police prison, instead of a common gaol or other place where he might be confined under this Act, and may be kept to such labor therein as the Commissioner may direct; and no imprisonment or confinement of any member of the force under this Act shall be deemed to be part of any period for which he shall have engaged to serve in the force; and the period of any such confinement shall in no case exceed the period of imprisonment to which such member may have been sentenced.

Members of the force subject to imprisonment may be imprisoned in any place specially appointed.

29. IF any member of the force become bankrupt, or by any deed or other writing compound with his creditors, or make an assignment of his salary or wages for their benefit, he shall be deemed to have forfeited his office.

Bankruptcy.

30. WHEN any such member of the force has so forfeited his office, if he prove to the satisfaction of the Governor that such embarrassment has not been caused or attended by any fraud, extravagance, or dishonorable conduct, the Governor may reinstate such member of the force in his former position in the service.

Bankrupt may be reinstated.

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Penalty on persons wrongfully obtaining admission into the force.

31. ANY person having been dismissed from the force who shall, by concealing the fact of such dismissal, or any person who shall by any false or forged certificates, or any false representations, obtain admission into the force, or who by any such means shall receive any pay, gratuity, or pension, shall be liable, on conviction thereof before any two or more Justices, to imprisonment for any period not exceeding six months, with or without hard labor.

Members of the force not to influence voters at elections.

32. NO member of the force shall in any manner influence any elector in giving his vote for the choice of any person to be a member to serve in the Legislative Council or Legislative Assembly; and if any person being a member of the force shall offend herein he shall forfeit a sum not less than Five nor exceeding One hundred pounds, to be recovered by any person who shall first sue for the same by action in a Local Court to be commenced within six months after commission of the offence; but nothing herein contained shall subject any member of the force to any penalty for any act done by him at or concerning any of the said elections in the discharge of his duty.

Fines and penalties for misconduct payable to Police Benefit Fund.

33. ALL fines and penalties imposed on any member of the Police Force, by virtue of this part of the Act, shall be paid to the Commissioner of Police or other Officer appointed by the Governor, on account of the Police Benefit Fund.

PART III.—AS TO THE APPOINTMENT AND REGULATION OF SPECIAL CONSTABLES.

Justices, upon information on oath, or otherwise, that disturbances exist, or are apprehended, may appoint special constables.

34. IN all cases where it shall be made to appear to any Police or Resident Magistrate or any two or more Justices, upon the oath of any credible person, that any tumult, riot, or felony has taken place, or may be reasonably apprehended in any place in the said Colony and any such Magistrate or Justices shall be of opinion that the ordinary constables or officers appointed for preserving the peace are not sufficient for the preservation thereof, and for the protection of the inhabitants, and the security of the property of such place, or where, without such oath or evidence as aforesaid, any such Magistrate or Justices shall be of opinion that the constables or officers aforesaid are not sufficient for the preservation, protection, or security as aforesaid, or for the apprehension of any offenders, it shall be lawful for any such Magistrate or Justices to appoint, by precept in writing under his or their hand or hands, so many as they may think fit of the persons (not legally exempt from serving the office of constable), residing in such place as aforesaid, to act as special constables for such time and in such manner as to the said Magistrate or Justices shall seem fit and necessary

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for the public peace, and for the protection of the inhabitants, and the security of property in such place; and any Justice of the Peace is hereby authorised to cause every person so appointed to subscribe the following engagement:

“I, A.B., engage and promise that I will well and truly serve Her Majesty Queen Victoria in the office of special constable for the [city, town, or district of] _____ without favor or affection, malice, or ill-will, and that I will to the best of my power cause the peace to be kept and preserved, and prevent all offences against the persons and properties of Her Majesty’s subjects, and that while I 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.”

Provided always, that whenever it shall be deemed necessary to appoint such special constables as aforesaid, the notice of such appointment, and of the circumstances which have rendered such appointment necessary, shall be forthwith transmitted by the Magistrate or Justices making such appointment to the Minister.

35. ALL persons willing to act as special constables under the provisions of this Act, shall be capable of being appointed and acting, and may be appointed and act, as such special constables, notwithstanding they may not be resident in such place as aforesaid, or in the neighborhood thereof; and any person appointed and acting as special constable under the provisions of this section, shall have all the same powers, and be entitled to and enjoy all the same privileges and benefits, and be subject to all the same duties and obligations, as any constable duly appointed under the other provisions of this Act.

Persons may act as special constables in any district although not resident.

Power of special constables.

36. IF any person residing within any place in the said Colony, being appointed a special constable, shall refuse to subscribe the engagement aforesaid when thereunto required by the Magistrate or Justices so appointing him, he shall, on conviction thereof, before any two or more Justices, forfeit and pay any sum of money not exceeding Five pounds, and if any person being appointed a special constable shall neglect or refuse to appear at the time and place for which he shall be summoned for the purpose of subscribing such engagement, or having been appointed as special constable, and called upon to serve, shall neglect or refuse to serve as such special constable, or to obey such lawful orders and directions as may be given to him for the performance of the duties of his office, every person so offending shall on conviction thereof before any two or more Justices, forfeit and pay for any such neglect or refusal any sum of money not exceeding Five pounds, unless such person shall prove, to the satisfaction of the said Justices, that he was prevented

Penalty for refusing to subscribe the engagement.

by sickness, or other such unavoidable cause as shall in the judgment of the said Justices be a sufficient cause.

Power to discontinue service of special constables.

37. THE Commissioner of Police may suspend or determine the services of all or any of the said special constables, as to the Commissioner of Police shall seem meet, and notice of such suspension or determination shall be forthwith transmitted to the Minister, and to the Magistrate or Justices appointing them.

Minister may direct reasonable allowances to be paid to and for special constables.

38. THE Minister may, upon the recommendation of the Commissioner of Police, order from time to time such reasonable allowances for their trouble, loss of time, and expenses, to be paid to such special constables who shall have served or be then serving as he may deem proper; and he may further order the payment of such expenses as may have been incurred in providing arms, equipments, and necessaries for such special constables.

PART IV.—AS TO THE ESTABLISHMENT OF POLICE DISTRICTS.

Places already established or proclaimed Police Districts to continue Police Districts under this Act. Governor may establish other Police Districts.

The notice must define the limits.

39. THE city, towns, and places in the said Colony, which have already been established or proclaimed as Police Districts, shall continue to be Police Districts within the meaning and for the purposes of this Act; and the Governor may, by notice in the *Government Gazette*, vary the same and establish other Police Districts wherein portions of the Police Force may be stationed; and in every notice establishing any Police District in any part of the said Colony, the limits of such Police District shall be defined.

PART V.—AS TO THE POWERS OF THE POLICE FORCE AND THE APPREHENSION OF OFFENDERS.

Inspectors, Sub-Inspectors, &c., may board vessels.

40. ANY inspector, sub-inspector, or any non-commissioned officer of the Police Force or senior constable in charge of a police station shall, by virtue of his office, be an Officer of Customs within the meaning of the law relating to the Customs for the time being and shall have power, by virtue of his office, to enter at all times, with such constables as he shall think necessary, as well by night as by day, into or upon every ship, boat, or other vessel (not being then actually employed in Her Majesty's service, and not being a vessel of war, the commanding officer whereof shall hold a commission from any foreign Government or Power) lying or being in any of the waters of the said Colony, or any dock thereto adjacent, and into every part of such vessel, for the purpose of searching and inspecting the same, and of inspecting and observing

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the conduct of all persons who shall be employed on board any such ship or vessel in or about the lading or unlading thereof, as the case may be, and for the purpose of taking all such measures as may be necessary for providing against fire and other accidents, and for preserving peace and good order on board of any such ship or vessel, and for the effectual prevention or detection of any felonies or misdemeanors.

41. ANY inspector, sub-inspector, or non-commissioned officer of the Police Force, or senior constable in charge of a Police Station, having reasonable or probable cause to suspect that any offence has been, or is about to be committed on board of any ship, boat, or other vessel (not being then actually employed in Her Majesty's Service, and not being a vessel of war, the commanding officer whereof shall hold a commission from any foreign Government or Power), lying or being in any of the waters of the said Colony, or that any person who has committed an offence rendering him liable to apprehension, either with or without warrant, or that any person against whom any warrant shall have been issued by any Justice is harbored, secreted, or concealed on board of any such ship, boat, or vessel, may stop and detain such ship, boat, or vessel, and may enter at all times, with such constables as he shall think necessary, as well by night as by day, into and upon every such ship, boat, or other vessel, and into every part thereof, and may search and inspect the same, and therein take all necessary measures for the effectual prevention and detection of all such suspected offences, and for the apprehension of all such suspected persons as aforesaid, and may and shall take into custody all persons suspected or being concerned in such offences, or liable to apprehension as aforesaid, and shall also take charge of all property suspected to be stolen; and if the master of any such ship or vessel, or any other person, shall resist or wilfully prevent or obstruct any officer or constable of the Police Force whilst stopping, detaining, entering, or endeavoring to stop, detain, or enter upon such ship, boat, or vessel, or whilst searching and inspecting the same as and for the purposes aforesaid, or shall harbor or conceal, or rescue or attempt to rescue, or assist any such suspected persons, such master and every other person so offending shall be deemed to have committed a misdemeanor, and shall suffer such punishment by fine, not exceeding Fifty pounds, and such imprisonment, with or without hard labor, for a term not exceeding six months, as any two or more Justices before whom such offender shall be convicted, shall determine.

Inspectors, Sub-Inspectors, &c., to apprehend and seize stolen property on board ship.

42. ANY officer or constable of the Police Force may enter into any house, room, premises, or place where any public table, board, or ground is kept for playing billiards, bagatelle, bowls, fives,

Empowering Police to visit houses where games carried on.

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Police may enter theatres, &c., and remove therefrom prostitutes and reputed thieves.

rackets, quoits, skittles, or ninepins, or any game of the like kind, when and so often as any such member shall think proper; and may enter into any house, room, or place kept or used in the said Colony for any theatrical or any public entertainments, or exhibitions, or for any show of any kind whatsoever, whether admission thereto is obtained by payment of money or not, at any time when the same shall be open for the reception of persons resorting thereto, and may remove from such house, room, or place any common prostitute, or reputed thief, or other loose, idle, or disorderly person who shall be found therein, and may order any such common prostitute, reputed thief, or disorderly person to leave the said house, room, or place, and in case such person shall refuse to leave the same, may take such person into custody, and every such person remaining in such house, room, or place after having been so ordered to leave, shall on conviction be liable to a penalty of not more than Forty shillings.

Power of apprehending offenders.

43. ANY officer or constable of the Police Force, without any warrant other than this Act, at any hour of the day or night, may apprehend any person whom he may find drunk, or disorderly, or using profane, indecent, or obscene language, or who shall use any threatening, abusive, or insulting words or behaviour, with intent or calculated to provoke a breach of the peace, in any street, public vehicle, or passenger boat; and also any person who shall ride or drive on or through any street, so negligently, carelessly, or furiously that the safety of any other person may thereby be endangered; and also any person who shall cruelly or wantonly beat, ill-treat, overdrive, overload, abuse, or torture any living thing, or cause the same to be done; and also any person who shall convey or carry any living thing in any street, in such a manner or position as to cause unnecessary pain or suffering, and all persons whom he shall have just cause to suspect of having committed or being about to commit any offence, or of any evil designs, and all persons whom he shall find or who shall have been lying or loitering in any street, yard, or other place, and not giving a satisfactory account of themselves, and shall detain any person so apprehended in custody, until he can be brought before a Justice, to be dealt with for such offence, or until he shall have given bail for his appearance before a Justice, in the manner hereinafter mentioned.

Power to apprehend persons disturbing the peace on board ships or vessels, and in houses licensed for the sale of fermented and spirituous liquors.

44. ANY constable, when so ordered by any officer of police, and any officer or constable of the force whenever called upon by the master or any officer of any ship or vessel (not being then actually employed in Her Majesty's Service, and not being a vessel of war, the commanding officer whereof shall hold a commission from any foreign Government or Power), lying in any of the waters of the Colony or any dock thereto adjacent, may enter into and upon

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such ship or vessel, and without any warrant other than this Act, apprehend any person whom he may find drunk, or behaving himself in an indecent or disorderly manner, or using profane, indecent, or obscene language, or using any threatening, abusive, or insulting words or behaviour, with intent or calculated to provoke a breach of the peace; and any officer or constable of the force may enter at any hour of the day or night into any house licensed for the sale of fermented and spirituous liquors, or any licensed boarding, eating, or lodging house, and without any warrant other than this Act apprehend any person whom he may find drunk, or behaving himself in an indecent or disorderly manner, or using any such language as aforesaid or words or behaviour as aforesaid, with intent or calculated to provoke a breach of the peace; and to search therein for offenders and otherwise perform his duty, using as little annoyance to the inmates as possible; and any person so apprehended shall be detained in custody until he can be brought before a Justice to be dealt with for such offence, or until he shall have given bail for his appearance before a Justice in manner hereinafter mentioned; and every such person so apprehended shall unless a different penalty for his offence be prescribed by this Act be liable on conviction to a penalty not exceeding Forty shillings or to imprisonment, with or without hard labor, for any term not exceeding seven days.

45. ANY officer or constable of the Police Force may, without a warrant, take into custody any person whom he may have reasonable and probable cause for believing or suspecting to be a person for whose apprehension a warrant shall have been issued; and any person who shall be charged by any other person with having committed, or whom he shall have reasonable and probable cause for believing has committed any felony or misdemeanor, punishable on information by the Supreme Court, or any Court of Quarter or General Sessions of the Peace, in cases when by reason of the recent commission of the offence a warrant could not have been obtained for the arrest of the offender. And any warrant of arrest under this or any other Act may be executed by any police officer or constable on any Sunday, Good Friday, or Christmas Day.

Any person against whom a warrant has been issued, and persons charged with recent offences may be apprehended without warrant.

46. ANY officer or constable of the Police Force, and all persons whom he shall call to his assistance, may take into custody, without a warrant, any person who, within view of such officer or constable, shall offend in any manner against this Act, and whose name and residence shall be unknown to, and cannot readily be ascertained, by him.

Police may apprehend any offender whose name and residence are not known.

47. ANY person whosoever, with or without a warrant, may apprehend any reputed common prostitute, thief, loose, idle, or dis-

Apprehension of known offenders.

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orderly person, and all reputed rogues and vagabonds, or incorrigible rogues who, within view of such person apprehending, shall offend against this Act, and shall forthwith deliver him to any constable or police officer of the place where he shall have been apprehended, to be taken and conveyed before a Justice, to be dealt with according to law; and any constable who shall refuse or wilfully neglect to take such offender into custody, or to take and convey him before a Justice, or who shall not use his best endeavors to apprehend and to convey him before a Justice, shall be deemed guilty of neglect of duty and shall, on conviction, be punished in such manner as herein directed.

Officer or constable attending at the police station may take bail by recognizance from persons brought before them for petty offences; such recognizance to be conditioned for the appearance of the parties before a Justice.

48. WHERE any person who may be apprehended as aforesaid, or who may be charged with any offence punishable in a summary manner, shall be brought without a warrant of a Justice into the custody of any police officer or constable in charge at any police station or lock-up, such officer or constable may, if he shall deem it prudent, take bail by recognizance, with or without sureties, in the form in the Second Schedule to this Act, as the said officer or constable shall think fit, without any fee or reward from such person, conditioned that such person shall appear for examination before a Justice, at some place to be specified in the recognizance, at the hour of ten in the forenoon next after such recognizance shall be taken, unless that hour shall fall on a Sunday, or Christmas Day, or Good Friday, or any public holiday, and in that case at the like hour on the next day afterwards which shall not be one of the days in this section specified; and every recognizance so taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof, as if the same had been taken before a Justice; and the officer or constable shall enter into a book, to be kept for that purpose in every police station or lock-up, the name, 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 shall lay the same before such Justice as shall be present at the time and place when and where the party is required to appear: and if the party does not appear at the time and place required, or within one hour after, the Justice shall cause a memorandum of such recognizance and of its forfeiture to be drawn up and signed by any constable, and if the party not appearing shall apply by any person on his behalf to postpone the hearing of the charge against him, and the Justice shall consent thereto, the Justice shall be at liberty to enlarge the recognizance to such further time as he shall appoint; and when the matter shall be heard and determined, the recognizance for the appearance of the party before a Justice shall be discharged without fee or reward.

In default of appearance, recognizance to be forfeited.

Time of hearing may be postponed.

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49. ANY person found committing any offence punishable in a summary manner may be taken into custody without a warrant by any officer or constable of the Police Force, or may be apprehended by the owner of the property on or with respect to which the offence shall be committed, or by his servant, or any person authorised by him, and may be detained until he can be delivered into the custody of a constable, to be dealt with according to law; and every police officer or constable may also stop, search, and detain any cart, carriage, or vehicle, in or upon which there shall be reason to suspect that anything stolen or unlawfully obtained may be found, and also any person who may be reasonably suspected of having or conveying in any manner anything stolen or unlawfully obtained; and any person to whom any property or liquor shall be offered to be sold, pawned, or delivered (if he shall have reasonable cause to suspect that any offence has been committed with respect to such property or liquor, or that the same, or any part thereof, has been stolen, or otherwise unlawfully obtained, or is intended to be used for an unlawful purpose), may apprehend and detain the person offering any such property or liquor as aforesaid, and as soon as may be deliver him into the custody of a constable, together with such property or liquor, to be dealt with according to law; and every person taken into custody without warrant for any offence against the provisions of this Act, or for any offence punishable in a summary manner, shall be detained in custody until he can be brought before a Justice to be dealt with according to law or until he shall have given bail for his appearance before a Justice in manner hereinbefore provided.

Power to police and persons aggrieved to apprehend certain offenders.

Every person taken into custody, without warrant, for offending against this Act, or for petty offence, to be kept in custody.

50. ANY officer or constable of the Police Force may demand from and require of any individual with whose person he shall be unacquainted his name and address, and may apprehend without warrant any such person who shall neglect or refuse to give his name and address or either of them when required so to do as aforesaid; and every such person so neglecting, or refusing, or who shall give a false name or address when applied to as aforesaid, shall upon conviction forfeit and pay any sum not exceeding Five pounds, or at the discretion of the convicting Justice be committed to any gaol or lockup, there to be kept to hard labor for any term not exceeding three calendar months.

Police may demand name and address, and apprehend.

51. ANY officer or constable of the Police Force may destroy any dog or other animal reasonably suspected to be in a rabid state, or which has been bitten by any dog or animal reasonably suspected to be in a rabid state, and the owner of any such dog or animal who shall permit the same to go at large after having information or reasonable ground for believing it to be in a rabid

Mad dogs, &c.

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state or to have been bitten by any dog or other animal in a rabid state, shall on conviction be liable to a penalty of not more than Five pounds.

Regulations for preventing obstructions in the streets during public processions, &c.

52. THE Commissioner of Police, from time to time, and as occasion shall require, may give directions and make regulations for the route and pace to be observed by all carts, carriages, vehicles, horses, and persons, and for preventing obstruction of the streets and thoroughfares, in any city or town in all times of public processions, public rejoicings, or illuminations, or in case of fires, and by such directions and regulations provide for keeping order and for preventing any obstructions of the thoroughfares in the immediate neighborhood of all public buildings and offices, theatres, and other places of public resort, and in any case where the streets or thoroughfares may be thronged or may be liable to be obstructed, and for causing all vehicles to proceed at a foot-pace by any building used for divine worship during the hours in which divine worship is being held, on Sunday, Christmas Day, or Good Friday, and may give such directions, and take such steps as may seem expedient to him to prevent any interference with or annoyance of any congregation or meeting engaged in divine worship in any building consecrated or otherwise, caused by any band, procession or other gathering or in any other manner. And he may also give and make suitable directions and regulations for keeping order and preventing obstructions on and near the water on which any regatta shall be held, and any person not observing any such directions and regulations after being made acquainted with the same shall be liable to be arrested, without warrant, and, on conviction, to a penalty not exceeding Five pounds.

PART VI.—GENERAL PROVISIONS AS TO OFFENCES, AND PENALTIES TO BE IN FORCE THROUGHOUT THE COLONY, AND SUMMARILY PUNISHABLE.

Penalty on drunkards.

53. EVERY person who shall be found drunk in any street, public place, or in any passenger boat or vehicle, shall for the first offence be liable on conviction to a penalty not exceeding One pound, or to imprisonment, with or without hard labor, for any term not exceeding seven days, and for any second or subsequent offence to a penalty not exceeding Five pounds, or to imprisonment, with or without hard labor, for any period not exceeding twenty-one days.

Disorderly conduct.

54. EVERY person who shall be guilty of any disorderly conduct on any street, public place, or in any passenger boat or vehicle, any police station, or lockup, shall, on conviction, be liable

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to a penalty of not more than Ten pounds for every such offence, or to imprisonment, with or without hard labor, for any term not exceeding six calendar months, or to both fine and imprisonment.

55. EVERY person who shall unlawfully assault or beat any other person shall, upon conviction before any two or more Justices upon complaint of the person aggrieved or of any person on his or her behalf, be liable to a penalty of not more than Five pounds, or to imprisonment, with or without hard labor, for any term not exceeding two calendar months; but if the Justices, upon the hearing of any such case of assault or battery, shall deem the offence not to have been proved, or shall find the assault or battery to have been justified, or so trifling as not to merit any punishment, they shall accordingly dismiss such complaint, and forthwith make out a certificate under their hands, stating the fact and the grounds of such dismissal, and deliver such certificate to the party against whom the complaint was preferred; if any person against whom such complaint shall have been preferred for any common assault or battery shall have obtained such certificate as aforesaid, or having been convicted shall have paid the whole amount adjudged to be paid under such conviction, or shall have suffered the imprisonment awarded for non-payment thereof, in every such case he shall be released from all further or other proceedings, civil or criminal, for the same cause: Provided that if the Justices shall consider the assault or battery complained of a fit subject for prosecution by information or otherwise, they may deal with the case in all respects as if this provision had not been made: Provided also, that nothing herein contained shall authorise the Justices to hear and determine any case of assault or battery in which any question shall arise as to the title of any lands, tenements, or hereditaments, or any interest therein, or accruing therefrom.

Common assaults.

56. WHEN any person shall be charged before any two or more Justices with an assault or battery upon any male whose age shall not in their opinion exceed fourteen years, or upon any female or upon any member of the police force, in the execution of his duty, either upon the complaint of the party aggrieved or of any person on his or her behalf or of a police constable, the said Justices may if such charge be proved, convict the person accused who shall thereupon be liable to imprisonment with or without hard labor for any term not exceeding six calendar months, or to pay a fine not exceeding Twenty pounds, and in default of payment to imprisonment with or without hard labor for any term not exceeding six calendar months unless such fine and all costs if any be sooner paid: and if the Justices shall think fit in any of the said cases such person shall be bound by recognizance to keep the peace and be of good

Assaults on boys, females, or police.

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behaviour for any period not exceeding six calendar months from the expiration of such sentence.

57. EVERY person who shall ride or drive in any street so negligently, carelessly, or furiously, that the safety of any other person might thereby be endangered, shall, on conviction, be liable to a penalty of not more than Forty shillings.

Negligent or furious driving.

58. EVERY person who shall break or injure any public property or the property of any public company or body shall repair the injury committed, to the extent in value not exceeding Fifty pounds, to be estimated by the Justice before whom such offender shall be brought, and when such injury shall be wantonly done shall in addition forfeit and pay, upon conviction for every such offence, any sum not exceeding Five pounds.

Injuring public property.

59. EVERY person who in any street or public place or to the annoyance of the inhabitants or passengers, shall sing any obscene song or ballad, or write or draw any indecent or obscene word, figure, or representation, or use any profane, indecent, or obscene language, shall be deemed guilty of disorderly conduct and be punishable accordingly, and any common prostitute who shall solicit, importune or accost any person or persons for the purpose of prostitution, or loiter about for the purpose of prostitution in any street, or place, or within the view or hearing of any person passing therein, and any person who shall use any threatening, abusive, or insulting words or behaviour in any public or private place, whether calculated to lead to a breach of the peace, or not, or who shall extinguish wantonly any light set up for public convenience, shall forfeit and pay on conviction any sum not exceeding Two pounds, or may be committed to gaol for any period not exceeding one calendar month.

Obscenity and other offences.

60. EVERY person other than a chemist, druggist, or eating house keeper who shall trade or deal, or keep open any place for the purpose of trade or dealing (the shops or houses of butchers, bakers, fishmongers, and greengrocers, until the hour of ten in the forenoon, and of bakers and pastry cooks between the hours of twelve noon and two in the afternoon, respectively, only excepted) on the Lord's Day shall, on conviction, forfeit and pay for every such offence a sum not exceeding Five pounds.

To cause the Lord's Day to be observed.

61. EVERY owner of any public billiard room or place of amusement within any city or town who shall permit or suffer any one to play in his house or premises any game on Sunday, Christmas Day, or Good Friday, shall on conviction forfeit and pay a sum not exceeding Five pounds nor less than Three pounds; and it shall be lawful for any police constable, and he is hereby required

As to not suffering games or play on a Sunday.

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to disperse or cause to be dispersed all persons gathering together on any of the days aforesaid in any public or open place for the purpose of gambling or playing at any game for money and to take and seize or cause to be taken and seized any implement, instrument, or animals used or intended to be used or which have been used therein, or which such persons may have about or near them, and to destroy or carry or lead away the same; and every person actually gambling or playing as aforesaid, shall be liable on conviction to a penalty of any sum not exceeding Five pounds, or in the discretion of the convicting Justice may be imprisoned with or without hard labor for any term not exceeding two calendar months.

62. EVERY person who shall steal any dog, or shall steal any animal, bird, fish, or reptile, kept in a state of confinement, and not being the subject of larceny, shall, on conviction for every such offence, before any two or more Justices, forfeit and pay, over and above the value of the dog, animal, bird, fish, or reptile, such sum of money as to the Justices shall seem fit, not exceeding Twenty pounds, or be imprisoned with or without hard labor for any term not exceeding two calendar months.

Stealing a dog, &c.

63. EVERY person who shall knowingly bring or take any dog into any public garden, declared such by notice published in the *Government Gazette*, or shall suffer any dog to remain in any such garden, shall for every such offence be liable on conviction to a penalty of not more than Ten shillings.

Taking dog into Public Gardens.

64. EVERY person who shall send or accept, either by word or letter, or publish any challenge to fight for money, or shall engage in any prize-fight, shall, upon conviction thereof by any two or more Justices, forfeit and pay a sum not more than Twenty pounds, or may be imprisoned, with or without hard labor, for any term not exceeding three calendar months; and the convicting Justices may, if they shall think fit, also require the offender to find sureties for keeping the peace.

Challenge to fight.

65. EVERY person who shall commit any of the next following offences shall be deemed an idle and disorderly person within the meaning of this Act, and shall on conviction be liable to imprisonment for any term not exceeding six calendar months with or without hard labor:—

Idle and disorderly persons.

1. Every person having no visible lawful means of support or insufficient lawful means of support, who being thereto required by any Justice, or who having been duly summoned for such purpose, or brought before

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any Justice, shall not give a good account of his means of support to the satisfaction of such Justice:

2. Every person not being an aboriginal native, or the child of any aboriginal native, who, being found lodging, or wandering in company with any of the aboriginal natives of the said Colony, or of the adjoining Colonies, and being thereto required by any Justice, shall not give a good account to the satisfaction of such Justice that he has a lawful fixed place of residence and lawful means of support, and that such lodging or wandering has been for some temporary and lawful occasion only:
3. Every person wandering abroad, or from house to house, or placing himself in any public place, street, highway, court, or passage to beg or gather alms, or causing, or procuring, or encouraging any person to do so, or begging or gathering alms in any other place and not quitting such place whenever thereto bidden or requested:
4. Every person found in possession of any weapon or instrument or thing capable of being used for the purpose of disguise, who, being thereto required, shall not give a good account of his means of support, and assign a valid and satisfactory reason for such possession:
5. Every person having in his possession, without lawful excuse, the proof of which excuse shall be on such person, any deleterious drug:
6. Every habitual drunkard having been thrice convicted of drunkenness within the preceding twelve months:
7. The occupier of any house which shall be frequented by reputed thieves, prostitutes, or persons who have no visible means of support:
8. Every common prostitute wandering in the public streets or highways, or being in any thoroughfare or place of public resort, and behaving in a riotous or indecent manner:

Every such weapon, instrument, and thing shall, on conviction of the offender, become forfeited to Her Majesty.

66. EVERY person who shall commit any of the next following offences shall be deemed a rogue and vagabond within the meaning of this Act, and shall on conviction be liable to imprison-

Rogues and vagabonds.

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ment for any term not exceeding twelve calendar months, with or without hard labour:—

1. Every person committing any of the offences in the next preceding section mentioned, having been previously convicted as an idle and disorderly person :
2. Every person imposing or endeavoring to impose upon any charitable institution or private individual, by any false or fraudulent representation, either verbally or in writing, with a view to obtain money or any other benefit or advantage :
3. Every person pretending to tell fortunes, or using any subtle craft, means, or device, to deceive and impose upon any person :
4. Every person having in his custody or possession without lawful excuse (the proof of which excuse shall be on such person), any picklock, key, crow, jack, bit, or other implement of housebreaking :
5. Every person exposing to view in any street, road, thoroughfare, highway, or public place, or who shall expose or cause to be exposed in any window, or other part of any shop or other building situate in any public place, or highway, or who shall offer for sale or attempt to dispose of any obscene book, print, picture, drawing, or representation :
6. Every person playing or betting at thimble-rig, or at or with any table or instrument of gaming, other than a totalizator lawfully permitted to be used, or at any unlawful game, or at any game or pretended game of chance in any public place, to which the public (whether upon or without payment for admittance) have or are permitted to have access :
7. Every person apprehended as an idle and disorderly person, and violently resisting any constable or other officer so apprehending him, and being subsequently convicted of the offence for which he shall have been so apprehended :
8. Every person being found in or upon any place, stable, or outhouse, for any unlawful purpose :
9. Every person wandering about or lodging in any outhouse, deserted or unoccupied building, or in the open air, or in any vehicle, not having any visible lawful means of support, and not giving a good account of himself :

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10. Every person leaving without lawful means of support his or her wife or husband, and any parent wilfully refusing or neglecting to maintain either wholly or in part his or her child:
11. Any person wilfully and obscenely exposing his person in any street or public place, or in the view thereof, or in any place of public resort:
12. Any person fraudulently manufacturing or aiding in the manufacture of any spurious or mixed metal or substance, and any person fraudulently selling or fraudulently offering for sale, as unmanufactured gold, or as gold in its natural state, any metal or mixed or adulterated metal or other substance, whether partly composed of gold or not:

And each such picklock, key, crow, jack, bit, and other implement of house-breaking, and every such table or instrument of gaming shall, on conviction of the offender, become forfeited to Her Majesty.

67. EVERY person who shall commit any of the next following offences shall be deemed an incorrigible rogue, and shall, on conviction before two or more Justices, be liable to imprisonment for any term not exceeding eighteen calendar months, with hard labor:—

Incorrigible rogues.

1. Every person who shall break or escape out of any legal custody:
2. Every person committing any offence which shall subject him to be dealt with as a rogue and vagabond, such person having been previously convicted as a rogue and vagabond:
3. Every person apprehended as a rogue and vagabond, and violently resisting any constable or other peace officer so apprehending him, and being subsequently convicted of the offence for which he shall have been so apprehended.

Provided that nothing shall prevent such offender being committed to the nearest gaol, there to remain until the next General or Quarter Sessions of the Peace to be held in the District wherein or nearest to which the said offence shall be committed; and every offender who shall be so committed as aforesaid shall be there kept to hard labor during the period of his imprisonment.

68. ANY constable or other person apprehending any person charged with being an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, may seize any horse or other

Seizure of property and searching.

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cattle, or any money, goods, or vehicle in the possession or use of the person so apprehended and charged, and may take and convey the same as well as such persons before a Justice or Justices, and the Justice or Justices by whom any person shall be adjudged to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, may order that such offender be searched, and that his trunks, boxes, bundles, parcels, or packages, and any cart or other vehicle which may have been found in his possession or use, or under his control, shall be inspected and searched; and the said Justice or Justices may order that any money which may then be found with or upon such offender shall be paid and applied to defray the expense of apprehending and conveying to gaol and maintaining such offender during the time for which he shall have been committed, and the expense of the keep of any horse or other cattle so seized, during the time such horse or cattle shall be detained; and if, upon such search, money sufficient for the purposes aforesaid be not found, such Justice or Justices may order that such horse, cattle, and so much as is necessary of such other effects then found shall be sold, and that the produce of such sale shall be paid and applied as aforesaid, and also that the surplus of such money or effects, after deducting the charges for such sale, shall be returned to the said offender. And when any person shall be taken into custody on a charge of felony his premises and property may be inspected and searched by any officer or constable of the Police Force.

69. EVERY person who shall be brought before any Justice charged with having on his person or in any place, or conveying, in any manner any thing which may be reasonably suspected of being stolen or unlawfully obtained, and who shall not give an account to the satisfaction of such Justice how he came by the same, shall be liable to a penalty of not more than Ten pounds, or in the discretion of the Justice may be imprisoned, with or without hard labor, for any term not exceeding six calendar months.

Persons suspected of having or conveying stolen goods.

70. IF information shall be given on oath to any Justice that there is reasonable cause for suspecting that any thing stolen or unlawfully obtained is concealed or lodged in any place or in any vehicle or package, it shall be lawful for such Justice, by special warrant under his hand directed to any police constable, to cause every such place to be entered, and the same and every such vehicle or package to be searched, at any time of the day or by night, and on any Sunday or other day; and the said Justice, if it shall appear to him necessary, may empower such police constable with such assistance as may be found necessary, such police constable having previously made known such his authority, to use force for the effecting of such entry, whether by breaking open doors

In case of information given that there is reasonable cause for suspecting that any goods have been unlawfully obtained and are concealed.

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or otherwise, and if upon search thereupon made any such thing shall be found, then to convey the same before a Justice or to guard the same on the spot until the offenders are taken before a Justice, or otherwise dispose thereof in some place of safety, and moreover to take into custody and carry before a Justice every person found in such house or place, or whom he shall have reasonable cause to suspect to have been privy to the deposit of any such thing knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained.

Party from whom stolen goods are received to be examined by the magistrate.

71. WHEN any person shall be brought before any Justice charged with having or conveying any thing stolen or unlawfully obtained, and shall declare that he received the same from some other person, or that he was employed as a carrier, agent, or servant, to convey the same for some other person, such Justice is hereby authorised and required to cause every such person, and also if necessary every former or pretended purchaser or other person through whose possession the same shall have passed, to be brought before him and examined, and to examine witnesses upon oath touching the same; and if it shall appear to such Justice that any person shall have had possession of such thing and had reasonable cause to believe the same to have been stolen or unlawfully obtained, every such person shall be deemed guilty of a misdemeanor; and the possession of a carrier or agent or servant shall be deemed to be the possession of the person who shall have employed him to convey the same; and every such person shall on conviction be liable to a penalty of not more than Ten pounds, or to be imprisoned, with or without hard labor, for any term not exceeding six calendar months.

Power to order delivery of goods stolen or fraudulently obtained, and in possession of brokers and other dealers in second-hand property.

72. IF any goods shall be stolen or unlawfully obtained from any person, or being lawfully obtained shall be unlawfully deposited, pawned, pledged, sold, or exchanged, and complaint shall be made thereof to any Justice, and that such goods are in the possession of any broker, or dealer, or of any person who shall have advanced money upon the credit of such goods, it shall be lawful for such Justice to issue a summons or warrant for the appearance of such broker or dealer, and for the production of the goods, and to order such goods to be delivered up to the owner thereof either without any payment or upon payment of such sum and at such a time as the Justice shall think fit; and every broker or dealer who being so ordered shall refuse or neglect to deliver up the goods, or who shall dispose of or make away with the same after notice that such goods were stolen or unlawfully obtained as aforesaid, shall forfeit to the owner of the goods the full value thereof to be determined by the Justice: Provided always, that no such order shall bar any broker or dealer from recovering possession of such goods by suit or action at law from the person into whose possession

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they may come by virtue of the Justice's order, so that such action be commenced within six calendar months next after such order shall be made.

73. IT shall be lawful for any Justice to order that any goods unlawfully pawned, pledged, or exchanged which shall be brought before him, and the ownership of which shall be established to the satisfaction of such Justice, shall be delivered up to the owner by the party with whom they were so unlawfully pawned, pledged, or exchanged, either without compensation or with such compensation to the party in question as the Justice may think fit.

For removing doubts as to ordering the restoration of property unlawfully pawned, &c.

74. IF any goods or money charged to be stolen or unlawfully obtained shall be in the custody of any police officer or constable by virtue of any warrant of a Justice, or in prosecution of any charge of felony or misdemeanor in regard to the obtaining thereof, and the person charged with stealing or obtaining possession as aforesaid shall not be found, or shall have been summarily convicted or discharged, or shall have been tried and acquitted, or if such person shall have been tried and found guilty, but the property so in custody shall not have been included in any information upon which he shall have been found guilty, it shall be lawful for any Justice to make an order for the delivery of such goods or money to the party who shall appear to be the rightful owner thereof, or in case the owner cannot be ascertained then to make such order with respect to such goods or money as to such Justice shall seem meet: Provided always, that no such order shall be any bar to the right of any person or persons to sue the party to whom such goods or money shall be delivered, and to recover such goods or money from him by action at law, so that such action shall be commenced within six calendar months next after such order shall be made.

Power to order delivery of possession of goods charged to have been stolen or fraudulently obtained and in custody of constable.

75. WHEN the owner of any goods or money charged to be stolen or unlawfully obtained shall be unknown, it shall be lawful for the member of the police force having the same in his custody, after the expiration of twelve calendar months during which no owner shall have appeared to claim the same, to sell or dispose of such goods or money for the benefit of the Police Benefit Fund.

Unclaimed stolen goods delivered to the receiver may be sold after twelve months.

76. ANY goods and chattels which have lawfully come to the possession of any member of the police force and which are unclaimed shall and may be sold and disposed of by the direction of the Commissioner of Police by public auction (a notice of such sale having been previously published thrice in the *Government Gazette*); and the clear produce of such sale shall be paid to the Colonial Treasurer to

Unclaimed goods in possession of police may be sold by Commissioner.

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the use of Her Majesty, her heirs and successors, for the public use of the said colony; and every such sale shall be valid against all persons; and no person selling any goods or chattels under the provisions hereof shall be subject or liable to pay any auction or other duty in consequence of such sale.

Power to deal summarily with cases of oppressive distress.

77. ON complaint made to any Justice by any person who shall have occupied any house or lodging by the week or month, or whereof the rent does not exceed the rate of Fifty-two pounds by the year, that his goods have been taken from him by an unlawful distress, or that the landlord or his broker or agent has been guilty of an irregularity or excess in respect of such distress, it shall be lawful for such Justice to summon the party complained against, before any two or more Justices and if upon the hearing of the matter it shall appear to the said Justices that such distress was improperly taken or unfairly disposed of, or that the charges made by the party having distrained or having attempted to distrain are contrary to law, or that the proceeds of the sale of such distress have not been duly accounted for to the owner thereof, it shall be lawful for the said Justices to order the distress so taken, if not sold, to be returned to the tenant on payment of the rent which shall appear to be due at such time as the said Justices shall appoint, or if the distress shall have been sold, then to order payment to the said tenant of the value thereof, deducting thereout the rent which shall so appear to be due, such value to be determined by the said Justices; and such landlord or the party complained against, in default of compliance with any such order, shall forfeit to the party aggrieved the value of such distress not being greater than Fifty-two pounds, such value to be determined by the said Justices.

Power to order delivery of goods unlawfully obtained to the owner.

78. ON complaint made to any Justice by any person claiming to be entitled to the property or possession of any goods which are detained by any other person, the value of which shall not be greater than Fifty pounds, and not being deeds, muniments, or papers relating to any property of greater value than Fifty pounds, it shall be lawful for such Justice to summon the person complained of before any two or more Justices who shall inquire into the title thereto or to the possession thereof, and if it shall appear to the said Justices that such goods have been detained without just cause after due notice of the claim made by the person complaining, or that the person detaining such goods has a lien or right to detain the same by way of security for the payment of money or the performance of any act by the owner thereof, it shall be lawful for the said Justices to order the goods to be delivered to the owner thereof either absolutely or upon tender of the amount appearing to be due by such owner (which amount the said Justices are hereby authorised to determine), or upon per-

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formance or upon tender and refusal of the performance of the act for the performance whereof such goods are detained as security, or if such act cannot be performed, then upon tender of amends for the non-performance thereof (the nature or amount of which amends the said Justices are hereby authorised to determine), and every person who shall neglect or refuse to deliver up the goods according to such order shall forfeit to the party aggrieved the full value of such goods, not greater than the sum of Fifty pounds, such value to be determined by the said Justices: Provided always, that no such order shall bar any person from recovering possession of the goods or money so delivered or forfeited by suit or action at law from the person to whose possession such goods or money shall come by virtue of such order, so that such action be commenced within six calendar months next after such order shall be made.

79. EVERY person who shall commit any of the next following offences shall, on conviction thereof, be liable to a penalty not exceeding Ten pounds, or to imprisonment for any term not exceeding three calendar months with or without hard labor.

Penalty on cruelty
to animals.

1. Every person who shall wantonly or cruelly beat, ill-treat, overdrive, overload, abuse, or torture, or cause or procure to be wantonly and cruelly beaten, ill-treated, overdriven, overladen, abused, or tortured, or shall omit to supply with sufficient food or water any living thing:
2. Every person who shall keep or use, or act in the management of any place for the purpose of fighting or baiting any kind of living thing, or shall permit or suffer any place to be so used:
3. Every person who shall in any manner encourage, aid, or assist at the fighting or baiting of any animal:
4. Every person who shall convey or carry, or cause to be conveyed or carried, any living thing in such a manner or position as to subject it to unnecessary pain or suffering:

Any person who shall by any such offence do any damage or injury to such living thing, or shall thereby cause any damage or injury to be done to any person or to any property, shall, in addition to such penalty or imprisonment as aforesaid, pay to the owner of such living thing (if the offender shall not be the owner thereof), or to the person who shall sustain damage or injury as aforesaid, such sum of money, by way of compensation, not exceeding the sum of Twenty pounds, as shall be ascertained and determined by the Justice by or before whom such person shall have been convicted. And such

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Justice may order such living thing to be taken possession of by a constable and destroyed.

Malicious injury to property.

80. EVERY person who shall wilfully, wantonly, or maliciously commit any damage, injury, or spoil, to or upon any real or personal property whatsoever, either of a private or public nature, not otherwise herein provided for, shall, on conviction, be liable to a penalty not exceeding Five pounds; and shall also forfeit and pay such further sum of money as shall appear to such Justice to be a reasonable compensation for the damage, injury, or spoil so committed, not exceeding the sum of Ten pounds, or may be imprisoned for any term not exceeding two calendar months; and the last-mentioned sum of money shall be paid to the party aggrieved: Provided that nothing herein contained shall extend to any case where the party trespassing acted under a fair and reasonable supposition that he had a right to do the act complained of; nor to any trespass, not being unlawful or malicious, committed in hunting, fishing, or in the pursuit of game; but that every such trespass shall be punishable in the same manner as if this Act had not been passed.

Removing boat or boat furniture.

81. EVERY person who in any of the waters of the Colony shall remove any boat, flat, or barge from its usual anchorage or mooring, or from the place where the same shall have been last left by the owner, or person in charge thereof, or his boatmen or servants, or who shall remove out of any such vessel any mast, sail, oar, or other furniture, or shall use such vessel or furniture, without the consent of the owner or other lawful authority, shall on conviction forfeit a sum not exceeding Three pounds, together with such a reasonable sum as shall appear to the convicting Justice to be compensation for any loss of work, or loss of time, or damage sustained by the owner or person in charge of such vessel or furniture, by reason of such unauthorised removal or use thereof.

Penalty on persons destroying property with intent to steal, or retaining or disposing of property.

82. EVERY person who shall commit any of the next following offences as to any articles of property in this section mentioned (or who shall receive any of the same, knowing them to have been stolen or unlawfully come by), shall on conviction for the first offence be liable to the punishment, and for any second or subsequent offence to double the amount of punishment hereinafter specified in each case:—

1. Every person who shall steal, or damage with intent to steal any part of any live or dead fence, or any post, pale, or rail, set up or used as a fence, or any style or gate, or any part thereof respectively, shall pay to the party aggrieved the value of the property

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stolen, or the amount of the damage done, and shall also be liable to a fine not exceeding Five pounds, or to be imprisoned, with or without hard labor, for a term not exceeding one calendar month :

2. Every person who shall steal or shall cut, break, root up, or otherwise destroy or damage, with intent to steal the whole or any part of any growing tree, sapling, shrub, or underwood, or any growing fruit or vegetable production, or any growing cultivated root or plant, shall (in case the value of the property stolen, or the amount of the damage done, shall not exceed Five pounds) pay to the party aggrieved the value of the property stolen, or the amount of the injury done, and shall be liable to a fine not exceeding Five pounds, or to be imprisoned, with or without hard labor, for any term not exceeding one calendar month :

3. Every artificer, workman, journeyman, apprentice, or other person who shall unlawfully dispose of or retain in his possession without the consent of the person by whom he shall be hired, retained, or employed, any goods, wares, work, or materials committed to his care or charge (the value of such goods, wares, work, or materials, not exceeding the sum of Ten pounds), shall pay to the party aggrieved such compensation as the convicting Justice shall think reasonable, and shall also be liable to a fine not exceeding Ten pounds, or to be imprisoned, with or without hard labor, for a term not exceeding three calendar months; and any person to whom any such property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed with respect to such property, is hereby authorised to arrest without a warrant, and with all convenient speed, cause to be delivered into the custody of a constable, the person offering the same, together with such property, to be dealt with according to law; and in every such case any such stolen property shall by order of the Justice by whom such case shall be heard and determined, be delivered over to the rightful owner, if known, or if the rightful owner shall not be known, the same shall be retained and sold, and the proceeds thereof applied in like manner as any penalties awarded under this Act.

Persons offering such property for sale may be arrested.

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Penalty on persons selling adulterated or unwholesome articles of food.

83. EVERY person who shall commit any of the next following offences shall, on conviction before any two Justices, be liable to the punishments hereafter specified in each case:—

1. Every person who shall sell, or offer for sale, as food for human consumption, any grain, flour, meat, fish, fruit, or vegetable, which shall, in the whole or in part be unfit for human consumption, or in any manner adulterated, shall forfeit the same, to be disposed of as such Justices shall direct, and shall also be liable to a fine not exceeding Ten pounds, or be imprisoned for a term not exceeding two calendar months with or without hard labor:
2. Every person who shall exhibit for sale any unwholesome or fraudulently prepared provisions, meat or other food of any kind for man or beast, or shall practise any deceit or fraud in respect to the quality of any such provisions or food, shall forfeit all such provisions, to be disposed of as such Justices shall direct, and shall be liable to a fine not exceeding Ten pounds or to be imprisoned, with or without hard labor, for any term not exceeding two calendar months; and any Justice may seize, or cause to be seized, any of the articles hereinbefore last-mentioned as to which any such offence shall have been committed.

Regulation of houses of public resort.

84. EVERY person who shall have or keep any house, shop, or room, or any place of public resort, and who shall wilfully and knowingly permit drunkenness or other disorderly conduct in such house, shop, room, or place, or knowingly suffer any unlawful games or any gaming whatsoever therein, or knowingly permit or suffer persons apparently under the age of sixteen years to enter and remain therein, or knowingly permit or suffer prostitutes or persons of notoriously bad character to meet together and remain therein, shall, on conviction for every such offence, be liable to a penalty of not more than Five pounds: Provided always, that if the offender be a person licensed under "The Wines, Beer, and Spirit Sale Act, 1880," this enactment shall not be construed to exempt him from the penalties or penal consequences to which he may be liable for committing an offence against the tenor of his license or the Act under which it is granted.

Warrant to enter, search and seize in common gaming house.

85. ANY Justice, upon complaint made before him on oath that there is reason to suspect any house, room, premises, or place to be kept or used as a common gaming house, and that it is commonly reported and believed by the deponent so to be, may give authority by warrant under his hand and seal in the form contained in the

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Second Schedule hereto (when in his discretion he shall think fit) to any officer or constable of the Police Force to enter with such assistance as may be found necessary into such house, room, premises, or place, and (if necessary) to use force for making such entry, whether by breaking open doors or otherwise, and to arrest, and bring before any two or more Justices all persons found therein, and to seize all tables and instruments of gaming, moneys and securities for money, found therein; and the person making such entry as aforesaid in obedience to any such warrant may search all parts of the house, room, premises, or place, which he shall have so entered where he shall suspect that tables or instruments of gaming are concealed, and also all persons whom he shall find therein.

86. THE owner or keeper of the said gaming house or other person having the care or management thereof, and also every person who acts in any manner in conducting the said gaming house, room, premises, or place, shall be liable on conviction before any two or more Justices to a penalty of not more than One hundred pounds, or to imprisonment with or without hard labor, for any term not exceeding six months; and upon conviction of any such offender all the moneys and securities for money which shall have been seized as aforesaid shall be forfeited to Her Majesty; and every person found in such house, room, premises, or place, without lawful excuse, shall on conviction be liable to a penalty of not more than Ten pounds.

Penalty on owner or keeper of a gaming house.

And persons found therein.

87. IN default of other evidence proving any house, room, premises, or place to be a common gaming house or place for gaming, it shall be sufficient in support of the allegation in any information that any house, room, premises, or place is a common gaming house or place for gaming, to prove that such house, room, premises, or place is kept or used for playing therein at any unlawful game, and that a bank is kept there by one or more of the players, exclusively of the others, or that the chances of any game played therein are not alike favorable to all the players, including among the players the banker or other person by whom the game is managed or against whom the other players stake, play, or bet; and every such house, room, premises, or place shall be deemed a common gaming house or place for gaming such as is contrary to law and forbidden to be kept by all Acts containing any provision against unlawful games or gaming houses. But this enactment and the other enactments against gaming herein contained, shall not apply to the instrument known as the totalisator, when used according to law.

Evidence of being a common gaming house.

88. IT shall not be necessary, in support of any information for gaming in or suffering any games or gaming in or for keeping or

Proof of gaming for money.

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using or being concerned in the management or conduct of a common gaming house or place for gaming, to prove that any person found playing at any game was playing for any money, wager, or stake.

89. WHERE any cards, dice, balls, counters, or other instruments of gaming used in playing any unlawful game are found in any house, room, premises, or place suspected to be used as a common gaming house or place for gaming, and entered under a warrant under the provisions of this Part of this Act, or about the person of any of those who shall be found therein, it shall be evidence (until the contrary be made to appear) that such house, room, premises, or place is used as a common gaming house, and that the persons found in the room or place where such cards, dice, balls, counters, or other instruments of gaming shall have been found were playing therein, although no play was actually going on in the presence of the constable or police officer entering the same under such warrant or in the presence of those persons by whom he shall be accompanied as aforesaid; and the Justices before whom any person is taken by virtue of the said warrant may direct all such cards, dice, balls, counters, or other instruments of gaming to be forthwith destroyed.

Penalty for obstructing police.

90. ANY person who shall wilfully prevent any constable or officer authorised under the provisions of this Act to enter any house, room, or place from entering the same, or any part thereof, or who shall obstruct or delay any such constable or officer in so entering, and any person who by any bolt, bar, chain, or other contrivance shall secure any external or internal door or means of access to any house, room, or place so authorised to be entered, or shall use any means or contrivance whatsoever, for the purposes of preventing, obstructing, or delaying the entry of any constable or officer authorised as aforesaid into any such house, room, or place or any part thereof, shall be liable on conviction to a penalty of not more than One hundred pounds or in the discretion of the justices before whom he shall be convicted of the offence to be committed to the nearest gaol with or without hard labor for any term not exceeding six calendar months.

Evidence of common gaming house.

91. WHERE any constable or officer authorised under this Act to enter any house, room, or place, is wilfully prevented from, or obstructed, or delayed in entering the same or any part thereof, or where any external or internal door or means of access to any such house, room, or place so authorised to be entered, shall be found to be fitted or provided with any bolt, bar, chain, or any means or contrivance for the purpose of preventing, delaying, or obstructing the entry into the same or any part thereof, of any constable or

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officer authorised as aforesaid, or for giving an alarm in case of such entry, or if any such house, room, or place is found fitted or provided with any means or contrivance for unlawful gaming, or with any means or contrivance for concealing, removing, or destroying any instruments of gaming, it shall be evidence until the contrary be made to appear that such house, room, or place is used as a common gaming house within the meaning of this Act, and that the persons found therein were unlawfully playing therein.

92. EVERY person concerned in any unlawful gaming and who is examined as a witness by or before any Justices, or on the trial of any information against the owner or keeper or other person having the care or management of any common gaming house or place for gaming, touching such unlawful gaming, and who upon such examination shall make true and faithful discovery to the best of his knowledge of all things as to which he shall be so examined, and shall thereupon receive from the Justices or Judge of the Court by or before whom he shall be so examined a certificate in writing to that effect, shall be freed from all criminal prosecutions and from all forfeitures, punishments, and disabilities to which he may have become liable for anything done before that time in respect of such unlawful gaming.

Indemnity of witnesses.

93. IF any person establish, commence, be a partner, or be otherwise concerned in any lottery or any scheme by which prizes, whether of money or of any other matter or thing, are gained, drawn for, thrown, or competed for by lot, dice, or any other mode of chance, or sell or dispose of any tickets or other means by which permission or authority is gained or given to any person to throw for, compete, or have any interest in any such lottery or scheme, or if any person, under any pretence or by means of any device, sell or dispose of, or endeavor to sell or dispose of, any lands, goods, wares, or merchandise, by means of any game, either of skill or chance, every such person and any person who shall manage or conduct or assist in managing or conducting any such lottery or scheme, being duly convicted thereof, before any two or more Justices, shall forfeit and pay a penalty not exceeding Two hundred pounds; and for any second offence, besides such penalty, shall be liable to imprisonment for any term not exceeding six months. Neither this provision nor the provisions of any other Act for the prevention of lotteries, little-goes, and unlawful games, shall apply to the distribution of any property amongst the owners thereof, nor to any raffle for any work purely of art, of which a notice having the name and address of the person intending to hold the same subscribed thereto has been given to the Attorney General; nor to any raffle at any bazaar, the proceeds whereof are intended to be appropriated exclusively to charitable purposes, of which a notice

Lotteries prohibited.

having the name and address of any of the persons intending to hold such bazaar subscribed thereto has been given to the Attorney General, if in either of such cases such Attorney General do not within one week after such notice prohibit such raffle by notice sent by post or in any other manner according to the address so subscribed by such person, nor to any raffle of a private nature upon which point the Justices before whom any case may be brought shall decide.

Cheating at play.

94. EVERY person who shall by any fraud or unlawful device, or ill-practice in playing at or with cards, dice, tables, or other game, or in bearing a part in the stakes, wagers, or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime, or exercise, win from any other person to himself, or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to defraud or cheat such person of the same, and being convicted thereof, before any two or more Justices, shall be liable to a penalty not exceeding One hundred pounds or to imprisonment with or without hard labor for any term not exceeding twelve calendar months.

PART VII.—PROVISIONS AS TO OFFENCES: NOT TO APPLY WHERE SIMILAR PROVISIONS MADE BY BY-LAW OF MUNICIPAL OR OTHER PUBLIC AND AUTHORISED BODY.

This part of Act subject to powers of any Municipality, &c., to make by-laws, &c.

95. THIS part of this Act shall cease to have any force or effect wherever any by-laws or regulations for effecting the same or a similar object are lawfully made by any Municipality, Road Board, or Board of Health.

Prohibition of nuisances by persons in thoroughfares.

96. EVERY person shall, on conviction, be liable to a penalty of not more than Forty shillings who shall in any street commit any of the following offences:—

1. Every person who shall, to the annoyance of the inhabitants or passengers, expose for show or sale (except in a market lawfully appointed for that purpose), or feed or fodder any horse or other animal (horses in vehicles on any public stand excepted), or shall shoe, bleed, or farry any horse or other animal (except in case of accident), or clean, dress, exercise, train, or break any horse or animal, or clean, make, or repair any part of any carriage or cart (except in cases of accident where repair on the spot is necessary):

2. Every person who shall turn loose any horse or cattle, or suffer to be at large any unmuzzled ferocious dog, or set on or urge or permit any dog or other animal to attack, worry, or put in fear any person, horse, or other animal:
3. Every person who shall drive any horses or cattle (except milch cows, or horses or oxen attached to any vehicle for the purpose of draught), excepting between the hours of ten at night and eight in the morning; and the local authority is hereby empowered to define, by notice to be published in the *Government Gazette*, the route by which any horses, cattle, and sheep, with the exception as aforesaid, shall be driven, and after such publication no cattle, horses, or sheep shall be driven by any other route.
4. Every person who, by negligence or ill-usage in driving any such stock, shall cause any mischief to be done by such stock, or who shall in any wise misbehave himself in the driving, care, or management thereof; and also every person not being hired or employed to drive such stock who shall wantonly pelt, hunt, or drive the same:
5. Every driver of any waggon, wain, cart, or dray of any kind who shall ride upon any such carriage, not having some person on foot to guide the same (such as are drawn by horses and properly driven with reins only excepted); and the driver of any carriage whatsoever who shall wilfully be at such a distance from such carriage, or in such a situation whilst it shall be passing upon any street, road, thoroughfare or public place that he cannot have the direction and government of the horses or cattle drawing the same; and every person who shall ride upon the shafts of any waggon, cart, dray, or other carriage whatsoever; and every person riding on horseback, or the driver or propeller of any carriage, machine, or vehicle whatsoever, who on meeting any person riding on horseback, or driving or propelling any other carriage, machine, or vehicle aforesaid, shall not keep his horse, carriage, machine, or vehicle aforesaid on the left or near side of the road except in the case of a led horse or horses; and every person who shall in any manner wilfully prevent any other person from passing him or any carriage, machine, or vehicle under his care upon any street, road, thoroughfare, or public place, or by

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negligence or misbehaviour prevent, hinder, or interrupt the free passage of any carriage, machine, vehicle, or person so in or upon the same:

6. Every person who shall cause any cart, hackney carriage, truck, or barrow, with or without horses, to stand longer than may be necessary for loading or unloading, or for taking up, or setting down passengers, (except hackney carriages standing for hire in any place not forbidden by law), or who by means of any cart, carriage, truck, vehicle or barrow, or any horse or other animal, shall wilfully interrupt any public crossing, or wilfully cause any obstruction:
7. Every person who, without the consent of the owner or occupier, shall affix any posting bill, placard, or other paper, against or upon any building, wall, fence, tree, or pale, or write upon, soil, deface, or mark any such building, wall, fence, tree, or pale, with chalk or paint, or in any other way whatsoever:
8. Every person who shall wantonly discharge any fire-arm, or burn or set light to anything or throw or discharge any stone or other missile to the damage, annoyance, or danger of any person, or property, or throw or set fire to any firework, without having the consent, in writing, of the Chairman of the Local authority, or of the Road Board having jurisdiction in the locality:
9. Every person who shall wilfully or wantonly disturb any inhabitant by pulling or ringing any door-bell, or knocking at any house without lawful excuse, or who shall wilfully and unlawfully extinguish the light or break the glass of any lamp:
10. Every person who shall fly any kite, or play any game or use any Shanghai or other sling or instrument to the annoyance of the inhabitants or passengers, or to the common danger of the passengers:
11. Every person who shall turn loose, or suffer any kind of animals, belonging to him or under his charge, to stray or go about, or to be tethered or depastured in any street:
12. Every person who shall stand or loiter about, to the annoyance of the passers by, or who shall interfere with or impede the free passage of foot passengers:
13. Every person who shall lead or ride any horse or other animal, or draw, drive, or propel any carriage, cart,

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sledge, truck, barrow, or other vehicle or machine (not being a bath chair or perambulator), upon any footway or kerbstone, or fasten any horse or animal so that it can stand across or upon any footway:

14. Every person who shall roll or carry any cask, tub, hoop, or wheel, or any ladder, plank, pole, showboard, or placard upon any footway except for the purpose of loading or unloading any cart or carriage or of crossing the footway:
15. Every person who in any street shall burn, dress, or cleanse any cork, or hoop, cleanse, fire, wash, or scald any cask or tub, or hew, saw, bore, or cut any timber or stone, or slack, sift, or screen any lime:
16. Every person who shall throw or lay in any street any coals, stones, slates, shells, lime, bricks, timber, iron, or other materials (except building materials or rubbish thereby occasioned, which shall be placed or enclosed as hereinafter provided so as to prevent any mischief happening to passengers):
17. Every person who in any street shall beat or shake any carpet, rug or mat (except door mats before the hour of eight in the morning), or throw or lay any dirt, litter, or ashes, or any carrion, fish, offal, bottles, broken glass, or rubbish, or throw or cause any such thing to fall into any sewer, pipe, or drain, or into any well, stream, or watercourse, pond or reservoir for water, or cause any offensive matter to run from any manufactory, brewery, slaughter-house, butcher's shop, or dung-hill into any street, or any uncovered place whether or not surrounded by a wall or fence:
18. Every person who shall pick, take, or injure any flowers, fruit, shrubs, or trees in any public or private garden, unless with the consent of the owner, caretaker or other person authorised to give such consent, or throw any missile at any tree growing in any street or public place:
19. Every person who shall expose anything for sale upon or so as to hang over any carriage-way or foot-way, or on the outside of any house or shop, or who shall set up or continue any pole, blind, awning, line, or any other

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projection from any window, parapet, or other part of any house, shop or other building, so as to cause any annoyance or obstruction in any street:

20. Any driver or guard of a public vehicle for the conveyance of passengers wilfully delaying on the road, using any abusive or insulting language to any passenger, or by reason of intoxication, negligence or other misconduct, endangering the safety or property of any passenger or other person, or demanding or exacting more than the proper fare due from any passenger.

And it shall be lawful for any constable to take into custody, without warrant, any person who shall commit any such offence within view of such constable.

Penalty for destruction of acclimated animals or birds.

97. EVERY person who shall wilfully injure or destroy, or attempt to injure or destroy, any native or acclimated animals or birds which may be on any park or public road or reserve, without the authority of the person having the care and management of such park, public road, or reserve, as the case may be, shall be liable, on conviction, to a penalty not exceeding Forty shillings.

Street musicians to depart when desired to do so.

98. EVERY householder personally, or by his servant, or by any police constable, may require any street musicians to depart from the neighborhood of the house of such householder, on account of the illness of any inmate of such house, or for any reasonable cause; and every person who shall sound or play upon any musical instrument in any street, near to, and so as to be heard at such house, after being so required to depart, shall, on conviction, be liable to a penalty of not more than Forty shillings; and every person who shall play or sound upon any musical instrument in any street, and against whom an information may be laid by any inhabitant (who may be annoyed by the playing or sounding of such musical instrument), or by any constable, upon the written complaint of such inhabitant, shall be liable, on conviction, to a penalty of not more than Forty shillings.

Penalty on playing musical instruments in street.

Cannon, &c., not to be fired near dwelling houses.

99. EVERY person other than persons acting in obedience to lawful authority, who shall discharge any cannon or other firearm of greater calibre than a common fowling piece within three hundred yards of any dwelling house within any city or town to the annoyance of any inhabitant thereof, after being warned of the annoyance by any inhabitant, shall on conviction be liable to a penalty of not more than Five pounds.

100. IN case any privy, pig-sty, or any other place, matter, or thing, shall be or become a nuisance to any of the inhabitants in any city or town, any two or more Justices, upon complaint, on oath, thereof to them made by any such inhabitant, and after due investigation into such complaint, may order that every or any such privy, pig-sty, or other place, matter, or thing being a nuisance, shall be remedied or removed within seven days after notice shall have been given to the owner or occupier of the premises wherein such nuisance shall exist, to remedy or remove the same, and any such notice may be left for such owner or occupier at his or her last or usual place of abode, or on the said premises; and every such occupier neglecting to remedy or remove such nuisance pursuant to such notice, and to the satisfaction of such Justices shall forfeit and pay, on conviction before such Justices a sum not exceeding Twenty pounds for every such neglect and disobedience; and such Justices may order at the same time such nuisance to be removed, taken down, and abated, at the expense of the person in default, and payment thereof may be enforced as a penalty on summary conviction.

Hog-sties and nuisances not removed on complaint.

101. IT shall be lawful for any Justice and for any constable authorised and deputed by any writing under the hand of a Justice, from time to time, and when and as often as he or either of them shall see occasion, to visit and inspect any butchers' shambles and slaughter houses and slaughter house yards, and to give such directions concerning the cleansing the said shambles, slaughter houses, and slaughter house yards, both within and without, as to him shall seem needful; and any butcher and the owner or occupier of any such shamble, slaughter house, or slaughter house yard who shall obstruct or molest any such Justice or constable in the inspection thereof, or who shall refuse or neglect to comply with such directions within a reasonable time, shall, on conviction on the complaint of any such Justice, or constable, forfeit and pay a sum not exceeding Five pounds.

Cleansing butchers' shambles and slaughter houses.

Penalty.

102. ANY constable may at any time enter into any slaughter-house, shambles, shop, or other premises where meat is prepared or exposed for sale, and inspect and examine any meat there found, and if in his opinion any such meat shall be unfit for human consumption, he shall at once summon the person who has prepared or exposed for sale such meat before a Justice, who, on being satisfied that the meat so complained of is unfit for human consumption, may order it to be destroyed; and such person shall also be deemed guilty of an offence, and, upon conviction, shall be liable to a penalty not exceeding Ten pounds, or to be imprisoned for any term not exceeding one month. Any meat which shall be blown for the purpose of improving its appearance shall be deemed unfit for human consumption.

Inspection of meat.

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As to private
avenues.

103. ANY owner or occupier of any house or place who shall neglect to keep clean all private avenues, passages, yards, and ways, within the said premises, so as by such neglect to cause a nuisance by offensive smell or otherwise, shall, on conviction, forfeit and pay a sum not exceeding Forty shillings, nor less than Ten shillings for every such offence.

Bathing prohibited
within certain limits.

104. NO person shall bathe, unless in proper bathing costume, near to or within view of any public wharf, quay, jetty, bridge, street, road, or other place of public resort, between the hours of six in the morning and eight in the evening; and any person who shall offend against this regulation shall, on conviction, forfeit and pay a sum not exceeding One pound; and any constable may take into custody any person who shall commit any such offence within view of such constable.

As to damaging
public buildings.

105. EVERY person who shall damage any public building, wall, parapet, sluice, bridge, road, street, sewer, watercourse, or other public property, shall pay the cost of repairing the same; and if the same be wilfully done, shall, on conviction, forfeit and pay a further sum not exceeding Ten pounds.

As to watercourses.

106. EVERY person who shall cast any bottles, earthenware, filth, rubbish, or any noxious substance into any watercourse, drain, river, ornamental water, canal, or reservoir, or shall obstruct or divert from its channel any public sewer, watercourse, drain, or canal, shall, on conviction, forfeit a sum not exceeding Ten pounds nor less than One pound, and shall pay the cost of removing such filth or obstruction, or of restoring such sewer, watercourse, drain, or canal to its proper channel.

As to injuring public
fountains.

107. EVERY person who shall injure any public fountain, pump, cock, or water-pipe, or any part thereof, shall pay the cost of repairing the same; and if the injury be wilfully done, shall, on conviction, forfeit and pay a further sum not exceeding Ten pounds nor less than One pound; and every person who shall have in his possession any private key for the purpose of opening any cock, or who shall in any matter clandestinely or unlawfully appropriate to his use any water from any public fountain or pipe, shall, on conviction, forfeit a sum not exceeding Ten pounds nor less than Two pounds; and every person who shall open, or leave open any cock or any public fountain or pump, so that the water shall or may run to waste, shall, on conviction, forfeit a sum not exceeding Two pounds nor less than Five shillings; and every person who shall wash any clothes or animal at any public fountain or pump shall, on conviction, forfeit and pay a sum not exceeding One pound nor less than Five shillings.

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108. IF any person shall drive or cause to be driven any cart or other carriage with any night-soil or ammoniacal liquor or other such offensive matter therein through or in any street, between the hours of five o'clock in the morning and half-past eleven o'clock at night, or who shall at any time use for any such purpose any cask, tank, cart, or carriage not having a proper covering, or shall fill any cart or other carriage so as to turn over or cast any night-soil, ammoniacal liquor, or such other offensive matter, in or upon any of such streets, public places, or thoroughfares, it shall and may be lawful for any person whomsoever to seize and apprehend, and to assist in seizing and apprehending, the offender, and to hand him over to the custody of any constable until he can be brought before a Justice, and every such person so offending and his employer and also the owner of any such cart or carriage shall, on conviction of such offence, forfeit and pay any sum not exceeding Five pounds.

Slops, night-soil, &c.,
to be conveyed away
only at certain hours.

Penalty £5.

109. IF any person shall empty, or begin to empty, any privy, or take away any night-soil, or shall go with carts or carriages for that purpose, except between the hours of half-past eleven at night and five in the morning; and if any person shall put in or cast out of any cart, or tub, or otherwise, any offensive matter, in or near any street every such offender, shall, upon conviction, be liable to a penalty not exceeding Five pounds or to imprisonment for any term not exceeding one calendar month; and the owner of any carts, carriages, horses, or beasts employed in and about emptying and removing such night-soil, or going for that purpose (save and except within the hours hereby allowed), and the employers of any person who shall so put or cast out any such night-soil, shall, on conviction, forfeit and pay a sum not exceeding Five pounds for every such offence.

Hours of removing
night-soil, &c.

Penalty on owner of
carts, &c., and em-
ployer.

110. THE person in charge of any animal travelling along any public road or highway shall remove the bodies of any that may die on such road or highway to a distance of one hundred yards from such road or highway, or bury the same three feet beneath the surface of the ground; and in default of so doing such person shall, on conviction, be liable to a fine not exceeding Five pounds. And if any person shall throw, or cause to be thrown, any dead animal into any harbor, river, creek, water-hole, or cove, in, near, or adjacent to any city or town, or leave or cause the same to be left upon the shores thereof, or in any manner pollute or render useless any well in any city or town, or any well or spring or pool on any unfenced or unenclosed land in the said Colony, he shall, on conviction, forfeit and pay any sum not exceeding Five pounds nor less than Five shillings; and it shall be lawful for any police constable, without warrant, to seize any person whom he shall find committing the said offence, and to take him before any Justice, or

Persons in charge of
stock to remove such
as may die on public
road or highway, or
bury the same.

No dead animals to
be thrown into any
harbor, &c.

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cause him to be detained in any police station, or lockup, or other place of security, until he can be brought before a Justice, to be dealt with according to law, and every such offender shall in addition to such fine pay the expense of cleaning, restoring, and purifying such well, pool, or spring.

No turf, gravel, &c., to be removed from streets without permission.

111. EVERY person who shall form, dig, or open any drain or sewer, or remove, or cause to be removed, any turf, clay, sand, soil, gravel, or stone, or other material used in the formation of the streets, roads, or other public highways in or from any part of the carriage or footways within any city, town, or suburb without the leave first had and obtained of the Chairman of the Local Authority, or who shall wantonly break up or otherwise damage the said streets, roads, carriage, or footways shall, on conviction, forfeit and pay for every such offence any sum not exceeding Five pounds nor less than One pound.

Drawing or trailing timber, &c.

112. IF any person shall haul or draw, or cause to be hauled or drawn, upon any road, street, thoroughfare, bridge, causeway, or public place, any timber, stone, or other material or thing, otherwise than upon wheeled carriages, or shall suffer any timber, stone, or other material or thing, which shall be carried principally or in part upon wheeled carriages, to drag or trail upon any part of such road, street, thoroughfare, bridge, causeway, or public place to the injury thereof, or to hang over and beyond any part of any such carriage, so as to occupy or obstruct the road beyond the breadth of the said carriage, every such person so offending shall, on conviction, forfeit and pay for every such offence a sum not exceeding Forty shillings, together with the damages occasioned thereby: Provided that nothing herein contained shall apply to vehicles loaded with hay, wool, or rushes.

Entrances to cellars, coal-holes, &c., to be covered and secured.

113. IF the owner or occupier of any house, building, or premises, having any iron or wooden rails or bars over the areas, or openings to any kitchens or cellars, or other part or parts of the said house, building, or premises beneath the level of the footway of any street or public places, or having any doorway or entrance into the basement or cellar story thereof, shall not either keep the same, and the rails of such kitchens or cellars, in sufficient and good repair, or safely and securely guard, and constantly keep the same securely guarded by rail, or cover the same over with a strong flap or trap-door, according to the nature of the case, and so as to prevent danger to any persons passing and repassing; or if any such owner or occupier do or shall leave open, or not sufficiently and substantially cover, and keep covered and secured, any hole, funnel, trap-door, or cellar-flap belonging to or connected with his house, building, or premises (save and except only during such

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reasonable times as any coals, wood, casks, or other things shall be putting down or taking up out of any such vault or basement story, or during such reasonable times as the flap, trap-door, or covering thereof shall be altering, repairing, or amending); or if such owner or occupier shall not repair, and from time to time keep in good and substantial repair, all and every, or any such iron or wooden rails, guard-rails, flaps, trap-doors, and other covering, then, and in every such case, the persons neglecting so to do, for every such offence, shall, on conviction, forfeit and pay any sum not exceeding Five pounds.

114. NO person shall make any cellar, or any opening, door, or window in or beneath the surface of the footway of any street or public place, and if any person shall offend in the premises he shall, on conviction forfeit and pay a sum not exceeding Five pounds and also the expense of remedying or removing any such cellar, opening, door, or window made contrary to the provisions hereof.

Cellars or openings beneath the surface of footways prohibited.

115. EVERY person having a well situated between his dwelling-house, or the appurtenances thereof, and any street or footway, or at the side thereof, or in any yard or place, open and exposed to such street or footway, who shall not cause such well to be securely and permanently covered over or otherwise secured shall, upon conviction, for every such offence, forfeit and pay the sum of Two shillings and sixpence for every day that such well shall remain open or uncovered contrary to the provisions of this Act.

Wells to be covered over.

116. ANY person who, being the owner or occupier of any vacant ground, or any house, tenement, or building erected, or being erected, or about to be erected, before, adjoining, or at the side of which, and adjoining to any road, street, or public place, or thoroughfare formed, or to be formed, or in course of formation, shall dig or make, or cause to be dug or made, any hole, or cause to be left any hole, for the purpose of making any vault, or the foundation to such house or other buildings, or for any other purposes whatsoever, and shall not forthwith enclose the same in a good and sufficient manner, or who shall keep up, or cause to be kept up and continued, any such enclosure for any time which shall be longer than shall be absolutely necessary, or shall not, when thereunto required by any Justice, well and sufficiently fence or enclose any such hole, or area, or space, opened, or left open, and intended for an area, foundation, or for any other purpose whatsoever, in the front of, or behind, or on the side of any such vacant ground, house, or other tenement or building, twenty-four hours after he shall be required to do so by any Justice, and in the manner, and with such materials, as he shall direct, and to his satisfaction, and shall not place a light

Holes made for vaults, &c., to be enclosed.

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upon the said enclosure, and keep the same constantly burning from sunset to sunrise, during the continuance of such enclosure; then, every person so offending shall on conviction forfeit and pay for every such offence, and for every such refusal or neglect, any sum not exceeding Five pounds.

Stalls, &c., not to be set on foot or carriage ways.

Placing timber, bricks, &c.

Not removing when required.

Replacing the same after removal.

117. IF any person shall set or place, or cause or permit to be set or placed any stall, board, chopping blocks, show board (on hinges or otherwise), basket wares, merchandise, casks, or goods of any kind whatsoever, or shall hoop, place, wash or cleanse, or cause to be hooped, placed, washed, or cleansed any pipe, barrel, cask, or vessel in or upon or over any of the carriage or foot ways in any such streets or public places of any city or town; or if any person shall set or place or cause to be set or placed in or upon or over any of the said carriage or foot ways, any timber, stones, bricks, lime or other materials, or things for building whatsoever (unless with the permission in writing of the Chairman of the Local Authority), or any other matters or things whatsoever, or shall hang out or expose, or shall cause or permit to be hung out or exposed any meat or offal or other thing or matter whatsoever from any house or houses or other buildings or premises over any part of either or any of such foot ways or carriage ways, or over any area or areas of any house or other buildings or premises, or any other matter or thing from and on the outside of the front or any other part of any house or houses or other buildings or premises over or next unto any such street or public place, and shall not immediately remove all or any such matters or things, being thereto required by any Justice, or Chairman of the Local Authority, or by any Police Constable, and shall not continue and keep the same so removed; or if any person having in pursuance of any such requisition as aforesaid removed or caused to be removed any such stall, board, show board, chopping blocks, basket wares, merchandise, timber, stone, bricks, lime, meat, offal, or other matters or things, shall at any time thereafter again set, lay, place or expose, or put, or cause, procure, permit, or suffer to be laid, placed, exposed, or put out the same or any of them, or any other stall, board, show board, chopping block, basket wares, merchandise, goods, timber, stones, bricks, lime, meat, offal, or other things or matters whatsoever (save and except as aforesaid) in, upon, or over any of the carriage or foot ways of or next unto any street or public places as aforesaid, then and in every such case every person so offending shall, upon conviction, forfeit and pay a sum not exceeding Forty shillings.

Not to prevent awnings being erected in front of shops.

118. NOTHING in this Act contained shall be deemed to prevent any person from placing an awning in front of his shop or house: Provided, however, that such awning be at least seven feet above the height of the footway in front of such house or shop and

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that the posts be placed close up to the kerbstone or outer edge of such footway and subject to the approval of the Chairman of the Local Authority.

119. IF at any time any house or buildings in any city or town shall not be provided with gutters or otherwise so constructed as to prevent rain from dropping from the eaves thereof upon any of the footways of any street or public place within such city or town, the owner or occupier of such house or building shall on conviction forfeit and pay the sum of Five shillings and a like sum for every day that the same may not be prevented or remedied by gutters or otherwise.

Rain not to be allowed from eaves of houses on footways.

120. NO person or persons whatsoever shall erect, place, set up, or build in any street or public place within any city or town, any board or scaffolding, or place or erect any posts, bars, rails, boards, or other things by way of enclosure for the purpose of making mortar, or of depositing, sifting, screening, or slacking any brick, stone, lime, sand, or any other materials for building or repairing any house or other tenement or erection or for other works. or for any other purpose, without leave or license first had and obtained under the hand of the Chairman of the Local Authority, who is hereby required to grant the same forthwith for the purpose of making mortar and depositing or sifting, screening, or slacking any bricks, stone, lime, sand, or any other materials for building or repairing any house or other tenement or erection, specifying therein the length of time for which the same when so erected and set up may be continued, and giving such other directions respecting the same as he may think necessary, on being paid by every person so applying for such license the sum of Two shillings and sixpence; and if any person or persons shall place, set up, erect, or build, or cause or permit to be erected, placed, set up, or built any such board or scaffolding, or any enclosure, post, bars, or rails, or any other matter or thing, for the purposes aforesaid or for any other purpose, without the leave or license signed as aforesaid of the said Chairman so had and obtained, or shall erect, set up, or build, or cause or permit the same to be erected, set up, or built in any other manner, or be continued for any longer time than shall be allowed or expressed in such license, then and in either of the said cases such person or persons, or the person or persons by whom he or they shall or may be employed, shall forfeit and pay the sum of Ten shillings for every day that the same shall have been or shall be set up and continued; and also it shall and may be lawful for the said Chairman to cause the same to be pulled down and removed, and the same and all the materials thereof and of every part thereof to be kept and detained until such person or persons shall and do pay the said Chairman, or to the person or persons

Boards to be erected, but not without license.

What is to be specified in license.

Erecting without license.

Penalty.

Chairman may cause board to be removed.

in whose custody the same shall be, all the penalties incurred by such person or persons, together with the charges of pulling down, removing, and keeping the same, to be ascertained and determined by the said Chairman; and in case the same shall not be claimed, and the said penalties and charges aforesaid shall not be paid within the space of five days next after the pulling down and removing thereof, then it shall and may be lawful to and for the said Chairman to order or cause the same to be appraised and sold, and the money arising therefrom, after deducting the said charges, shall be appropriated to the uses of the said local authority.

Proceedings there-
upon.

121. EVERY person who shall be desirous of blasting any stone, rock, tree, or other matter within the limits of any city or town shall first give notice in writing twenty-four hours previously, to the Chairman of the Local Authority, or to the Resident or Police Magistrate of any city or town, who shall appoint a time when the same may take place, and give such other directions in writing as he may deem necessary for the public safety; and if any person shall blast or cause to be blasted any rock or other matter within the limits aforesaid without giving such notice and obtaining such directions, or shall not conform to the directions given to him, he shall on conviction forfeit and pay any sum not less than Twenty shillings nor more than Five pounds.

No rock to be blasted
without notice.

PART VIII.—MISCELLANEOUS PROVISIONS.

122. ANY Justice, upon information on oath that any person hereinbefore described to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, is, or is suspected to be, in any place, kept or purporting to be kept for the reception, lodging, or entertainment of travellers or others or that any place is a disorderly house, house of illfame, brothel, or bawdy house, or place where liquor is reasonably suspected of being illegally sold, may enter the same at any time by day or night, or issue his warrant authorising any constable or other person in like manner to enter the same, from time to time and to apprehend and bring before him, or any other Justice, every such idle and disorderly person, rogue and vagabond, or incorrigible rogue, and to seize any liquor found therein, to be dealt with according to law.

Lodging-houses, &c.,
may be searched.

123. WHENEVER any person having charge of any horse, cart, carriage, or boat, or any other animal or thing, shall be taken into the custody of any police constable under the provisions of this Act, it shall be lawful for any police constable to take charge of such horse, cart, carriage, or boat, or such other animal or thing, and to deposit the same in some place of safe custody as a security

Horses, carriages,
&c., of offenders may
be detained.

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for payment of any penalty to which the person having had charge thereof may become liable, and for payment of any expenses which may have been necessarily incurred for taking charge of and keeping the same; and it shall be lawful for any Justice before whom the case shall have been heard, to order such horse, cart, carriage, or boat, or such other animal or thing to be sold, for the purpose of satisfying such penalty and reasonable expenses in default of payment thereof, in like manner as if the same had been subject to be distrained and had been distrained for the payment of such penalty and reasonable expenses.

124. EVERY offence against this Act for which no special penalty is appointed shall render the offender liable, on conviction before a Justice, to a penalty of not more than Five pounds or to be imprisoned for any term not exceeding one calendar month in any gaol of the said Colony, either with or without hard labor, and every such person apparently under the age of sixteen years summarily convicted of any offence under this Act or of larceny or embezzlement, or of aiding, counselling, or procuring any larceny or embezzlement may, if a male, in addition to or in lieu of any other punishment, be whipped to the extent of thirty-six strokes with a birch rod or cane.

Penalty for offences where no special penalty is appointed.

125. IN case any person shall lodge any information before any Justice for any offence alleged to have been committed, by which he was not personally aggrieved, and shall afterwards directly or indirectly receive, without the permission of such Justice, any sum of money or other reward for compounding, delaying, or withdrawing the information, he shall, on conviction, be liable to a penalty of not more than Ten pounds.

Penalty for compounding informations.

126. NOTHING in this Act contained shall be construed to save any person from being indicted or prosecuted for any indictable offence made punishable on summary conviction by this Act, or to prevent any person from being liable to any higher or other penalty or punishment than is provided for such offence by this Act, so nevertheless that no person be punished twice for the same offence.

This Act not to prevent the indictment of offenders, or liability for higher penalties.

127. WHERE any person is charged before any Justice with an offence cognizable by a Court of superior jurisdiction, and in the opinion of such Justice the case is proper to be disposed of by such Court, the Justice before whom such person is so charged may commit such person for trial to any Court of competent jurisdiction, and shall at the same time forward the depositions taken in the case to the proper officer of such Court.

Certain offenders may be committed to Court of superior jurisdiction.

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Amends for frivolous informations.

128. IN every case in which any information or complaint of any offence shall be laid or made before any Justice, and shall not be further prosecuted, or in which if further prosecuted it shall appear to the Justice by whom the case shall be heard that there was no sufficient ground for making the charge, such Justice shall have power to award, in addition to costs, such amends, not more than the sum of Five pounds, to be paid by the informer to the party informed or complained against, for his loss of time and expenses in the matter, as to such Justice shall seem fit: Provided that this section shall not apply to any information or charge preferred by any police officer or constable.

Police, moiety of fines, &c., to be paid to the Colonial Treasurer.

129. WHEN any person employed in the said Police Force shall be entitled to the whole or any portion of any forfeiture, penalty, or seizure under this or any other Act in force within the said Colony, the amount of the proceeds thereof shall go to the Colonial Treasurer to the use of Her Majesty, her heirs and successors, for the public use of the said Colony.

Power to remand or enlarge prisoners on recognizances.

130. ANY Justice, if he shall think fit, may remand any person for further examination, or may suffer to go at large any person who shall be charged before him with any felony or misdemeanor upon his personal recognizance (with or without sureties), and every such recognizance shall be conditioned for the appearance of such person before the same or some other Justice for further examination or to surrender himself to take his trial at the Supreme Court or Court of General or Quarter Sessions at a day and place to be therein mentioned; and the Justice shall be at liberty from time to time to enlarge every such recognizance to such further time as he shall appoint; and every such recognizance which shall not be enlarged shall be discharged without fee or reward when the party shall have appeared according to the condition thereof: Provided always that whenever any Justice shall take the recognizance of any person to appear at the Supreme Court or Court of General or Quarter Sessions the Justice shall be bound to return the depositions taken in the case, and to bind over the witnesses to appear and give evidence in like manner as if he had committed the party to take his trial at such court.

As to informality in warrant, &c.

131. NO warrant of commitment for any offence under this Act made in pursuance of the provisions of the Ordinance of the 14th Victoria, No. 5, of 1850, or in pursuance of the provisions of any other Ordinance or Act, shall be held void by reason of any defect therein in form or substance, provided it be therein alleged that the party has been convicted and that there is a good and valid conviction to sustain the same; and where any distress shall be made for levying any money under the provisions of the said

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Ordinance the distress itself shall not be considered unlawful nor the party making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall the party distraining be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but the person aggrieved by such irregularity may recover full satisfaction for the special damage, if any, in an action upon the case.

132. THE service of any summons on a party or witness, or the execution of any warrant, may be proved by the certificate signed by him of the person entrusted with such service or execution.

Proof of service of summons, or execution of warrant.

133. IN any case where under this Act any offence is created and it appears to the justice before whom the complaint or information against any person for the commission of any such offence may be heard that the person committing the same has acted only under the orders or by the sanction of any master or employer of any such person, and that such master or employer is in fact the offending party, either solely or as well as such person so rendered liable, such justice may summon and proceed against such master or employer as if the information or complaint had originally been laid or made against any such master or employer, and may either discharge such person so first informed or complained against, or may otherwise proceed against both as such justice may see fit.

Proceedings may be taken against master for offences committed by servant under his order or sanction.

134. ALL offences against this Act shall, except where otherwise provided, be summarily punishable on conviction before any Justice in Petty Sessions, and so much of every pecuniary penalty as shall not be awarded to the informer or party prosecuting shall be appropriated to the use of Her Majesty for the public uses of the Colony.

Offence punishable summarily.

135. IN every case where, under the provisions of this Act, any person may be liable to pay any sum of money by way of amends, compensation, or damages, or for the value of or the costs or expenses of repairing, reinstating, or making good any injury or damage done or occasioned by him to any property, article, or thing, the Justice before whom the charge against such person shall be heard shall assess and determine the sum of money payable as aforesaid, and order the payment of the same to such person or persons and at such time or times and either in one sum or by instalments as such Justice may think fit, and every such sum of money shall be enforced and recoverable in like manner as any pecuniary penalty under this Act.

Amends, &c., to be assessed by Justice.

136. ANY person feeling aggrieved by an order or conviction under this Act shall be entitled to appeal therefrom to a Court of

Appeal.

General or Quarter Sessions, or to the Supreme Court, in manner and form and on the terms respectively which are prescribed by the law in force for the time being with reference to appeals.

Justice not bound to convict in certain cases.

137. A JUSTICE or Justices shall not be bound to convict if the offence proved shall, in the opinion of such Justice or Justices, be of so trivial a nature as not to merit punishment.

Shortening Ordinance, incorporation.

138. SECTIONS A., D., G., and H. of "The Shortening Ordinance, 1853," shall be incorporated with and taken to form part of this Act to all intents and purposes, and in as full and ample a manner as if the said sections had been introduced and fully set forth in this Act.

PART IX.—AS TO APPEALS.

Procedure as to appeal to General or Quarter Sessions or to Supreme Court.

139. WHERE any person is authorised by this Act, or by any future Act, to appeal from the conviction or order of a Court of Summary Jurisdiction, he may appeal to a Court of General or Quarter Sessions, as after mentioned; and in case there shall be no such Court, then to the Supreme Court, subject to the conditions and regulations following:

Appeal to General or Quarter Sessions.

1. The appeal shall be made to the next practicable Court of General or Quarter Sessions having jurisdiction in the Magisterial District for which the said Court of Summary Jurisdiction acted, and in case there shall be no such Court of Sessions then to the Supreme Court provided such Court of Appeal shall sit not less than fifteen days after the day on which the decision was given upon which the conviction or order was founded, or to the next session thereafter of such Court of Appeal; and
2. The appellant shall, within the prescribed time, or, if no time is prescribed, within seven days after the day on which the said decision of the Court was given, give notice of appeal, by serving on the other party, and on the clerk of the said Court of Summary Jurisdiction, notice in writing of his intention to appeal, and of the grounds of such appeal;
3. The appellant shall, within the prescribed time, or, if no time is prescribed, within three days after the day on which he gave notice of appeal, enter into a recognizance before a Court of Summary Jurisdiction, with or without a surety or sureties as that Court

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may direct, conditioned to appear at such Court of Appeal, and to try such appeal, and to abide the judgment of the Court of Appeal thereon, and to pay such costs as may be awarded by the Court of Appeal; or the appellant may, if the Court of Summary Jurisdiction before whom the appellant appears to enter into a recognizance think it expedient, instead of entering into a recognizance give such other security, by deposit of money with the clerk of the Court of Summary Jurisdiction, or otherwise as that Court may deem sufficient ;

4. Where the appellant is in custody, the Court of Summary Jurisdiction before whom the appellant appears to enter into a recognizance may, if the Court think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody ;
5. The Court of Appeal may adjourn the hearing of the appeal, and upon the hearing thereof may confirm, reverse, or modify the decision of the Court of Summary Jurisdiction, or remit the matter, with the opinion of the Court of Appeal, to a Court of Summary Jurisdiction, acting for the same Magisterial District or place as the Court by whom the conviction or order appealed against was made, or may make such other order in the matter as the Court of Appeal may think just, and may by such order exercise any power which the Court of Summary Jurisdiction might have exercised, and such order shall have the same effect, and may be enforced in the same manner as if it had been made by the Court of Summary Jurisdiction. The Court of Appeal may also make such order as to costs to be paid by either party as the Court may think just ; and
6. Whenever a decision is not confirmed by the Court of Appeal, the Clerk of such Court, or the Master of the Supreme Court, as the case may be, shall send to the Clerk of the Court of Summary Jurisdiction, from whose decision the appeal was made, for entry in his register, and also endorse on the evidence or order appealed against a memorandum of the decision of the Court of Appeal ; and whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and

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shall be sufficient evidence of the said decision in every case where such copy or certificate would be sufficient evidence of such conviction or order ;

7. Every notice in writing required by this section to be given by an appellant shall be in writing signed by him, or by his solicitor or agent in his behalf, and may be transmitted as a registered letter by the post in the ordinary way, and shall be deemed to have been served at the time when it would be delivered in the ordinary course of the post.

Application of provisions respecting appeals under this Act.

140. WHERE a person is authorised by any past Act to appeal from the conviction or order of a Court of Summary Jurisdiction to a Court of General or Quarter Sessions—or to the Supreme Court—he may appeal to such Court subject to the conditions and regulations contained in this Act with respect to an appeal:

Provided that where any such appeal is in accordance with the conditions and regulations prescribed by the Act authorising the appeal, so far as the same is unrepealed, such appeal shall not be deemed invalid by reason only that it is not in accordance with the conditions and regulations contained in this Act ;

Where any past Act, so far as unrepealed, prescribes that any appeal from the conviction or order of a Court of Summary Jurisdiction shall be made to the next Court of General or Quarter Sessions, such appeal may be made to the next practicable Court of General or Quarter Sessions having jurisdiction in the Magisterial District for which the Court of Summary Jurisdiction acted and held not less than fifteen days after the day on which the decision was given upon which the conviction or order appealed against was founded.

Appeal from Court of Summary Jurisdiction by special case.

141. (1.) ANY person aggrieved who desires to question a conviction, order, determination, or other proceeding of a Court of Summary Jurisdiction, on the ground that it is erroneous in point of law or is in excess of jurisdiction, may apply to the Court to state a special case, setting forth the facts of the case, and the grounds on which the proceeding is questioned, and if the Court decline to state the case, may apply to the Supreme Court for an order requiring the case to be stated.

(2.) The application shall be made and the case stated within such time and in such manner as may be from time to time directed by rules to be made under this Act by the Judges of the Supreme Court, and the case shall be heard and determined in manner pre-

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scribed by the Supreme Court Acts and the Rules thereof. And subject as aforesaid, the Ordinance 23rd Victoria, No. 3, shall, so far as it is applicable, apply to any special case stated under this section, as if it was stated under that Act: Provided that nothing in this section shall prejudice the statement of any special case under that Ordinance.

(3.) The right of appeal under this Act shall not be exercisable against convictions or orders under the Customs, or Distillation, or Bastardy Acts, or in cases of larceny or embezzlement.

142. THIS Act shall come into force on the first day of April, 1892. Commencement of Act.

In the name and on behalf of the Queen I hereby assent
to this Act.

ALEX. C. ONSLOW, Administrator.

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SCHEDULES.

The First Schedule.

Session and Number.	Title or Short Title.	Extent of repeal.
14 Vic., No. 20.	<i>"An Ordinance for the establishment of further precautionary regulations for the Port of Fremantle."</i>	The whole.
14 Vic., No. 25.	<i>"An Ordinance to provide a more suitable mode of inflicting punishment for Drunkenness."</i>	The whole.
17 Vic., No. 8.	<i>"An Ordinance for the more effectual suppression of Drunkenness."</i>	The whole.
18 Vic., No. 1.	<i>"An Ordinance to regulate the forms to be observed by Pardoned Convicts prior to their leaving the Colony."</i>	The whole.
25 Vic., No. 15.	<i>"The Police Ordinance, 1861."</i>	The whole.
28 Vic., No. 12.	<i>"An Ordinance to amend 'The Police Ordinance, 1861.'"</i>	The whole.
34 Vic., No. 28.	<i>"An Act to alter and amend the 12th section, and to repeal the 35th section of 'The Police Ordinance, 1861,' and to enact another clause in lieu thereof."</i>	The whole.
39 Vic., No. 15.	<i>"An Act to regulate the Execution of Warrants of Arrest."</i>	The whole.
41 Vic., No. 18.	<i>"An Act to amend the 26th section of 'The Police Ordinance, 1861.'"</i>	The whole.
44 Vic., No. 3.	<i>"An Act to amend 'The Police Ordinance, 1861.'"</i>	The whole.
44 Vic., No. 9.	<i>"The Wines, Beer, and Spirit Sale Act, 1880."</i>	Section 82.
46 Vic., No. 14.	<i>"An Act to make the winning of money by Cheating at Cards, or at other Games a Criminal Offence."</i>	The whole.

The Second Schedule.

Form of Warrant.

To wit.) To constable

WHEREAS it appears to me, a Justice of the Peace, by the information on oath of A.B. of in the of Section 85.

[yeoman] that the house [room, premises, or place] known as (here insert a description of the house, room, premises, or place by which it may be readily known and found) is kept and used as a common gaming house or place for gaming within the meaning of "The Police Act, 1892:" this is therefore, in the name of our Lady the Queen, to require you, with such assistants as you may find necessary, to enter into the said house [room, premises, or place], and if necessary to use force for making such entry whether by breaking open doors or otherwise, and there diligently to search for all instruments of unlawful gaming which may be therein, and to arrest, search, and bring before me, or some other of the Justices of the Peace, as well the keepers of the same, as also the persons there found, to be dealt with according to law, and for so doing this shall be your warrant.

J.P. (L.S.)

Given under my hand and seal at this day of 18 .

Recognizance for the Appearance of a Person in Charge at a Police Station or Lock-up.

Be it remembered, that on of and of personally came before the undersigned, and severally acknowledged themselves to owe to our Sovereign Lady the Queen, the several sums following, that is to say, the said the sum of and the said the sum of of good and lawful money of Great Britain, to be made and levied of their several goods and chattels, lands and Section 48.

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tenements respectively, to the use of our said Lady the Queen, her Heirs and Successors, if he the said shall fail in the condition endorsed.

Taken and acknowledged, the day and year first }
above mentioned at before }

Officer of Police *or* Police Constable in
Charge, *as the case may be.*

The condition of the within written Recognizance is such, that if the said shall personally appear on the day of instant, at ten o'clock in the forenoon, at before such Justice of the Peace for the said Colony as may then be there, to answer to any information then and there exhibited against the said and to be further dealt with according to law, then the said Recognizance to be void, or else stand in full force and virtue.