



WESTERN AUSTRALIA.

ANNO VICESIMO QUINTO

VICTORIÆ REGINÆ.

NO. XV.

AN ORDINANCE for consolidating and amending the Laws relating to the Police in Western Australia, and for removing and preventing Nuisances and Obstructions therein.

WHEREAS it is expedient to consolidate the Laws relating to Police, and to make further Provision for the Maintenance of the public Peace and good Order, and for the Prosecution of certain Offences committed within the City, Towns, public Thoroughfares, and Places of the Colony, as well as for the Removal and Prevention of Nuisances and Obstructions; Be it therefore enacted by His Excellency The Governor of Western Australia and its Dependencies by and with the Advice and Consent of the Legislative Council thereof: Preamble.

I. THAT from and after the Passing of this Ordinance the Ordinances of Council, *videlicet*, 12th Victoria No. 20 of 1849, 16th Victoria No. 19 of 1853, and 23rd Victoria No. 5 of 1859 shall be and the same are hereby repealed save and except always as to Offences committed and Matters and Things done before the Passing of this Ordinance, which

Repeal of 12 Vic. No. 20 of 1849, 16 Vic. No. 19 of 1853, and 23 of Vic. No. 5 of 1859.

which said Offences, Matters, and Things shall be dealt with respectively as if this present Ordinance had not been passed.

Every Justice a Police
Magistrate.

II. THAT all and every Justice and Justices of the Peace in and for the said Colony shall and may act as a Justice for the Purposes of this Ordinance and perform such Duties as shall be hereinafter specified.

Justices to suppress Riots,
&c.

III. THAT it shall be the Duty of the said Justices to suppress all Tumults, Riots, Affrays, or Breaches of the Peace and all public Nuisances, Vagrancies, and Offences against the Law, and to uphold all Laws and Regulations established by competent Authority for the Management and Discipline of Convicts within the said Colony.

A Police for the Colony to
be appointed and organised.

IV. THAT it shall be lawful for the Governor from Time to Time to appoint a fit and proper Person to be Superintendent of the Police Force in the said Colony who shall hold Office during Her Majesty's Pleasure, and also from Time to Time to nominate a sufficient Number of fit and able Men as a Police Force of the said Colony, and also Inspectors, Sub-Inspectors and Sergeants of and from among such Police Force in each and every District of the Colony, which Police Force shall severally be sworn by such Justices in Manner following, that is to say, "You shall well and truly serve our Lady the Queen in the Office of Police Constable for the Colony of Western Australia according to the best of your Skill and Ability. So help you God;" and the Men so sworn shall obey all such lawful Commands as they may from Time to Time receive from the said Superintendent of the Police Force, or other their superior Officers, and Justices for conducting themselves in the Execution of their Office: Provided that the Omission to take such Oath shall not render illegal the Acts of any such Police Constable in the professed Discharge of his Office nor shall subject him to any Fine, Suit, or Prosecution.

Appointment of Special
Constable.

V. THAT it shall be lawful for any such Justice, in order for the suppression of any Tumult, Riot, or Affray, or on any other Emergency, for the Preservation of the public Peace and the due Execution of Justice, to appoint in Writing under his Hand any One or more special Constable or Constables for any Term not exceeding Two Calendar Months; and to administer to such Constable, if appointed for the Preservation of the public Peace, the following Oath:—"You shall well and truly serve our Sovereign Lady the Queen in the Office of special Constable for the Town (or District) of _____ for the Term of _____ now next ensuing; and you will to the best of your Power cause the Peace to be kept, and prevent all Offences against the Persons or Properties of Her Majesty's Subjects, and while you continue to hold the said Office, you will to the best

Oath of Office.

best of your Skill and Knowledge discharge all the Duties thereof faithfully. So help you God;" Or if such Constable be appointed for any other Purpose than the Preservation of the Peace, then to administer an Oath for the faithful Discharge of the special Duty assigned to him: Provided that whenever the Appointment of any such special Constable shall be productive of Expense to the Public, exceeding the Sum of Five Pounds, Notice of such Appointment and of the Cause thereof shall, as soon as conveniently may be, be transmitted to the Colonial Secretary.

VI. THAT the said Superintendent of the Police Force shall, from Time to Time, subject to and with the written Approbation of the Governor, frame such Orders and Regulations as he shall deem expedient relative to the general Government of the Men to be appointed Constables under this Ordinance, the Places of their Residence, the Classification, Rank, Duty and particular Service of each, their Distribution and Inspection, the Description of Arms, Accoutrements, and other Necessaries to be furnished them, and all such other Orders and Regulations relative to the said Police Force as the said Superintendent shall from Time to Time deem expedient for preventing Neglect or Abuse, and for rendering such Force efficient in the Discharge of all its Duties; and the said Superintendent, with the written Approbation of the Governor, may at any Time and from Time to Time suspend or dismiss from his Employment any Man belonging to the said Police Force whom he shall think after due Inquiry on Oath or otherwise, remiss or negligent in the Discharge of his Duty or otherwise unfit for the same, and when any Man shall be so dismissed or cease to belong to the said Police Force all Powers vested in him as a Police Constable by virtue of this or any other Ordinance shall immediately cease and determine.

The Superintendent, subject to the Approbation of the Governor, to make Regulations for the Management of the Police Force.

Police may be suspended or discharged by Superintendent with Approbation of Governor.

VII. THAT the said Superintendent of the Police Force, and every Inspector, Sub-Inspector, or Sergeant of Police in each District shall take Care that a sufficient Number of Police Constables belonging to the Police Force shall be in Attendance upon every Justice sitting at every Police Court in the said Colony for the Purpose of executing such Summonses and Warrants as may be directed to them, and returning the same.

Police Constables to attend Magistrates.

VIII. THAT after the Passing of this Ordinance all Warrants to be issued in any criminal Proceedings in every District of the Colony, or by any Justice shall be executed by a Police Constable of the Police Force and by none other.

Warrants in criminal Proceedings to be executed by them.

IX. THAT every Constable who shall be guilty of any Neglect or Violation of Duty in his Office of Police Constable shall be liable to a
Penalty

Penalty for Neglect of Duty.

Penalty of not more than Ten Pounds, the Amount of which Penalty may be deducted from any Salary then due to such Offender, or in the Discretion of the Justice, may be imprisoned with or without hard Labour for any Time not exceeding One Calendar Month.

Constables not to resign
without Leave.

X. THAT no Constable belonging to the Police Force shall be at Liberty to resign his Office or to withdraw himself from the Duties thereof unless expressly allowed so to do in Writing by such Superintendent under whom he may be placed, or unless he shall give to such Superintendent One Calendar Month's Notice of his intention; and every Police Constable who shall so resign or withdraw himself without such Leave or Notice shall be liable to forfeit all Arrears of Pay then due to him, or to a Penalty of not more than Five Pounds; and every Police Constable dismissed from, or who shall cease to hold his Office shall forthwith deliver over to the Sergeant of Police or other proper Officer all his Clothing, Arms, Accoutrements, and other Necessaries under Pain of Imprisonment with or without hard Labour for any Time not exceeding One Month; and it shall be lawful for any Justice to issue his Warrant to search for and seize to the Use of Her Majesty all the Clothing, Arms, Accoutrements, and other Necessaries which shall not be so delivered over wherever the same may be found.

Assault on Policeman.

XI. THAT if any Person shall assault, or resist any Person belonging to the said Police Force in the Execution of his Duty, or shall aid or incite any Person so to assault, or resist, every such Offender being convicted thereof shall for every such Offence forfeit and pay a Sum not exceeding Five Pounds, or in the Discretion of the Magistrate before whom he shall be convicted, may be imprisoned with or without hard Labour for any Time not exceeding One Calendar Month.

Powers of Police.

XII. THAT it shall be lawful for any Man belonging to the said Police Force to apprehend without Warrant any Person whom he shall find drunk or disorderly in the Streets, or public Thoroughfares or Places of the said Colony and any City or Town therein or in any Passenger Steam-boat at any Hour of the Day or Night, and the same to convey before a Justice to be dealt with according to Law; and to apprehend without Warrant all loose, idle, and disorderly Persons or Rogues and Vagabonds whom he shall find between Sunset and the Hour of Eight in the Forenoon lying or loitering in any Street, Highway, Yard, or other public Place, or whom he shall have just Cause to suspect of any evil Design within the said Colony and any City or Town therein, and not giving a satisfactory Account of themselves, and every common Prostitute wandering in any Street or Place of public Resort in any City or Town, and behaving in a riotous or indecent Manner, and every Person wandering about and placing himself in any Street,

Street, or public Place to beg or gather Alms; and to deliver any Person so apprehended into the Custody of any Sub-Inspector or Sergeant of Police appointed under this Ordinance or Police Constable in Charge who shall be in Attendance at the nearest Police Station, Watch House, or Lock-up in order that such Person may be secured until he can be brought before a Justice to be dealt with according to Law, or give Bail for his Appearance before a Justice if the Sub-Inspector or Sergeant of Police or Police Constable in Charge shall deem it prudent to take Bail in the Manner hereinafter mentioned; and also to enter any licensed public House or any public boarding, eating, or lodging House at any Hour of the Day or Night, and to search therein for Offenders and otherwise perform their Duty using as little Annoyance to the Inmates thereof as possible.

XIII. THAT it shall and may be lawful for but not incumbent on any Justice, in all Cases in which by any existing Law a Search Warrant may now be issued upon Deposition, upon any reasonable Grounds stated to him to issue a Search Warrant or Search Warrants authorising the proper Officers to search any House and Premises or Number of Houses and Premises, or any Place, Package, or Vehicle particularly specified in such Warrant or Warrants as in Case of Search Warrants to search for stolen Goods.

Search Warrant may be issued without Oath.

XIV. THAT when any Person found lying or loitering about as aforesaid, or charged with any petty Misdemeanour or Offence under this Ordinance shall be brought without the Warrant of a Justice into the Custody of any Sub-Inspector or Sergeant of Police appointed under this Ordinance or Police Constable in Charge during the Time when the Police Courts or Courts of Petty Sessions shall be shut, at any Police Station, Watch House, or Lock-up within any City or Town, it shall be lawful for such Sub-Inspector or Sergeant of Police or Police Constable in Charge, if he shall deem it prudent, to take Bail by Recognizance, in the Form in the Schedule hereto annexed, with or without Sureties as the said Sub-Inspector or Sergeant of Police or Police Constable in Charge 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 and in that Case at the like Hour on the succeeding Day, 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 and Levying thereof as if the same had been taken before a Justice, and the Sub-Inspector or Sergeant of Police or Police Constable in Charge shall enter into a Book to be kept for that Purpose in every Police Station, Watch House, or Lock-up, the Names, Residence,

Constable attending at the Watch House at Night may take Bail by Recognizances by Persons brought before them for petty Misdemeanours: such Recognizances to be conditioned for the Appearance of the Parties before a Magistrate.

Residence, and Occupation of the Party and his Surety or Sureties (if any) entering into such Recognizances 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 sitting Justice shall cause a Record of such Recognizance to be drawn up and signed by the Sub-Inspector or said Sergeant of Police or Police Constable in Charge, and shall return the same to the Registrar of the Supreme Court of the said Colony with a Certificate at the Back thereof signed by the said Justice, that the Party has not complied with the Obligation therein contained, and the said Registrar shall make the like Estreat, Return, Precept, Warrant, and Schedule of every such Recognizance as of Recognizances forfeited in the Supreme Court; and if the Party not appearing shall at such Time and Place apply by any Person on that Behalf to postpone the Hearing of the Charges against him and the Justice after hearing the Informant 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 either by a Conviction or the Dismissal of the Case, or by binding the Party over to answer the Matter thereof at the Supreme Court or otherwise 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.

Penalty on Publicans
harbouring Policemen
during Hours of Duty.

XV. THAT if any Victualler, or licensed Publican, or other Person or Persons shall knowingly harbour or entertain any Man belonging to the said Police Force, or permit such Man to abide or remain in his House, Shop, Room, or other Place during any Part of the Time appointed for his being on Duty elsewhere, every such Victualler, licensed Publican, or other Person or Persons being convicted thereof shall for every such Offence forfeit and pay a Sum not exceeding Five Pounds.

To cause the Lord's day to
be observed.

XVI. THAT the said Justices, Superintendent, and Police Constables shall as far as in them lies cause the Lord's Day to be duly observed by all Persons throughout the said Colony, and shall not permit or suffer any House, Shop, Store, or other Place therein to be open on that Day 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 between the Hours of One and Two in the Afternoon, and of Apothecaries at any Hour, and of licensed Publicans between such Hours as may be allowed by any Law for the Time being for the Regulation of Public Houses, respectively only excepted) and any Person who shall trade, or deal, or keep open any Shop, Store, or other Place, except as aforesaid, for the Purpose of Trade or dealing on the Lord's Day shall on Conviction
forfeit

forfeit and pay for every such Offence a Sum not exceeding Three Pounds nor less than One Pound.

XVII. THAT if the Owner of any public Billiard Room or other Place of Amusement within any City or Town of the said Colony shall permit or suffer any One to play in his House or Premises any Game on Sunday, Christmas Day, or Good Friday, he 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 to disperse or cause to be dispersed all Persons gathering together on Sunday in any public or open Place within the said Colony for the Purpose of gambling or playing at any Game for Money or otherwise 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 whether for Money or otherwise 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 Labour for any Term not exceeding Two Calendar Months.

As to not suffering Games or Play on a Sunday.

XVIII. THAT any Person resident in any Part of the said Colony being able wholly or in Part to maintain himself and his Family by Work or by other Means, and wilfully refusing or neglecting so to do, by which Refusal or neglect he or any One or more of his Family whom he may be legally bound to maintain shall have become chargeable to the Public, and every common Prostitute wandering in any Street or Place of public Resort in any City or Town or behaving in a riotous or indecent Manner and every Person wandering abroad and placing himself in any such Street or public Place to beg or gather Alms or Provisions, or encouraging any Child to do so, and every loose, idle, drunken and disorderly Person disturbing the public Peace shall be deemed a loose, idle, and disorderly Person, and it shall be lawful for any Justice of the Peace to commit such Offender (being thereof convicted before him by his own View, or by the Confession of such Offender, or by the Evidence on Oath of some credible Witness) to the nearest common Gaol or House of Correction there to be kept to hard Labour for any Time not exceeding One Calendar Month, or to inflict a Penalty on such Offender of any Sum not exceeding Forty Shillings.

Idle and disorderly Persons

XIX. THAT every Person committing any of the Offences lastly hereinbefore mentioned after having been convicted as a loose, idle and disorderly Person, and every Person wandering abroad and lodging in any Out-house, or in any deserted or unoccupied Building, or in the open Air, or under a Tent, or in any Cart or Waggon in any

Rogues and Vagabonds.

Part

Part of the said Colony not having any visible Means of Subsistence, and not giving a good Account of himself; and every Person wilfully exposing to View in any Street, Road, Highway, or public Place any obscene Print, Picture, or other indecent Exhibition, and every Person wilfully, openly, lewdly, and obscenely exposing his Person in any Street, Road, or Highway, or in the View thereof, or in any Place of public Resort with Intent to insult any Female, and every Person wandering abroad and endeavouring by the Exposure of Wounds or Deformities to obtain Alms, and every Person endeavouring to procure charitable Contributions of any Kind under any false or fraudulent Pretence, and every Person playing or betting in any Street, Road, Highway or other open and public Place at, with, or without any Table or Instrument of Gaming at any Game or pretended Game of Chance, whether playing for Money or other Property, or for any Wager or Stake, and every Person being found in or upon any dwelling House, Warehouse, Coach-house, Stable, or Outhouse, or in any enclosed Yard, Garden, Court, or other Place for any unlawful Purpose, and every Person apprehended as a loose, idle and disorderly Person and violently resisting any Constable so apprehending him, and being subsequently convicted of the Offence for which he shall have been so apprehended shall respectively be deemed a Rogue and Vagabond within the true Intent and Meaning of this Ordinance; and it shall be lawful for any Justice of the Peace to commit such Offender (being thereof convicted before him by the Confession of such Offender, or by the evidence on Oath of any One or more credible Witness or Witnesses, or on View), to any Gaol or Lock-up there to be kept to hard Labour for any Term not exceeding Three Calendar Months; and it shall be lawful for any Police Constable to apprehend without Warrant any Person whom he shall find committing any Offence which is before declared to constitute the offender a Rogue and Vagabond.

Constable may demand Name and Address, and apprehend.

XX. THAT any Police Constable 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 when required so to do as aforesaid; and every such Person who shall refuse to give his Name and Address, 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 Lock-up there to be kept to hard Labour for any Term not exceeding Three Calendar Months.

Ill treatment of Animals.

XXI. THAT every Person who shall cruelly treat any Animal whatsoever by wanton or excessive beating, overloading, overdriving, or in any other Manner shall on Conviction forfeit and pay a Sum not exceeding Five Pounds.

XXII.

XXII. THAT it shall be lawful for the Owner or Occupier of any Garden or cultivated Ground, Vineyard, or enclosed Yard to kill any Poultry, Rabbit, or Pigeon which he may find trespassing in such his Garden or Vineyard, or on cultivated or enclosed Ground, or in an enclosed Yard, and that no Person so killing any Poultry, Rabbit, or Pigeon shall be held responsible therefor civilly or criminally: Provided that no Use, Profit, or Advantage be made of or from the Bird or Animal so killed by the Person killing the same, or with his Privity or Assent by any Person save the Owner or reputed Owner thereof, and that Notice of any such Killing be given as soon as conveniently may be to a Police Constable who shall deliver such Bird or Animal to the Owner or reputed Owner thereof: Provided also that no Compensation shall be recovered from the Owner or reputed Owner of any Bird or Animal so killed as aforesaid for any Damage committed by the same on the Land of the Person killing the same.

Poultry, Rabbits and Pigeons may be destroyed.

XXIII. THAT any person who shall damage any public Building, Wall, Parapet, Sluice, Bridge, Causeway, Jetty, Road, Path, Paving, Sewer, Watercourse, or other public Property within the said Colony shall pay the Costs of repairing the same, and if the same shall be wilfully done shall forfeit and pay a Sum not exceeding Twenty Pounds nor less than Five Pounds.

Damaging public Buildings, &c.

XXIV. THAT 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, Merchandize, 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 City Council, or Town Trust), 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 of the Peace, Chairman of City Council or Town Trust, or by any Police Constable appointed under this Ordinance, and shall

Stalls &c. not to be set on Foot or Carriage Ways.

Placing Timber, Bricks &c.

Not removing when required.

not

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, Merchandize, 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 set, laid, placed, exposed, or put out the same or any of them, or any other Stall, Board, Show Board, Chopping Block, Basket Wares, Merchandize, 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 nor less than Five Shillings.

Replacing the same after Removal.

XXV. THAT Nothing in this Ordinance 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 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 City Council or Town Trust.

Not to prevent Awnings being erected in front of Shops.

XXVI. THAT it shall not be lawful for any Person to bathe in or near to any public Wharf or public Place or Quay or Jetty in or near any City or Town between the Hours of Six of the Clock in the Morning and Eight of the Clock in the Evening, and any Person who shall offend against this Regulation shall on Conviction before, or on View of any Justice forfeit and pay a Sum not exceeding One Pound, and it shall be lawful for any Police Constable appointed under this Ordinance without any Warrant or other Authority than this Ordinance to arrest any Person who shall be found bathing contrary to the Provisions hereof, and such Person to convey before any Justice within the said City or Town to be dealt with according to Law.

Bathing prohibited within certain Limits.

XXVII. THAT in Case any Privy, Hogstye, Tanyard, Malting House, Fellmonger's Premises, Lime Kiln, Brick Kiln, Cesspool, Manufactory, or any other Matter or Thing which at any Time or Times hereafter shall be in any Place within any City or Town shall be or become a Nuisance to any of the Inhabitants thereof, it shall be lawful for any Two or more Justices upon Complaint thereof to them made by any Two or more of the Inhabitants, and after due Investigation into such Complaint by Notice in Writing to order that every or any such Privy, Hogstye, Tanyard, Malting House, Fellmonger's Premises, Lime Kiln, Brick Kiln, Cesspool, Manufactory, or other Matter or Thing being a Nuisance shall be remedied and removed within Seven

Hogstyes and Nuisances not removed on Complaint.

Notice.

Days

Days after such Notice shall have been given to the Owner or Occupier of the Premises where such Nuisance shall exist, or shall have been 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 Notice, and to the Satisfaction of such Justices shall forfeit and pay on Conviction before the said Justices the Sum of Ten Pounds for every such Neglect or Disobedience; and also it may be lawful for any such Justices to indict or cause to be indicted for such Nuisance such Person or Persons so neglecting or disobeying any such Notice at the then next Session of the Supreme Court to be held within the said Colony, and such Person or Persons being found guilty thereof such Nuisance shall be removed, taken down, and abated according to Law with regard to public or common Nuisances, and the Person or Persons so offending shall be subject to such Punishment for the Misdemeanour as the said Supreme Court shall adjudge.

Indict.

XXVIII. THAT any Owner or Occupier of any House and Premises or Place within any City or Town who shall neglect to keep clean all private Avenues, Passages, Yards, and Ways within his 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: Provided always that it shall be lawful for the convicting Justice or Justices to allow a reasonable Time at his or their Discretion to the Person convicted for the Removal of such Nuisance within which Time no further Conviction shall be had on Account of such Nuisance.

As to private Avenues and Passages.

XXIX. THAT if any Person shall haul or draw or cause to be hauled or drawn upon any Part of the macadamized, gravelled, or clayed public Roads, Bridges, Causeways, or Paths of the Colony 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 macadamized, gravelled, or clayed public Roads, Bridges, Causeways or Paths to the Injury thereof, or to hang over and beyond the outer Edge of the Naves of the Wheels of such Carriage, so as to occupy or obstruct the said public Roads, Bridges, Causeways or Paths beyond the Breadth of the said Carriage, every such Person so offending shall upon Conviction forfeit and pay for every such Offence the Sum of Forty Shillings over and above the Damages occasioned thereby: Provided that Nothing herein contained shall apply to Carts or Waggon loaded with Hay, Wool or Rushes.

Drawing or hauling Timber, &c.

XXX. THAT it shall not be lawful after the Passing of this Ordinance for any Person to make any Cellar or any Opening, Door, or

Cellars or Openings beneath the Surface of Footways prohibited.

or Window in or beneath the Surface of the Footway of any Street or Public Place within any City or Town, and if any Person shall offend in the Premises, he shall on Conviction before any Justice aforesaid under this Ordinance forfeit and pay the Sum of Five Pounds over and above the Expense of remedying or removing any such Cellar, Opening, Door, or Window made contrary to the Provisions hereof such Expense to be assessed and allowed by such Justice.

Holes made for Vaults to be closed.

XXXI. THAT if any Person or Persons shall dig or make, or cause to be dug or made any Hole, or have or cause to be left any Hole before any vacant Ground, or before or behind or on the Side of any House, or other Tenement or Building erected, or being erected, or being about to be erected in and adjoining to any Street or public Place formed, or to be formed, or forming within any City or Town, or for the Purpose of making any Vault or Vaults or for the Foundation or Foundations to such Houses or other Buildings, or for any other Purpose whatsoever, and shall not forthwith enclose the same in a good and sufficient Manner to the Satisfaction of the Chairman of the City Council or Town Trust of any City or Town, or shall keep up or cause to be kept up any such Enclosure for any Time which shall be longer than shall be absolutely necessary in the Opinion of the said Chairman, or shall not when thereunto required by the said Chairman, well and sufficiently fence and enclose any such Hole or Holes, or Area or Areas, or Space or Spaces opened or left open, and intended for an Area or Areas, Foundation or Foundations, or for any other Purpose whatsoever in Front of or behind or on the Side of any such vacant Ground, House, or other Tenement, or Building in and adjoining to any such Street or public Place formed, or to be formed, or forming within Twenty Four Hours after he or they shall be required to do so by the said Chairman, and in the Manner and with such Materials as he shall direct, and to his Satisfaction, then and in every or any such Case every Person so offending shall forfeit and pay for every such Offence and for every such Refusal or Neglect any Sum not being less than Forty Shillings nor exceeding Five Pounds.

Rain not to be allowed from Eaves of Houses on Footways.

XXXII. THAT if at any Time after the Expiration of Twelve Months after the Passing of this Ordinance any House or Buildings in the City of Perth and Town of Fremantle respectively 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 the said City and 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.

Boards to be erected but not without Chairman's license.

XXXIII. THAT no Person or Persons whatsoever shall erect,
place,

place, set up, or build in any Street or public Place within the City of Perth and Town of Fremantle, 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 said City Council or Town Trust respectively, 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 that 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, Posts, 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 that 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 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 City Council or Town Trust.

What is to be specified in License.

Erecting without License.

Penalty.

Chairman may cause Board to be removed.

Proceedings thereupon.

XXXIV. THAT any Person who shall be convicted of wantonly or maliciously breaking or injuring any Lamp or Lamp Post, or any Gate,

Injuring Lamps, &c.

Gate, Post, Paling, Railing, Wall, or Steps set up for public or private Convenience, or Tiles, Slates, Shingles, Sign Boards or Windows shall over and above the necessary Expense of repairing the Injury committed to be estimated by the Justice before whom such Offender shall be brought forfeit and pay upon Conviction for every such Offence any Sum not less than One Pound nor exceeding Five Pounds; and it shall be lawful for any Police Constable without Warrant to seize any Person whom he shall find in the Act of committing any such Offence, and to convey him or her to the nearest Police Station, Watch House, or Place of Security there to be detained until he or she can be brought before any Justice within any City or Town to be dealt with according to Law.

Dead Animals not to be thrown into Harbour, &c.

XXXV. THAT it shall not be lawful for any Person to throw or cause to be thrown any dead Animal into any Harbour, River, Creek or Cove, in, near, or adjacent to any City or Town, or to leave or to cause the same to be left upon the Shores thereof, or in any Manner to 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; and any Person who shall be guilty thereof shall on Conviction forfeit and pay any Sum not exceeding One Pound 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 within any such City or Town; or cause him to be detained in any Police Station, or Watch House, or other Place of Security, until he shall be brought before such Justice to be dealt with according to Law in addition to the Costs of cleaning, restoring, and purifying such Well, Pool, or Spring.

No Rock to be blasted without Notice.

XXXVI. THAT any 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 City Council or Town Trust respectively, 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 by the said Chairman or Magistrate, he shall on Conviction forfeit and pay any Sum not less than Twenty Shillings nor more than Five Pounds.

No Turf or Earth &c. to be removed from Streets without Permission.

XXXVII. THAT any Person who shall form, dig, or open any Drain or Sewer, or remove or cause to be removed any Turf, Clay, Sand, Soil, Stone or other Material used in the Formation of the Streets in
or

or from any Part of the Carriage or Foot Ways within any City or Town without the Leave first had and obtained from the Chairman of City Council or Town Trust respectively, or who shall wantonly break up or otherwise damage the said Carriage or Foot Ways shall on Conviction forfeit and pay for every such Offence any Sum not exceeding Five Pounds nor less than One Pound.

XXXVIII. THAT no wild or other Cattle (except milch Cows, Horses, and draught Oxen) shall be driven into, through or out of the City of Perth or Town of Fremantle respectively excepting between the Hours of Ten at Night and Eight in the Morning, and any Person who shall be convicted of driving Cattle as aforesaid at any other Hour shall on Conviction forfeit and pay the Sum of Ten Shillings for each and every Head of Cattle so driven: Provided that Nothing herein contained shall apply to Cattle led with a Rope or other strong Substance.

Cattle to be driven into the Town at certain Hours only.

XXXIX. PROVIDED always that when any Offence against this Ordinance shall be committed by any Convict or Offender under Sentence of Transportation or penal Servitude whether passed in this Colony or not, such Convict or Offender being Convicted of the said Offence shall and may at the Discretion of the Justices before whom such Conviction shall and may take Place be punished for the same as any Offender under sentence of Transportation or Penal Servitude convicted of a Misdemeanour or of disorderly Conduct is liable to be punished under the Ordinances the 14th Victoria, No. 6 of 1850, and the 16th Victoria, No. 18 of 1853.

Punishment of Convicts for Offences under this Ordinance.

XL. THAT every Person who in any River, Estuary, Creek, or Harbour 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 Boat any Mast, Sail, Oar, or other Boat Furniture, and shall use such Boat or Boat 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 Boat or Boat Furniture, by Reason of such unauthorised Removal and Use thereof.

Removing Boat or Boat Furniture.

XLI. THAT every Person who shall be brought before any Justice charged with having in his Possession 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 deemed guilty of a Misdemeanour, and shall be liable to a Penalty of not more than

Persons suspected of having or conveying stolen Goods.

than Ten Pounds, or in the Discretion of the Justice may be imprisoned in any Gaol with or without hard Labour for any Time not exceeding Six Calendar Months.

In case of Information given that there is reasonable Cause for suspecting that any Goods have been unlawfully obtained and are concealed.

XLII. THAT 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 dwelling House or any other 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 dwelling House or other 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 (if Power for that Purpose be given by such Warrant) 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 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 who shall appear 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.

XLIII. THAT 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 Misdemeanour, and to have had Possession of such Thing at the Time and Place when and where the same shall have been found and seized; and the Possession of a Carrier or Agent or Servant shall be deemed to be the Possession of the Person who shall have employed such other Person to convey the same; and shall be liable to a Penalty of not more than Ten Pounds, or in the Discretion of the Justice may be imprisoned in any Gaol with or without hard Labour for any Time not exceeding Six Calendar Months.

XLIV.

XLIV. THAT 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, Dealer in Marine Stores, or other Dealer in second-hand Property, or of any Person who shall have advanced Money upon the Credit of such Goods within any City or Town 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 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.

Power to order Delivery of Goods stolen or fraudulently obtained, and in Possession of Brokers and other Dealers in second hand Property.

XLV. THAT 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.

XLVI. THAT if any Goods or Money charged to be stolen or fraudulently obtained shall be in the Custody of any Police Constable by virtue of any Warrant of a Justice, or in Prosecution of any Charge of Felony or Misdemeanour 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 Indictment or 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

Power to order Delivery of Possession of Goods charged to have been stolen or fraudulently obtained, and in Custody of Constable.

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.

Unclaimed stolen Goods delivered to the Receiver may be sold after Twelve Months.

XLVII. THAT when any Goods or Money charged to be stolen or unlawfully obtained, and of which the Owner shall be unknown shall be ordered by any Justice to be delivered to the Sergeant of Police of the District or other proper Officer it shall be lawful for the said Sergeant or other proper Officer 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 and Gratuity Fund.

Amends may be awarded for frivolous Information.

XLVIII. AND whereas Informations are often laid for the mere Sake of Gain, or by Parties not truly aggrieved, and the Offences charged in such Informations are not further prosecuted, or it appears upon Prosecution that there was no sufficient Ground for making the Charge; Be it enacted that in every Case except as is hereinafter provided 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, the Justice shall have Power to award such Amends, not more than the Sum of Five Pounds over and above the Costs of the Party, 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 the Justice shall seem meet: Provided that this Section shall not apply to any Information or Charge preferred by any Police Constable.

Power to remand or enlarge Prisoners on Recognizances.

XLIX. THAT 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 Misdemeanour 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 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 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.

L. THAT on Complaint made to any Justice being a Resident or Police Magistrate by any Person who shall within the City of Perth, or Town of Fremantle respectively have occupied any House or Lodging by the Week or Month, or whereof the Rent does not exceed the Rate of Fifteen 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 any Irregularity or Excess in Respect of such Distress, it shall be lawful for such Justice to summon the Party complained against, and if upon the Hearing of the Matter it shall appear to the said Justice 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 Justice 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 Justice 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 Justice; 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 Fifteen Pounds, such Value to be determined by the said Justice.

Power to deal summarily with Cases of oppressive Distress.

LI. THAT upon Complaint made to any Justice being a Resident or Police Magistrate by any Person claiming to be entitled to the Property or Possession of any Goods which are detained by any other Person within the Police Districts of Perth and Fremantle respectively, the Value of which shall not be greater than Fifteen Pounds, and not being Deeds, Muniments, or Papers relating to any Property of greater Value than Fifteen Pounds, it shall be lawful for such Justice to summon the Person complained of, and to inquire into the Title thereto or to the Possession thereof, and if it shall appear to the said Justice 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 Justice 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 Justice is hereby authorised to determine), or upon Performance, 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

Power to order delivery of Goods unlawfully obtained to the Owner.

Amount of which Amends the said Justice is 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 Fifteen Pounds, such Value to be determined by the said Justice: 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.

Name and Residence of
Owner to be painted on
Cart, &c.

LII. THAT the Owner or Proprietor of every Cart, Dray, Waggon, or Vehicle whatsoever, used for agricultural or farming Purposes or plying or used for Hire or for the Conveyance of Goods shall legibly paint or cause to be painted in Letters of not less than One Inch in Length on the front Rail or off Side of such Cart, Dray, Waggon or Vehicle his Name and Place of Abode; and every such Owner or Proprietor who shall neglect or refuse so to do shall on Conviction thereof forfeit and pay for every such Offence any Sum not exceeding Twenty Shillings.

Persons receiving Boat's
Cargo from Boatmen.

LIII. THAT every Person who shall knowingly take in Exchange from any Boatman or other Person not being the Owner of any Boat or Vessel anything belonging to any Boat or Vessel in any River or Creek adjacent thereto, or any Part of the Cargo of any such Boat or Vessel, or any Stores or Articles in charge of the Owner or Master of any such Boat or Vessel shall be deemed guilty of a Misdemeanour.

Cutting Ropes, Cables, &c.

LIV. THAT every Person who shall unlawfully cut, damage, or destroy any of the Ropes, Cables, Cordage, Tackle, Head Posts, or Machinery, or other Furniture of or belonging to any Boat, Barge, Flat, or Vessel lying in any River or in a Creek adjacent thereto with Intent to steal or otherwise unlawfully obtain the same or any Part thereof shall be deemed guilty of a Misdemeanour.

Piercing Casks, opening
Packages, &c.

LV. THAT every Person who shall bore, pierce, break, cut open, or otherwise injure any Cask, Box, or Package containing Wine, Spirits, or other Liquors on board any Boat, Flat, Barge, or Vessel, or in or upon any Warehouse, Wharf, Quay, Jetty, or Bank with Intent feloniously to steal or otherwise unlawfully obtain any Part of the Contents thereof, or who shall unlawfully drink or wilfully spill, or allow to run to Waste any Part of the Contents thereof shall be deemed guilty of a Misdemeanour.

Breaking Packages with
Intent to spoil Contents.

LVI. THAT every Person who shall wilfully cause to be broken,
pierced,

pierced, started, cut, torn, or otherwise injured any Cask, Chest, Bag, or other Package containing any Goods while on board any Barge, Lighter, Flat, Boat, or other Craft lying in any River, or on any Jetty, Creek, Wharf, Quay, Beach, Water-side, or landing Place adjacent to the same, or in any Way to or from any Warehouse with Intent that the Contents of such Package or any Part thereof may be spilled or dropped from such Package or be otherwise wasted, destroyed or injured shall be deemed guilty of a Misdemeanour.

LVII. THAT every Person licensed to deal in spirituous Liquors who shall knowingly supply any Sort of spirituous Liquors to any Boy or Girl apparently under the Age of Sixteen Years to be drunk on the Premises shall be liable to a Penalty of not more than Twenty Shillings, and upon Conviction for a second Offence shall be liable to a Penalty of not more than Forty Shillings, and upon Conviction of a third Offence shall be liable to a Penalty of not more than Five Pounds.

Publicans prohibited from supplying Liquors to Persons under 16 Years of Age.

LVIII. AND whereas it is expedient that the Provisions made by Law for preventing disorderly Conduct in the Houses of licensed Victuallers be extended to other Houses of public Resort; Be it enacted that every Person who shall have or keep any House, Shop, or Room, or any lodging, boarding or eating House or Place of public Resort within any City or Town wherein Provisions, Liquors, or Refreshments of any Kind shall be sold or consumed (whether the same shall be kept or retailed therein or procured elsewhere), and who shall wilfully or 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 Prostitutes or Persons of notoriously bad Character to meet together and remain therein shall for every such Offence be liable to a Penalty of not more than Five Pounds: Provided always that if the Offender be a licensed Victualler or licensed to sell fermented Liquors to be drunk on the Premises this Enactment shall not be construed to exempt him from the Penalties or penal Consequences to which he may be liable for committing any Offence against the Tenor of the License or Recognizance to him granted.

Regulations of No. 1 of 1856 respecting Public Houses to extend to other Houses of public Resort.

LIX. THAT every Person shall be liable to a Penalty of no more than Forty Shillings who shall in any inhabited Street, or in any Thoroughfare, or public Place, or in a private Enclosure or Ground where so specified in this Section commit any of the following Offences (that is to say):

Prohibition of Nuisances by Persons in the Thoroughfares.

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

or other Animal, or shoe, bleed, or farry any Horse or Animal (except in Cases of Accident), or clean, dress, exercise, train, or break any Horse or Animal, or clean, make, or repair any Part of any Cart or Carriage (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 any Dog or other Animal to attack, worry, or put in Fear any Person, Horse, or other Animal:
3. Every Person who by Negligence or ill Usage in driving Cattle shall cause any Mischiéf to be done by such Cattle, or who shall in any Wise misbehave himself in the Driving, Care, or Management of such Cattle, and also every Person not being hired or employed to drive such Cattle, who shall wantonly and unlawfully pelt, drive, or hunt any such cattle:
4. Every Person having the Care of any Cart or Carriage who shall ride on any Part thereof, on the Shafts or on any Horse or other Animal drawing the same without having and holding the Reins, or who shall not have good strong Leather or Rope Reins, or who shall be at such a Distance from such Cart or Carriage as not to have the complete Control over every Horse or other Animal drawing the same:
5. Every Person who shall ride or drive furiously or so as to endanger the Life or Limb of any Person or to the common Danger or Terror of the Passengers in any Thoroughfare:
6. Every Person who shall cause any Cart, Public Carriage, Sledge, 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, or who by Means of any Cart, Carriage, Sledge, Truck, or Barrow, or any Horse or other Animal shall wilfully interrupt any public Crossing, or wilfully cause any Obstruction in any Thoroughfare:
7. Every Person who shall lead or ride any Horse or other Animal, or draw or drive any Cart or Sledge, Truck, or Barrow upon any Footway or Kerbstone, or fasten any other Horse or Animal so that it can stand across or upon any Footway:
8. 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:

9. Every Person who without the Consent of the Owner or Occupier shall affix any Posting Bill 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, or wilfully break, destroy, or damage any Part of any such Building, Wall, Fence, Pale, or any Fixture or Appendage thereunto, or shall wilfully damage any Tree, Shrub, Seat, Border, Hedge, or Plant in any public Walk or Garden :
10. Every common Prostitute or Nightwalker loitering or being in any Thoroughfare or public Place for the Purpose of Prostitution or Solicitation to the Annoyance of the Inhabitants or Passengers :
11. Every Person who shall sell or distribute, or offer for Sale or distribution, or exhibit to public View any profane, indecent, or obscene Book, Paper, Print, Drawing, Painting, or Representation, or sing any profane, indecent, or obscene Song or Ballad, or write or draw any indecent or obscene Word, Figure, or Representation, or use any profane, indecent, or obscene Language to the Annoyance of the Inhabitants or Passengers :
12. Every Person who shall use to another or in the Hearing of any Person any threatening, abusive, profane, obscene, indecent or insulting Words or Behaviour whether calculated to lead to a Breach of the Peace or not, or any Person who shall indecently expose his Person ; such several Offences being committed in a Street, Thoroughfare, or public Place, or in a private Enclosure or Ground :
13. Every Person who shall wantonly discharge any Firearms, or throw or discharge any Stone or other Missile to the Damage or Danger of any Person, or Glass or Window, Tiles, Shingles, or Slates, or make any Bonfire, or throw or set fire to any Firework :
14. Every Person who shall wilfully or wantonly disturb any Inhabitant by pulling or ringing any door Bell, or knocking at any Door without lawful Excuse, or who shall wilfully and unlawfully extinguish the Light of any Lamp :
15. Every Person who shall fly any Kite or play at any Game to the Annoyance of the Inhabitants or Passengers :
16. Every Person who with a Number of other Persons exceeding Six, 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 :

17. Every Person who shall knowingly permit or suffer any Horse, Mare, Gelding, Foal, or any Bull, Cow, Calf, Ass, Mule, Swine, Sheep, or Goat in his apparent Ownership or under his Charge to be tethered or to run loose in any Street or public Thoroughfare in any City or Town.

And it shall be lawful for any Police Constable to take into Custody without Warrant any Person who shall commit any of the Offences enumerated in the 5th, 10th, 11th, 12th, 13th, 14th and 16th Paragraphs of this Section within View of such Constable: Provided that it shall be lawful for such Constable to take into Custody without Warrant any Person whose Name and Residence shall be unknown to and cannot be ascertained by such Constable who within View of such Constable shall offend against any Part of this Section.

Dogs excluded from public Gardens.

LX. THAT any Person who shall knowingly bring or take any Dog into any public Garden declared such by public Notice published in the Government Gazette, shall for every such Offence forfeit a Sum not exceeding Five Shillings.

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

LXI. THAT no Person other than Persons acting in Obedience to lawful authority 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, and every Person who after being warned of the Annoyance by any Inhabitant shall discharge any such Firearm shall be liable to a Penalty of not more than Five Pounds.

Prohibition of other Nuisances.

LXII. THAT every Person who in any Street or public Place within the inhabited Limits of any City or Town shall be guilty of any of the following Offences shall be liable to a Penalty of not more than Forty Shillings for every such Offence (that is to say):

1. Every Person who in any Thoroughfare 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 :
2. Every Person who shall throw or lay in any Thoroughfare 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 hereinbefore provided so as to prevent any Mischief happening to Passengers):
3. Every Person who in any Thoroughfare shall beat or shake any Carpet,

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 Thoroughfare, or any uncovered Place whether or not surrounded by a Wall or Fence :

4. Every Person who shall empty or begin to empty any Privy or Cesspool between the Hours of Six in the Morning and Ten at Night, or remove along any Thoroughfare any Night Soil, Soap Lees, ammoniacal Liquor, or other such offensive Matter between the Hours of Six in the Morning and Eight in the Evening, or who shall wilfully or carelessly slop or spill any such offensive Matter in the Removal thereof, or who shall not carefully sweep and clean every Place in which any such offensive Matter shall have been placed, slopped, or spilled, and in Default of the Apprehension of the actual Offender the Owner of the Cart or Carriage employed for any such Purpose shall be deemed to be the Offender :
5. Every Person who shall keep any Pigstye to the front of any Street or Road not being shut out from such Street or Road by a sufficient Wall or Fence, or who shall keep any Swine in or near any Street, or in any Dwelling so as to be a common Nuisance :
6. Every Occupier of a House or other Tenement who shall not keep sufficiently swept and cleansed all Footways, Ditches, and Watercourses adjoining to the Premises occupied by him, and if any Tenement be empty or unoccupied the Owner thereof shall be deemed the Occupier with reference to this Enactment :
7. Every Person who shall expose any Thing for Sale, or who shall pick, take, or injure any Flowers, Shrubs, or Trees in any public Garden unless with the Consent of the Owner, Caretaker, or other Person authorised to give such Consent, or who shall expose any Thing for Sale upon or so as to hang over any Carriage-way or Footway, or on the Outside of any House or Shop, or who shall set up or continue any Pole, Blind, Awning, Line, or any other 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 Thoroughfare :

8.

8 Every Person who to the Danger of Passengers in any Thoroughfare shall leave open any Vault or Cellar, or the Entrance from any Thoroughfare to any Cellar or Room underground without a sufficient Fence or hand Rail, or leave defective the Door, Window, or other Covering of any Vault or Cellar, or who shall not sufficiently fence any Area, Pit, or Sewer left open in or adjoining to any Thoroughfare, or who shall leave such open Area, Pit, or Sewer without a sufficient Light after Sunset to warn and prevent Persons from falling thereinto :

Provided that Nothing in this Ordinance contained shall empower any Police Constable or other Person to apprehend without a Warrant any Person who may have committed or who may be accused of having committed any such Offence.

Mad Dogs, &c.

LXIII. THAT it shall be lawful for any Police Constable belonging to the Police Force to 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 State, or to have been bitten by any Dog or other Animal in a rabid State shall be liable to a Penalty of not more than Five Pounds.

Compensation for Hurt or Damage not exceeding Ten Pounds.

LXIV. THAT every Person who by committing any Offence herein forbidden shall have caused any Hurt or Damage to any Person or Property may be apprehended with or without any Warrant by any Constable, and if he shall not upon Demand make Amends for such Hurt or Damage to the Satisfaction of the Person aggrieved, he shall be detained by the Constable in order to be taken before a Justice, and upon Conviction shall pay such a Sum not more than Ten Pounds, as shall appear to the Justice before whom he shall be convicted to be reasonable Amends to the Person aggrieved besides any Penalty to which he may be liable for the Offence, and the Evidence of the Person aggrieved shall be admitted in Proof of the Offence : Provided always that if the Person aggrieved shall have been the only Witness examined in Proof of the Offence the Sum ordered as Amends shall be paid and applied in the same Manner as a Penalty.

Constable may apprehend without Warrant in certain Cases.

LXV. THAT it shall be lawful for any Constable to take into Custody without a Warrant all loose, idle, and disorderly Persons whom he shall find disturbing the public Peace, or whom he shall have good Cause to suspect of having committed or being about to commit any Felony, Misdemeanour, or Breach of the Peace, and all Persons whom

whom he shall find between Sunset and the Hour of Eight in the Morning lying or loitering in any Highway, Yard, or other Place, and not giving a satisfactory Account of themselves.

LXVI. THAT it shall be lawful for any Constable belonging to the Police Force to take into Custody without Warrant any Person who shall be charged by any other Person with committing any aggravated Assault, in every Case in which such Constable shall have good Reason to believe that such Assault has been committed, although not within View of such Constable and that by Reason of the recent Commission of the Offence a Warrant could not have been obtained for the Apprehension of the Offender.

Persons charged with recent Assaults may be apprehended without Warrant

LXVII. THAT any Person found committing any Offence punishable either upon Indictment or Information at the Supreme Court or other Court of Record of the said Colony, or as a Misdemeanour upon summary Conviction by Virtue of this Ordinance may be taken into Custody without a Warrant by any Police Constable and all Persons whom he shall call to his Assistance, 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 authorized by him, and may be detained until he can be delivered into the Custody of a Police Constable to be dealt with according to Law; and every such Police Constable may also stop, search, and detain any Vessel, Boat, Cart, or Carriage 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 any Thing stolen or unlawfully obtained, and any Person to whom any 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, or that the same or any Part thereof has been stolen or otherwise unlawfully obtained is hereby authorized and if in his Power is required to apprehend and detain and as soon as may be to deliver such Offender into the Custody of a Police Constable together with such Property to be dealt with according to Law.

Power to Police Constable and Persons aggrieved to apprehend certain Offenders.

LXVIII. THAT it shall be lawful for any Police Constable to stop and detain until due Inquiry can be made all Carts and Carriages which he shall find employed in removing the Furniture of any House or Lodging between the Hours of Eight in the Evening and Six on the following Morning, or whenever the Police Constable shall have good Grounds for believing that such Removal is made for the Purpose of evading Rent.

Removing Furniture to evade Rent.

LXIX.

Horses, Carriages, &c., of
Offenders may be detained.

LXIX. THAT 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 Ordinance 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 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.

Persons apprehended with-
out Warrant to be taken to
the Station House.

LXX. THAT every Person taken into Custody by any Police Constable belonging to the Police without Warrant, except Persons detained for the Purpose of ascertaining their Name or Residence, shall be forthwith delivered into the Custody of the Sub-Inspector or Sergeant or Constable in charge of the nearest Police Station House or Watch House in order that such Person may be secured until he can be brought before a Justice to be dealt with according to Law, or may give Bail for his Appearance before a Justice if the Constable in Charge shall deem it prudent to take Bail in the Manner hereinbefore mentioned.

Penalty for Offences for
which no Penalty is ap-
pointed.

LXXI. That for every Misdemeanour or other Offence against this Ordinance for which no special Penalty is hereinbefore appointed the Offender shall, at the Discretion of the Justice before whom the Conviction shall take Place, either be liable to a Penalty of not more than Five Pounds or be imprisoned for any Time not more than One Calendar Month in any Gaol within the said Colony.

Not to repeal Local Acts
containing Penalties.

LXXII. PROVIDED always and be it enacted that Nothing herein contained shall be construed to prevent any Person from being indicted or prosecuted for any indictable Offence made punishable on summary Conviction by this Ordinance, or to prevent any Person from being liable under any other Ordinance or Ordinances to any other or higher Penalty or Punishment than is provided for such Offence by this Ordinance, so nevertheless that no Person be punished twice for the same Offence.

Meaning of the word
"Justice."

LXXIII. THAT in the Construction of this Ordinance the Word "Justice" (except where otherwise provided) shall be taken to mean
and

and include every Justice of the Peace, Resident and Police Magistrate appointed to be a Magistrate of the Colony, and shall mean Two or more Justices as well as One Justice.

LXXIV. THAT no Warrant of Commitment for any Offence under this Ordinance 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 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 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.

As to Informality in Warrant, &c.

LXXV. THAT it shall be lawful for the Governor with the Advice of the Executive Council from Time to Time, by Proclamation published in the Government Gazette, to extend all or any Parts or Part of this Ordinance not otherwise extended to any Town, Place, or District, or throughout the Colony.

Ordinance may be extended throughout the Colony.

LXXVI. THAT any Person who shall think himself aggrieved by any Fine or Penalty above the Sum of Five Pounds imposed by any Justice or Justices of the Peace under this Ordinance, may appeal to any Sitting of the Supreme Court within Six Calendar Months of the Conviction: Provided that Notice of such Appeal be given by the Appellant to the Justice or Justices from whose Judgment or Conviction such Appeal shall be made within Seven Days after such Judgment or Conviction, and that such Appellant deposit with such Justice or Justices such Sum as such Justice or Justices may in his or their Discretion deem sufficient, not exceeding Twenty Five Pounds, or enter into Recognizance to that Amount with two Sureties for the Purpose of securing the Costs of such Appeal.

Appeal.

LXXVII. THAT all Forfeitures and Penalties imposed by this or any other Ordinance or Ordinances, except where otherwise provided, may be recovered in a summary Way before any Justice.

Summary Jurisdiction.

LXXVIII. THAT Sections A, C, F, G, and H of "The Shortening Ordinance,"

Sections of the Shortening Ordinance adopted.

Ordinance, 1853," shall be incorporated with and taken to form a Part of this Ordinance 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 Ordinance.

Short Title.

LXXIX THAT this Ordinance shall and may be cited as "The Police Ordinance, 1861."

A. E. KENNEDY,

GOVERNOR AND COMMANDER IN CHIEF.

*Passed the Legislative Council,
this 11th Day of December, 1861.*

HENRY WAKEFORD,

Clerk of the Council.



SCHEDULE.

SCHEDULE.

Recognizance for the Appearance of a Person in Charge at a 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
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 }

Sub-Inspector [*or Sergeant 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 o'Clock in the Forenoon, -at
before such Justices 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.