



WESTERN AUSTRALIA.

ANNO DUODECIMO

VICTORIÆ REGINÆ.

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No. XX.

**An Ordinance for regulating the Police in  
Western Australia.**

**W**HEREAS it is expedient to make further provision for the Preamble.  
maintenance of the public peace and good order, and for the  
prosecution of certain offences, as well throughout the colony of Wes-  
tern Austrilia at large as more especially in the towns of Perth,  
Fremantle and Albany, and such other towns as shall or may here-  
after be brought under the operation of this Ordinance in manner  
hereinafter

hereinafter provided, and for the removal and prevention of nuisances in the said towns;—Be it therefore enacted, by His Excellency the Governor of Western Australia, by and with the advice and consent of the Legislative Council thereof, that such of the provisions of this Ordinance as are not, in the terms thereof applicable to towns only shall commence to be in force throughout the said colony from and after the first day of July next; and that such of the provisions of this Ordinance as are in the terms thereof applicable to towns only, shall commence to be in force in the towns of Perth and Fremantle from and after the first day of June next, and in the town of Albany from and after the first day of July next.

Commencement of Ordinance.

II. AND be it enacted, that until provision can be made for distinct general and town police forces, all and every Justices of Peace and constables in and for the said colony shall and may act as a town and country police force for the purposes of this Ordinance.

Justices of the Peace and Constables may act as Police.

III. AND be it enacted, that all constables in the said colony shall be appointed by His Excellency the Governor, and that every such appointment shall be notified in the Government Gazette, and that a printed copy procured from the Government Printer or from the Colonial Secretary's office, of the Gazette containing any such notification, shall in all legal proceedings be deemed sufficient proof that the person therein named as constable is a constable duly constituted, and that the following oath of office may be administered to any such constable by any Justice of the Peace resident in the district for which such constable shall be nominally appointed (that is to say)—

Constables to be appointed by the Governor.

Oath of office, You shall well and truly serve our Lady the Queen (or "Lord the King," as the case may require) in the Office of Constable for the colony of Wertern Australia, according to the best of your skill and ability,  
So help you God!

Provided that the omission to take any oath shall not render illegal the acts of any such constable in the professed discharge of his office, nor shall subject him to any fine, suit or prosecution

Omission to take oath not to invalidate acts.

IV. AND be it enacted, that every constable so appointed, although for the sake of order and convenience nominally appointed for

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for a certain named town or district, shall be deemed a constable for the colony at large, and shall be competent and bound to act as such in every part thereof, in which he may happen to be present, or to which he shall be reasonably required to proceed in the discharge of his office by any Justice of the Peace;—Provided that no such constable shall be required to travel on foot to a greater distance than twenty miles from his usual place of residence, nor otherwise more than one hundred miles from such residence.

V. AND be it enacted, that it shall be lawful for any Justice of the Peace, 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,—

Power of special constable.

You shall well and truly serve our Sovereign Lady the Queen (or “Lord the King,” as occasion may require) in the office of special constable for the town (or district) of \_\_\_\_\_ for the term of \_\_\_\_\_ now next ensuing; and that 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 that while you continue to hold the said office, you will to the best of your skill and knowledge discharge all the duties thereof faithfully,

Oath of office.

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 expence 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. AND be it enacted, that the said Justices of the Peace and constables shall, as far as in them lies, cause the Lord’s Day to be duly observed by all persons in the said towns, and shall not permit

Observation of Lord’s Day to be enforced.

permit or suffer any house, shop, or store, or other place therein to be open on that day for the purpose of trade or dealing, save and except the houses or shops of bakers, until the hour of ten in the forenoon, and between the hours of one and three in the afternoon, and of licensed publicans, until, and between such hours as may be allowed by any law for the time being in force for the regulation of public houses, and of apothecaries and chemists at any hour; and any person who shall 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 and pay for every such offence a sum not exceeding three pounds.

No public games on  
Lord's Day.

VII. AND be it enacted, that the owner or occupier of any public billiard room or other public place of amusement within the said town who shall permit or suffer any one to play in his house or premises any game on the Lord's Day, shall, on conviction, forfeit and pay a sum not exceeding five pounds; and it shall be lawful for any of the said Justices or constables, and they are hereby required, to disperse, or cause to be dispersed, all persons gathering together on the Lord's Day in any public or other place within the said town, or within two miles of any part thereof, for the purpose of gambling or playing at any game, and to take and seize, or cause to be taken and seized, any implements, instruments, or animals used or intended to be used therein, and to destroy or carry away the same; and all persons actually gambling or playing as aforesaid shall be prosecuted according to Law.

Constables may apprehend without warrant any idle or disorderly persons.

VIII. AND be it enacted, that it shall be lawful for any constable to apprehend, without warrant, any person whom he shall find drunk in any street or public place in any of the said towns at any hour of the day or night, and any loose, idle, drunken, or disorderly person whom he shall find therein disturbing the public peace, or whom he shall have just cause to suspect of any evil design, and any person whom he shall find between sunset and sunrise lying or loitering in any street, highway, yard, or other place within the said towns, and not giving a satisfactory account of himself.

IX. AND be it enacted, that any person resident in any part of

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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 neglect he or any 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 of the said towns, and 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 procuring or encouraging any child to do so, shall be deemed an 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 any credible witness) to the nearest common gaol or house of correction, there to be kept to hard labor for any time not exceeding one calendar month.

X. AND be it enacted, that every person committing any of the offences lastly hereinbefore mentioned, after having been convicted as any idle and disorderly person; and every person wandering abroad and lodging in any outhouse, or in any deserted or unoccupied building, or in the open air, or under a tent, or in any cart or waggon, in any 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 the 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 or with any table or instrument of gaming, at any game, or pretended game, of chance; and every person having in his possession any picklock, key, crow, jack, bit, or other implement with intent feloniously to break into any dwelling house, building, or out-building, or being armed with any gun, pistol, sword, bludgeon, or other offensive weapon, or having upon him any instrument with intent to commit any felonious act; and every person being found in or upon any dwelling house, warehouse, coach house, stable, or outhouse, or in  
any

any enclosed yard, garden, or court, for any unlawful purpose; and every person apprehended as an idle and disorderly person, and violently resisting any constable or other peace officer so apprehending, and being subsequently convicted, of the offence for which he shall have been so apprehended, shall 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 credible witness) to any gaol or house of correction, there to be kept to hard labour for any term not exceeding three calendar months; and every such implement, instrument, or offensive weapon as aforesaid, shall, by the conviction of the said offender, become forfeited to the Queen's Majesty: and it shall be lawful for any constable to apprehend without warrant, any person whom he shall find committing any offence which is hereinbefore declared to constitute the offender a rogue and vagabond.

Indecent exposure of person.

XI. And be it enacted, that any person who shall offend against decency by the wilful exposure of his person in any street or public place in any of the said towns, or in the view thereof, shall on conviction thereof, forfeit and pay a sum not exceeding ten pounds, or at the discretion of the convicting Justice or Justices, be committed to any gaol or house of correction, there to be kept to hard labour for any term not exceeding one calendar month; and it shall be lawful for any constable to apprehend without warrant any person whom he shall find so offending.

Singing profane or obscene songs

XII. AND be it enacted, that any person who shall, in any street or public place in any of the said towns, sing any profane, indecent, or obscene song or ballad, or who shall in, or in view of, any such street or public place, write, draw, or affix any indecent or obscene word, figure or representation, to the annoyance of the inhabitants or passengers, shall, on conviction thereof, forfeit and pay a sum not exceeding forty shillings.

Bathing.

XIII. AND be it enacted, that it shall not be lawful for any person to bathe so as to occasion an offensive exposure of the person, within view of any public wharf, quay, bridge, road, street, or place of public resort within the limits of any of the said towns, between the hours of eight o'clock in the morning, and seven in the evening; and

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and every person offending against this regulation shall, on conviction before, or in view of, any Justice of the Peace, forfeit and pay a sum not exceeding twenty shillings; and it shall be lawful for any constable to apprehend without warrant any person whom he shall find bathing contrary to this regulation.

XIV. AND be it enacted, that it shall not be lawful for any person to paste or otherwise to affix any placard or other paper upon any wall, tree, post, fence, house, or building within any of the said towns, without the consent of the owner or occupier thereof, nor to deface any such wall, tree, post, fence, house, or building, by chalk or paint, or in any other manner, without such consent as aforesaid; and any person who shall be guilty of any such offence shall forfeit and pay a sum not exceeding ten shillings;—Provided always, that nothing herein contained shall extend to any proclamation or notice, which shall be affixed to any public building under the authority of Government.

Fixing placards, and defacing walls, &c.

XV. AND be it enacted, that any person who shall maliciously or wantonly extinguish or unlawfully remove any lamp, set up for public convenience in any of the said towns, or who shall wantonly disturb any inhabitant of any house therein, by pulling or ringing the door-bell thereof, or knocking at the door thereof, without any lawful excuse; or who shall wantonly pull down or remove any sign-board, or any external fixture of any dwelling house, or any gate, or any part of any fence enclosing a dwelling house, shall, on conviction of any such offence (over and above the expence, if any, of repairing or replacing the article so wantonly used or removed, to be estimated by the convicting Justice), forfeit and pay a sum not exceeding five pounds; and it shall be lawful for any constable, without warrant, to apprehend any person whom he shall find committing such offence.

Extinguishing - lamps, ringing or knocking at doors, pulling down sign boards, removing gates, &c.

XVI. AND be it enacted, that it shall not be lawful for any person to throw, or cause to be thrown, any dead animal or any part thereof, or any other offensive matter, into or upon any well, street, road, or public thoroughfare in any of the said towns, or into any river, creek, lagoon, or harbour being within or adjoining the limits of any of the said towns, so as that such animal remains be cast up and left on the shore thereof; and any person who shall be guilty of any such offence shall, on conviction, forfeit and pay a sum not exceeding twenty shillings.

No dead animal to be thrown on any public thoroughfare, or into any river, &c., in a townsite.

XVII.

Discharging fire-arms or fireworks in any street, &c., in a town.

XVII. AND be it enacted, that any person who shall discharge any fire-arms without lawful cause, or make any bonfire, or let off any fireworks, in any street or public place in any of the said towns, shall on conviction, forfeit and pay a sum not exceeding five pounds.

Driver of a cart riding thereon, without other person to guide same, except light cart with reins; or going to a distance from his vehicle; or driving on the wrong side.

XVIII. AND be it enacted, that if the driver of any waggon, wain, cart, or dray of any kind, shall ride upon any such carriage in any street or public place in any of the said towns, not having some person on foot to guide the same (such vehicles as are drawn by one or more horse or horses, and guided and driven with reins, excepted); or if the driver of any carriage whatsoever shall wilfully be at such distance from such carriage, or in such a situation, whilst it shall be passing upon such street or place, that he cannot have the direction and government of the horse or horses, or cattle drawing the same; or if the driver of any waggon, cart, dray, coach, or other carriage whatsoever meeting any other carriage, shall not keep his waggon, cart, dray, coach, or carriage on the left or near side of such street or place; or if any person shall, in any manner, wilfully prevent any person from passing him, or any carriage under his care, upon such street or place, or by negligence or misbehaviour prevent, hinder, or interrupt the free passage of any carriage or person in or upon the same, every such driver or person so offending shall, on conviction, forfeit and pay for every such offence any sum not exceeding forty shillings.

Or wilfully interrupting free passage of any carriage or person.

Furious or negligent riding or driving, or driving of cattle through streets.

XIX. AND be it enacted, that any person who shall ride or drive, or drive any cattle, along any street or public place in any of the said towns, so negligently or furiously that the safety of any other person is likely thereby to be endangered, shall, on conviction, forfeit and pay a sum not exceeding ten pounds: and in case any person shall be convicted of any such furious or negligent riding or driving, whereby any hurt or damage has been caused to any person or property in any such street or place, such person so convicted shall further pay, over and above any penalty as aforesaid, such a sum not exceeding five pounds, as shall appear to the convicting Justice a reasonable compensation to the person so aggrieved; and the evidence of such person shall be admitted in proof of the offence; provided always that if the person so aggrieved shall be the only witness examined in proof of the offence, such sum so ordered as compensation shall be paid and applied in the same manner as a penalty; and every person so offending by furious or negligent riding or driving, or driving eat-cattle

Summary compensation not exceeding £5. for injury to person or property by improper driving &c.

Party aggrieved may be a Witness; but, if the only Witness, compensation to be applied as a penalty.

cattle

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tle as aforesaid (whether any hurt or damage be or be not thereby caused), shall and may, by the authority of this Ordinance, be apprehended, without warrant, by any person who shall see such offence committed.

XX. AND be it enacted, that any person who shall, in any part <sup>III-treatment of animal.</sup> of the said colony, 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.

XXI. AND be it enacted, that if any person shall drive or <sup>Night soil to be conveyed away only at certain hours.</sup> cause to be driven, any cart or other vehicle with any night soil or ammoniacal liquor therein, through or in any street or public place in any of the said towns between the hours of five o'clock in the morning and ten o'clock at night, or shall fill any cart or other vehicle so as to turn over or cast any night soil, ammoniacal liquor, slop, channel dirt, or filth, in or upon any such street or place, it shall be lawful for any person whomsoever to apprehend, by authority of this Ordinance, the offender; and every person so offending shall on conviction, forfeit and pay for every such offence a sum not exceeding five pounds—Provided, that in case the person so offending cannot be apprehended, then the owner of the cart or other vehicle in which such night soil or other filth shall be put or placed, and also the employer of the person so offending shall be liable to, and shall forfeit and pay such penalty as aforesaid

XXII. AND be it enacted, that if any person shall empty <sup>Hours for removing night soil.</sup> or begin to empty any privy, or take away night soil from any house or premises within any of the said towns, or shall come with carts or carriages for that purpose, except between the hours of ten o'clock at night and five o'clock in the morning, or if any person shall put in, or cast out of, any cart or tub, or otherwise, any night soil in any such street or public place, it shall be lawful for any constable, or other person, without other authority than this Ordinance, to apprehend any person found committing any such offence; and any Justice of the Peace shall and may commit such offender, upon conviction, to a common gaol or house of correction, there to be kept to hard labour, for any time not exceeding thirty days; and the owner of any cart, carriage, horse or   
beast

beast employed in and about emptying and removing such night soil, or coming for that purpose (save and except within the hours hereby allowed), and the employer of any person who shall so put or cast out any night soil shall respectively, on conviction, forfeit and pay a sum not exceeding five pounds for every such offence.

Nuisances to be removed  
on notice to that effect  
from two magistrates.

XXIII. AND be it enacted, that in case any privy, hogstye, tanyard, malting house, fell-mongers premises, or any other place, matter, or thing within any of the said towns, shall become a nuisance to any of the inhabitants thereof, it shall be lawful for any two Justices of the Peace, upon complaint to them thereof made by any of the inhabitants, and after due investigation of such complaint, by notice in writing, to order that every or any such privy, hog-stye, or other matter or thing as aforesaid, being a nuisance in the opinion of such Justices, shall be removed or remedied within seven days after such notice shall have been given to the owner or occupier of the premises wherein such nuisance shall exist, or shall have been left for such owner or occupier at his last or usual place of abode, or on the said premises; and every such owner or 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 the said Justices, a sum not exceeding ten pounds for every such neglect or disobedience; and also it shall be lawful for such Justices to indict, or cause to be indicted, for such nuisance, the person so neglecting or disobeying any such notice at the next Court of General Quarter Sessions of the Peace for the colony at large, or for the district within which the town wherein such nuisance shall arise shall be situate; and such person 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 so offending shall be subject to such punishment, for the misdemeanour, as such Court of General Quarter Sessions shall direct,

Private yards and passages  
to be kept clear.

XXIV. AND be it enacted, that any owner or occupier of any house or place within any of the said towns 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 to any neighbouring place or premises by offensive smell or otherwise, shall, on conviction, forfeit and pay a sum not exceeding forty shillings; Provided always, that it shall be lawful for the convicting Justice to allow a reasonable time, at his discretion, to the person convicted for  
removal

removal of such nuisance, within which time no further conviction shall be had on account of the same nuisance

XXV. And be it enacted, that it shall be lawful for any Justice of the Peace, and for any constable authorised in writing under the hand of any such Justice, at any reasonable hour, to visit and inspect any butcher's shambles or slaughter house, within any of the said towns, and to give such directions concerning the cleansing the said shambles and slaughter house, both within and without, as to him shall seem needful; and any butcher, and the owner or occupier of any such shambles or slaughter house, who shall obstruct or molest any such Justice or constable in the inspection thereof, or who shall refuse or neglect to comply with such direction within a reasonable time, shall, upon the view of any such Justice, or on conviction, forfeit and pay a sum not exceeding forty shillings.

Cleansing Butchers' shambles and slaughter houses.

XXVI. AND be it enacted, that it shall not be lawful to burn any shavings or other matters or things in any street or public place within any of the said towns; and every person so offending shall, on conviction, forfeit and pay for every such offence a sum not exceeding forty shillings;—Provided always, that nothing herein contained shall extend to the burning of any bush, trees, scrub, or rubbish on the line of any such street, or in any such public place, for the purpose of clearing the same, by the authority of any town trust, board of public works, or other lawful authority.

Burning shavings or other matters in streets.

XXVII. AND be it enacted, that any person who shall suffer any horse, mare, gelding, foal, or any bull, or cow, or calf, or any ass, mule, swine, sheep, or goat, belonging to him, or in his apparent ownership, or under his charge, to be tethered in any street or public thoroughfare in any of the said towns, shall on conviction forfeit and pay for every such offence a sum not exceeding forty shillings.

Tethering or depasturing live stock in streets.

XXVIII. AND whereas great annoyance is constantly occasioned in towns by stray poultry and certain other small stock, against which it is difficult to fence, and for damages by which the remedies of the Trespass Act are frequently unavailable, for remedy thereof, be it therefore enacted, that it shall be lawful for the owner or occupier of any garden or cultivated ground, or enclosed yard, within any of the said townsites, to kill any poultry, rabbit, or pigeon

Poultry, rabbits, and pigeons trespassing in towns, may be destroyed.

pigeon, which he may find trespassing on such his garden, vineyard, or cultivated ground, or enclosed yard, and that no person so killing any poultry, rabbit, or pigeon, shall be held responsible therefor civilly or criminally;—Provided always that no use, profit, or advantage be made of or from the bird or animal so killed by the person so killing the same, or with his privity and assent by any other person save the owner or reputed owner thereof, and that notice of every such killing be given as soon as conveniently may be to the owner or reputed owner of the bird or animal so destroyed;—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 damages committed by the same on the land of the person killing the same.

Proviso against unlawful appropriation of poultry, &c, killed.

Notice to be given of poultry &c., killed to owner if possible.

Beating carpets, flying kites, breaking horses, throwing, &c., offensive matters into the Streets.

XXIX. AND be it enacted, that if any person shall, in any street or public place in any of the said towns, beat or dust any carpet, or shall fly any kite, or shall drive any carriage for the purpose of breaking horses, or shall ride any horse, mare, or gelding for the purpose of breaking the same (otherwise than by merely passing through such street or place); or shall cast or lay, or cause or permit to be cast or laid, any ashes, rubbish, offal, dung, soil, blood, or other filth or annoyance, in or upon the carriage or footway of any such street or public place; or shall slaughter, dress, or cut up any animal in or so near to any such street or public place as that any blood or filth shall run or fall upon any such carriage or footway; every person so offending shall, upon conviction, forfeit and pay a sum not exceeding forty shillings.

Blasting rocks, trees, &c., within limits of a townsite

XXX. AND be it enacted, that if any person shall be desirous of blasting any stone, rock, tree, or other matter within the limits of any of the said townsites, he shall first apply to the Government Resident, or if there be no such officer, to some other Justice of the Peace, who shall appoint a time when the same shall take place, and shall give such other directions in writing as he may deem necessary for the public safety; and if any person shall blast any rock or other matter within the limits aforesaid, without first applying for such directions, or shall not conform to such directions, he shall, on conviction, forfeit and pay a sum not exceeding ten pounds.

Wells, pits, &c., and cellar-doors, left open and exposed to adjacent streets or footways.

XXXI. AND be it enacted, that if there shall be, after the passing of this Ordinance, in any of the said townsites, any well, pit,

pit, or excavation on any private land open and exposed to any adjacent street or footway, or any opening or doorway leading to a private basement story or cellar, beneath the surface of any adjacent street or footway, and open and exposed thereto, it shall be lawful for any Justice of the Peace resident in such townsite, to require in writing the owner or occupier of such private land to cover over or fence in such well, pit or excavation, and the owner or occupier of such private dwelling or building, of which such basement or cellar shall be part or appurtenant, to secure the opening to the same by a sufficient rail or rails, or by a flap or trap-door, according to the nature of the case, so as in either of the said cases to prevent danger to persons passing and repassing on any such streets or footways: and if any such owner or occupier shall fail to cover over, fence in, or secure any such well, pit, excavation, opening, or doorway, as aforesaid, to the satisfaction of such Justices, within a reasonable time after any such notice as aforesaid delivered to him, or left for him at his last or usual place of abode, every person so offending shall, on conviction, forfeit and pay a sum not exceeding five pounds.

XXXII. AND whereas great loss and inconvenience has been sustained by the owners of boats, from the removal and use, without their knowledge or assent, of such boats or of parts of the furniture thereof; be it enacted, that every person who, in any river, estuary, creek or harbour, being in or adjoining the limits of any of the said townsites, shall remove any boat from its usual anchorage or mooring, or from the place where the same shall have been last left by the owner thereof, or his boatman or servant, or who shall remove out of any boat any mast, oar, sail, or other boat furniture, and shall use such boat or boat furniture without the consent of the owner thereof respectively first had and obtained, or other lawful authority, shall, on conviction, forfeit and pay a sum not exceeding forty shillings, and shall further pay a sum not exceeding ten pounds, as shall appear to the convicting Justice to be a reasonable compensation for any loss of work, or loss of time or damage sustained by the owner of such boat or boat furniture, by reason of such unauthorised removal and use thereof.

XXXIII. AND be it enacted, that if any person shall assault or resist any constable in the execution of his duty under this Ordinance, or shall aid or incite any person so to assault or resist, every such offender, shall, on conviction, forfeit and pay for every such offence a sum not exceeding ten pounds.

XXXIV.

Constable neglecting or violating his duty.

XXXIV. AND be it enacted, that every constable who shall be guilty of any neglect, or violation of duty, under this Ordinance, shall, on conviction, forfeit and pay a sum not exceeding five pounds.

General power to constables to arrest any offender whose name and residence is not known.

XXXV. AND be it enacted, that it shall be lawful for any constable, and for all persons whom he shall call to his assistance, to take into custody, without a warrant, any person who within view of any such constable shall offend in any manner against this Ordinance, and whose name and residence shall be unknown to such constable.

Person arrested to be conveyed as soon conveniently may be before Justices of the Peace.

XXXVI. AND be it enacted, that any constable, or other person, apprehending any person without warrant under authority of this Ordinance, shall convey the person so arrested as soon as conveniently may be before some Justice of the Peace, to be dealt with according to law; but if any such arrest shall take place out of the usual hours of magisterial business, it shall be lawful to secure the person so arrested, in the nearest gaol, watch-house, or lock-up, until the return of such business hours, or to set such person at liberty on receiving from him a deposit of the maximum amount of any pecuniary penalty hereby imposeable in respect of the offence for which such arrest was made, as security for the appearance of the depositor before some Justice of the Peace at a named day, hour and place, to answer for such offence.

Limitation of proceedings.

XXXVII. AND be it enacted, that all informations and proceedings for offences against this Ordinance shall be commenced within three calendar months after the offences thereby respectively charged shall have been committed, and shall be heard and determined, and the forfeitures and penalties in respect of the same shall be awarded, enforced and appropriated in a summary manner before any one Justice of the Peace, or before any two Justices of the Peace in cases upon which two such Justices are hereinbefore required to adjudicate, according to the provisions of an Ordinance passed in the seventh year of the reign of Her present Majesty, intituled "an Act to regulate summary proceedings before Justices of the Peace"; Provided always, that in all such proceedings as aforesaid, an informer shall be considered, and is hereby declared to be, a competent witness.

Recovery and appropriation of penalties.

XXXVIII. AND be it enacted, that if any person shall think himself

himself aggrieved by any summary conviction under this Ordinance, he may appeal therefrom to the next Court of General Quarter Sessions of the Peace, Appeal.

XXXIX. AND for the protection of persons acting in the execution of this Ordinance, be it enacted, that all actions and prosecutions against any person for any thing done, or bonâ fide professed to be done, in pursuance of this Ordinance, shall be commenced within two calendar months after the fact was committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in any such action the defendant may plead the General Issue, and give this Ordinance and the special matter in evidence in any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, by or on behalf of the defendant, together with the costs incurred up to that time; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue such action after issue joined, or if upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and shall have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial shall be, shall certify his approbation of the action and of the verdict obtained thereupon.

Proceedings against persons acting under this Ordinance to be commenced within two months after fact committed.

Notice of action.

General issue.

Tender of amends.

If verdict for defendant, &c., defendant to have full costs.

Verdict for plaintiff not to carry costs without Judge's certificate.

XL. AND whereas it may hereafter be expedient to extend all or some of the provisions of this Ordinance to other towns within the said colony than those herein named, be it enacted, that whenever the Governor shall deem it expedient to extend the same to any other town in the colony, it shall be lawful for the said Governor to declare the same by proclamation, to be published in the Government Gazette; and after the expiration of thirty days from such publication, this Ordinance, or such of the sections or provisions thereof as shall be specified in such proclamation, shall apply and be in force within the town or towns so proclaimed as fully and effectually as if such town or towns were specially named therein.

Ordinance may be extended to other towns.

XLI. AND be it enacted, that every special constable appointed under

Special constable's duties and immunities. under this Ordinance shall, within the district, or while discharging the special duty, for which he shall be appointed, have and exercise the same powers, authorities, and immunities, and be liable to the same duties and responsibilities as any ordinary constable.

Appointment of constables. XLII. AND be it enacted, that every such appointment by the Governor as aforesaid to the office of constable shall continue and be in force until the death, duly permitted resignation, suspension, or dismissal of the person thereby appointed; and that the Justices of the Peace usually resident in any town or district of the said colony, or the major part of such Justices respectively, may, subject to the approbation of the Governor, from time to time frame such orders and regulations as they shall deem expedient, relative to the general government of the constables in such town or district respectively, as to their distribution, arms, and accoutrements, and the particular service of any one or more of them; and that the Governor, or the major part of the said Justices respectively, may suspend or dismiss from his office any such constable for neglect or other misconduct, or unfitness for office, and may permit any such constable to resign his office on the ground of sickness, bodily infirmity, intended departure from the colony, or other reasonable cause; and that every such suspension, dismissal, or resignation shall be notified in the Government Gazette.

CHARLES FITZGERALD,  
GOVERNOR AND COMMANDER-IN-CHIEF.

*Passed the Council }  
11th May, 1849. }*

THOMAS N. YULE,  
Acting Clerk of the Council.