



ANNO VICESIMO SEXTO ET VICESIMO SEPTIMO

# VICTORIÆ REGINÆ.

A.D. 1863.

## No. 10.

*An Act to consolidate and amend the Laws relating to the Police of South Australia.*

[Assented to, 12th November, 1863.]

**W**HEREAS it is expedient to consolidate and amend the laws relating to the Police of South Australia—Be it therefore Enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

Preamble.

### REPEAL OF FORMER ORDINANCE AND ACT.

1. The Ordinance and Act set forth in the Schedule A hereto, save as to all appointments made, penalties incurred, and all proceedings, matters, or things had, done, entered into, or pending under the said Ordinance or Act, are hereby repealed, save so far as the same may repeal any Act or part of any Act.

Ordinance and Act set forth in Schedule repealed.

Saving.

### THE APPOINTMENT OF OFFICERS.

2. The Commissioner of Police and all other officers of police already appointed shall continue to hold office under the provisions of this Act, and shall perform all such functions and possess such powers as by law may be imposed or conferred upon them respectively.

Appointment of officers.

3. The Governor, with the advice of the Executive Council may from time to time appoint a fit and proper person to be Commissioner of Police throughout the said Province, and, as occasion may require, remove any Commissioner and appoint another in his stead; and every Commissioner of Police shall be charged with the general control and management of the police force of the said Province.

Governor in Council may appoint Commissioner of Police.

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Governor in Council may appoint Inspectors and other officers holding commissions.

Inspectors or other officers may be charged with control of police in any district which the Governor may direct.

Commissioner may appoint non-commissioned officers,

Subject to approval of Chief Secretary.

Proviso: In the absence of any chief constable in any district under this Act sergeant may assume his duties.

Governor in Council may remove officers of police,

And appoint others in their stead.

And Commissioner may remove other members of police force subject to the approval of the Chief Secretary.

4. The Governor, with the advice of the Executive Council, may appoint such Inspectors, Sub-Inspectors, or other officers of police as may be found necessary, who shall hold commissions under the hand of the said Governor for such appointments, and who shall be subject to the general control of the said Commissioner of Police; and the Inspectors, Sub-Inspectors, and other commissioned officers shall be respectively charged with the government and superintendence of such portion of the police force as may be placed under their immediate control.

5. The Commissioner of Police or such other person as the Governor, with the advice of the Executive Council, may appoint for that purpose, may appoint so many chief constables, sergeants, and constables of different grades as he shall deem necessary for the preservation of peace and order throughout the said Province, subject, however, to the approval of the Chief Secretary for the time being, and such chief constable, sergeants, or other constables shall have all such powers, and privileges, and be liable to all such duties and responsibilities as any constable duly appointed now has, or hereafter may have: Provided that in the event of the non-appointment or in the absence of any chief constable in any place or district in the said Province under this Act, any officer of the said force, for the time being, stationed at, or nearest to such district, and in charge of any police station for the time being, shall do all the acts, and exercise all the powers required or empowered to be done by any such chief constable.

6. The Governor with the advice of the Executive Council may, from time to time as he shall see fit, remove any Inspector, Sub-Inspector, or other commissioned officer, and upon any vacancy in any of the said offices by death, removal, disability, or otherwise, may appoint some other fit person to fill the same, and the said Commissioner may, from time to time, as he shall think fit, subject always to the approval of the Chief Secretary, remove any constable not holding a commission, or in case of vacancy by death, removal, disability, or otherwise, appoint another in his stead.

## ESTABLISHMENT OF POLICE DISTRICTS.

Governor, with advice of Council, may proclaim Police Districts.

If police are stationed in a Municipality or District Council, the constituted limits remain as the limits of the Police District.

If elsewhere, the Proclamation must define the limits.

7. The City of Adelaide and the Town of Port Adelaide shall be Police Districts, and the Governor, with the advice of the Executive Council, may by Proclamation establish other Police Districts wherein portions of the Police Force may be stationed; and whenever any of the said Police Force are stationed within the constituted limits of any Municipal Corporation or District Council, the limits of such Municipal Corporation or District Council shall constitute the limits of such Police District; and the Governor, with the advice of the Executive Council, may by Proclamation constitute any two or more districts under the control of a Municipal Corporation or District Council a Police District under this Act; and in every Proclamation establishing

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ing any Police District in any part of the said Province not within the constituted limits of any Municipal Corporation or District Council, the limits of such Police District shall be defined in such Proclamation; and the number and rank of the members of the Police Force to be stationed therein shall be declared whenever any such Police District is proclaimed.

All such Proclamations must give the number and rank of the police to be stationed in the district.

## COST OF MAINTENANCE OF POLICE.

8. The salaries, pay, accoutrements, and arms of every commissioned officer of the said police force, and of every chief constable, sergeant, and constable of the mounted police, and the costs of maintaining the same, shall be defrayed out of the general revenues of the said Province.

The entire cost of all officers of police and of the mounted police to be paid out of the general revenues of the Province.

9. In every Police District wherein any of the foot police may be stationed during a longer period than three months in the year, one-half the entire cost of maintaining such foot police as may be stationed within the limits of any such Police District, shall be defrayed by such Police District, and the remaining half of such cost shall be defrayed out of the General Revenues of the said Province; and in case two or more districts under the Municipal Corporations or District Councils shall be included in any such Police District, the half cost shall be paid by such districts in proportion to the value of the rateable property in each district: Provided that no Police District shall be compelled to contribute to the cost of providing the pay, accoutrements, and arms of the commissioned officers of the said Force.

In every police district where foot police may be stationed for more than three months, one-half the cost to be paid by police district, and the remaining half of such cost shall be defrayed out of the General Revenues of the said Province.

10. The proportionate amount of such cost shall be annually estimated and shall be set forth in a table, in the form directed in the Schedule B to this Act, signed by the Commissioner of Police, and approved by the Chief Secretary, stating the number and cost of maintaining such foot police, and the length of time they may have been stationed in any such Police District, and setting forth the proportionate contribution which may be payable by such Police District; and every such table shall be published twice in the *Government Gazette*, at least two weeks prior to the meeting of Parliament.

A statement showing the amount of contribution due by such municipality or district to be published in the *Government Gazette* two weeks prior to the meeting of Parliament.

11. Whenever any grant of money may be payable under any Act of the Parliament of the said Province, after the publication of such table, to any Municipal Corporation or District Council, or in aid of any municipal or district rates, the amount payable by any such Corporation or District Council as or towards the one-half the cost of the foot police stationed within the limits of any Police District, including the district under the control of the said Corporation or Council, may be retained by the Treasurer to be devoted to the payment of such amount.

Contribution to be deducted from amount of any Parliamentary grant in aid of district rates.

12. In case the amount so payable to any such Corporation or Council

In case Parliamentary grant be insufficient,

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contribution to be paid out of the local rates.

Council be insufficient to cover the amount of cost so payable by such Corporation or Council, the balance that may remain due by such district over and above the amount of such vote, or the total amount payable by the said Corporation or Council in case no vote shall have been granted, shall be paid into the public Treasury of the said Province, and shall be defrayed out of the funds of the said Corporation or District Council, and may be recovered at the instance of the Attorney-General in a summary way before two or more Justices of the Peace or a Special Magistrate.

Municipal Corporations or District Councils may levy a special rate for such purpose.

13. Whenever it shall be necessary for any Municipal Corporation, or District Council to provide, by reason of its being included in a Police District, for the payment of any amount as or towards one-half the cost as aforesaid of the maintenance of any foot police, the said Municipal Corporation or District Council may levy a special rate for that purpose, over and above any other rates levied or leviable by law by such Corporation or Council; and such rates shall be recoverable in the same manner and be enforceable by the same remedies as are provided by law for the recovery or enforcement of general rates levied by such Corporation or Council.

If Municipal Corporation or District Council neglect or refuse to pay amount or levy a rate therefor, the Governor, with the advice of the Executive Council, may cause a police rate to be levied.

14. In case any Municipal Corporation or District Council, shall neglect or refuse to pay the amount of contribution as aforesaid, or any part thereof, to the Treasurer, or shall neglect or refuse to levy a special rate when necessary within thirty days after the payment of such amount shall have been demanded in writing by the Chief Secretary, the Governor, with the advice of the Executive Council, may cause a police rate to be levied in the district under the control of the said Corporation or Council for the purpose of defraying such amount, together with the expenses of levying the same, and the Attorney-General may, in the stead of such Municipal Corporation or District Council, for the purposes of recovering or enforcing such police rate, do all such acts and have all such remedies as may be by law exercised by such Corporation or Council for recovering or enforcing general rates.

LEVYING A POLICE RATE BEYOND THE LIMITS OF A MUNICIPAL CORPORATION OR DISTRICT COUNCIL.

Provision for assessing and levying police rate in those places beyond the limits of a Municipal Corporation or District Council where Police District is declared by Proclamation.

15. Whenever any part of the said Province beyond the constituted limits of a Municipal Corporation or District Council may be defined and declared to be a Police District, the owners, inhabitants, and occupiers of all messuages, lands, hereditaments, and tenements within such Police District, shall be liable to contribute to the expenses of the foot police as fully and in the same manner as if such police district comprised a Municipal Corporation or District Council, and shall be in like manner rateable thereto; and the Governor may, after any such Police District has been proclaimed, direct the Special Magistrate or any Justice of the Peace who shall be resident within or nearest to such Police District to appoint by warrant under his hand, an assessor for the purpose of assessing the full and fair annual value of such property,

Governor may direct a Justice to do all necessary acts in levying a police rate by appointing Assessors, &c.

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property, and rating the same to a police rate, provided always that the sum to be levied as a police rate shall not exceed in the whole in any one year the rate of sixpence in the pound on the full and fair annual value of such property; and such assessor shall within twenty-eight days after the delivery to him of the warrant of his appointment make, sign, and return to the said Special Magistrate or Justice an assessment for the district named in such warrant, and the assessment shall be fairly written in a book, and shall specify in different columns the names of the respective inhabitants or occupiers of all messuages, lands, tenements, and hereditaments, the full and fair annual value of the same, and the amount of police rate charged on the inhabitants or occupiers thereof, and when the premises shall be unoccupied the full and fair annual value thereof to let; and every such assessor shall be allowed for his trouble and expenses such remuneration as the Chief Secretary may direct, and the same shall be paid out of the amount of the police rate which shall be collected under such assessment.

Mode of making the assessment.

Allowance to assessors.

16. When such assessment shall have been allowed by the said Special Magistrate or Justice of the Peace, public notice of such assessment, and of the place where the same may be inspected, shall be given by fixing such notice in some conspicuous part of the district to which such assessment shall relate as soon as the same shall have been so allowed; and any person in whose custody such assessment may be shall permit every inhabitant or occupier of property included in such assessment to inspect the same, and to make any extracts therefrom without payment of any fee; and if such person shall wilfully neglect or refuse to permit any such inhabitant or occupier to inspect such assessment or to make any extract therefrom, he shall, on conviction thereof, forfeit and pay for every such offence a sum, not exceeding Three Pounds.

When assessment is made notice thereof shall be given, and all persons included in the assessment shall have liberty to inspect it, &c.

Penalty for refusing such inspection.

17. The said Special Magistrate or Justice of the Peace shall from time to time nominate one or more persons for levying the amount of police rate charged in every such assessment, who shall proceed in the same manner and shall have the same powers, remedies, and privileges, and shall be subject to the same regulations and penalties with reference to the levying of such police rate as if they were acting for any District Council in levying a special rate, and shall pay over the amount of such police rate to the assessor, who shall account for and pay over the total amount of such rate to the Special Magistrate or Justice of the Peace, or in default thereof shall be proceeded against for non-payment.

Collection of the police rate to be charged in such assessment.

18. If any person, who shall have paid the amount of police rate charged upon him by the assessment made by the assessor, shall think himself aggrieved by such assessment on the ground that such assessment includes any property for which he is not rateable, or that it assesses his rateable property beyond its full and fair annual value, or that any person is omitted out of such assessment, or that

Appeal against assessment.

the

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the property of any person is assessed below its full and fair annual value, the person so aggrieved may appeal to the Local Court of full Jurisdiction at Adelaide, or to the nearest Local Court whereof such Special Magistrate or Justice of the Peace employed in levying such police rate, is not a member, not less than twenty-one days after public notice of such assessment shall have been given, provided that the person so intending to appeal shall give to the assessor notice in writing of such appeal, and of the cause and matter thereof, ten clear days at the least before such Court shall meet; and in case such person shall appeal on the ground that any person is omitted out of the assessment, or that the property of any person is assessed below its full and fair annual value, the party so appealing shall not only give such notice of appeal to the assessor, but shall also give a like notice of appeal to the person or persons so interested in the event of such appeal as aforesaid, and the person so interested shall, if he shall desire it, be heard upon the appeal before such Court; and such Court, upon due proof of the notice being given, shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as the Court shall think proper; and in case the Court shall think the appellant entitled to relief, they shall order the assessment to be amended in such manner as may be necessary for giving him relief, and shall also order any money paid by him which he was not liable to pay to be returned to him; and in case he shall have appealed on the ground that any person is omitted out of the assessment, the Court may order the name of such person to be inserted in the assessment, and to be therein rated at such amount as they shall deem just; and in case the appellant shall have appealed on the ground that the property of any person is assessed below its full and fair annual value, the Court may order the amount at which such person is rated in the assessment to be altered in such manner as they shall deem just; and the proper officer of the Court shall in each of the cases aforesaid forthwith amend the assessment accordingly, but the assessment shall not be quashed or altered with respect to any other persons named therein, and the determination of the Court shall be final and conclusive.

The assessment may be altered to relieve the appellant without altering any other part of it.

Whenever a Magistrate or Justice is appointed for the levying of a police rate, a statement of the amount to be levied and other matters to be forwarded to such Magistrate or Justice.

19. Whenever the Governor shall direct any Special Magistrate or Justice of the Peace to appoint an assessor to levy a police rate, he shall cause a statement to be forwarded to the said Special Magistrate or Justice of the Peace informing him of the full amount of the rate required to be levied, and such amount shall include not only the half share of the cost of maintenance of foot police in such Police District but also all other expenses incurred, or to be incurred in levying such rate; and the said Governor may direct such fair and just remuneration and allowances to be payable to the said Special Magistrate or Justice of the Peace out of the rate, for expenses incurred or services rendered, as he shall think proper.

And such Magistrate or Justice may do all

20. Any person appointed by the Governor for that purpose may do, or cause to be done, all such acts necessary, and shall have such remedies

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remedies for recovering and enforcing the said rate in such Police District as may be done or exercised by any District Council in the levying of any general rate; and immediately upon the collection of any moneys in respect of such rate, the person so appointed shall forthwith remit the amount thereof to the Treasurer, and shall furnish at the same time a full and clear statement of all moneys received and paid and acts done by him by virtue of this Act.

acts which any District Council may do in levying a special rate.  
And transmit amount of rate levied to the Treasurer after deducting expenses allowed, and furnish a full account.

## APPOINTMENT AND DUTIES OF CONSTABLES.

21. The Governor with the advice of the Executive Council may, from time to time, frame rules, orders, and regulations for the general government of the members of the police force, as well with respect to their residence, their classification, distribution, particular service, and inspection, as to their arms, accoutrements, and necessaries, as to which of them shall be supplied with horses, and all such other rules, regulations, and orders relative to the said police as may be necessary for rendering the force efficient and preventing neglect and abuse; and the Commissioner of Police may make such other orders and regulations, for the general government, management, and discipline of the Police Force as he may deem necessary, subject to the approval of the Chief Secretary.

Governor in Council may make regulations to secure proper distribution and equipment of police.

Commissioner may make rules with the approval of Chief Secretary for their general management and discipline.

22. No person appointed to be Commissioner of Police, Inspector, Sub-Inspector, or other officer, nor any constable shall be capable of holding the said office or of acting in any way therein, until he shall take and subscribe, or shall have taken and subscribed the following oath, that is to say—

Oath to be taken by officers and constables.

“ I, A. B., do swear that I will well and truly serve our Sovereign Lady the Queen in the office of [Commissioner of Police, Chief Inspector, Inspector, Sub-Inspector, officer, sergeant, or constable, as the case may be], without favor or affection, malice or ill-will, for the period of

from this date, and until I am legally discharged; that I will see and cause Her Majesty's peace to be kept and preserved, and that I will prevent, to the best of my power, all offences against the same; and that, while I shall continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully, according to law—So help me God.”

And the said oath shall be administered by any Justice of the Peace, and shall, in all cases, be subscribed by the person taking the same; and the oath so taken by the Commissioner of Police shall be forthwith transmitted to the Chief Secretary by the party before whom the same was taken, and the oaths so taken and subscribed by all other persons appointed to any office under this Act shall be forwarded by the Justice before whom the same was taken to the said Commissioner of Police.

23. Every person, on taking and subscribing such oath as aforesaid, shall be deemed to have thereby entered into a written agreement with, and shall be thereby bound to serve Her said Majesty,

Taking an oath equivalent to entering into an agreement.

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as a member of the police force, and in the capacity in which he shall have taken such oath, at the current rate of pay for such member, and until legally discharged, from the day on which such oath shall have been taken: Provided that no such agreement shall be set aside, for want of reciprocity: Provided further, that such agreement may be cancelled at any time by the lawful discharge, dismissal, or other removal from office of any such person, or by the resignation of any such person being accepted by the Commissioner of Police of the said Province, or other person acting in his stead.

Punishment for taking  
bribe, &c.

24. Any constable or other member of the Police Force who shall take any bribe, pecuniary or otherwise, either directly or indirectly, to forego his duty as such constable, or who shall in any manner aid, abet, assist, or connive at the escape, or any attempt or preparation to escape, of any prisoner from any gaol, or other place in which any such prisoner may be legally confined, or otherwise in lawful custody, or who shall desert his post, or assault his superior officer, shall for every such offence, without prejudice to any other penalties or punishment to which he shall by law be liable, upon conviction thereof before any Justice of the Peace, forfeit and pay a penalty not exceeding Ten Pounds, or, in the discretion of such Justice, be imprisoned and kept to hard labor for any period not exceeding three calendar months.

Constable not to re-  
sign without leave or  
notice.

25. No constable shall resign his office or withdraw himself from the duties thereof, unless expressly allowed to do so by the said Commissioner of Police, or until he shall have given to such Commissioner one calendar month's notice, and every constable who so resigns or withdraws 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, or, in the discretion of the Justice of the Peace before whom he shall be convicted, may be committed to prison for a period not exceeding fourteen days.

Constables dismissed,  
to deliver up accou-  
trements, &c.

26. Every constable who is dismissed from or ceases to hold his office shall forthwith deliver over to the said Commissioner of Police, or to such person, and at such time and place as the said Commissioner of Police directs, all the clothing and accoutrements, appointments, and other property which have been supplied to him for the execution of his duty, under pain of imprisonment, with or without hard labor, for any time not exceeding two months; and any Justice of the Peace may issue his warrant to search for and seize all the clothing, accoutrements, appointments, and property not so delivered over, wherever the same are found.

Constables subject to  
duty in any part of  
the Province, as if no  
Police District had  
been proclaimed.

27. Notwithstanding the proclamation of any Police District the constables belonging to the police force who may be stationed in any such district shall continue as part of the force, and be subject to the same authority, and be liable, if required, to perform the same duty in any part of the said Province or elsewhere, as if no such Police District had been proclaimed; and if any of the Police Force be  
employed



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employed beyond the limits of the said Province, every constable so employed shall be amenable to and obey in all respects the lawful commands of his superior officers, and shall be liable to the same penalties, forfeitures, and punishments, in all respects, for any neglect or violation of duty, in any service in which he may be so employed beyond the limits of the said Province, in the same manner as though such neglect or violation of duty had been committed within the said Province.

Constables employed out of the Province to obey orders and perform duties as if within the Province.

28. Every person, not being at the time a constable who shall have in his possession any article being part of the clothing, accoutrements, or appointments, supplied to a constable, and who shall not be able satisfactorily to account for his possession thereof, or who shall put on the dress, or take the name, designation, or character of any person appointed a constable, or shall give, or offer, or promise to give, any bribe, recompense, or reward, or shall make any collusive agreement with any member of the police force, to induce him to neglect his duty, or conceal or connive at any act whereby any rule, order, or regulation in force in the said Province may be evaded, and every person so offending, and whether such offer be accepted or performed or not, shall in addition to any punishment to which he may be liable for such offence, forfeit for any such offence, on summary conviction before any Special Magistrate or Local Court, any sum not exceeding Ten Pounds.

Penalty for personating or attempting to bribe constables.

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

Repute to be evidence of appointment.

30. The holder of any licence to sell or dispose of fermented or spirituous liquors, who shall, by himself or his servants, permit any constable to become intoxicated on his premises, or to be supplied with fermented or spirituous liquors whilst intoxicated, or whilst on duty, knowing him in every such case to be a constable; and any person who shall knowingly harbor 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 person being convicted thereof shall, for every such offence, forfeit and pay a sum not exceeding Five Pounds.

Penalty on publicans harboring policemen during the hours of duty.

31. Every constable who shall be guilty of any neglect or violation of duty in his office of constable shall be liable to a penalty of not more than Five Pounds, the amount of which penalty may be deducted from any salary then due to such offender; or may be imprisoned, with or without hard labor, for any time not more than one calendar month, upon conviction before any two or more Justices of the Peace.

Penalty on constables for neglect of duty.

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Assault on policemen.

32. 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 Ten Pounds, or may, at the discretion of two or more Justices of the Peace, be committed for trial before any other competent Court; and in case any person shall disturb or hinder any constable, peace officer, or other person in the execution of this Act, or shall be aiding, abetting, or assisting in so doing, every such offender shall, for every such offence, forfeit and pay any sum not exceeding Five Pounds, and in default of payment forthwith, shall be liable to imprisonment in any gaol in the said Province for any time not exceeding two calendar months, or until such fine be paid.

Obstructions to constables.

## POWERS OF OFFICERS OF POLICE TO BOARD SHIPS.

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

33. Any Inspector, Sub-Inspector, or any non-commissioned officer belonging to the police force shall have power, by virtue of his office, to enter at all times, with such constables as he shall think necessary, as well by night as by day, into and upon every ship, boat, or other vessel (not being then actually employed in Her Majesty's service) lying in any river or creek, or any dock thereto adjacent, and into every part of such vessel, for the purpose of inspecting, and upon occasion directing, the conduct of any constable who may be stationed on board of any such vessel, and of inspecting and observing the conduct of all other persons who shall be employed on board of any such vessel in or about the lading or unlading thereof, as the case may be, and for the purpose of taking all such measures as may be necessary for providing against fire and other accidents, and preserving peace and good order on board of any such vessel, and for the effectual prevention or detection of any felonies or misdemeanors.

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

34. Every Inspector, Sub-Inspector, or other officer as aforesaid, belonging to the police force, having just cause to suspect that any felony has been, or is about to be, committed on board of any ship, boat, or other vessel lying in any river, dock, or creek, may enter at all times, as well by night as by day, into and upon every such ship, boat, or other vessel, and therein take all necessary measures for the effectual prevention or detection of all felonies which he has just cause to suspect to have been, or to be about to be committed in or upon such rivers, docks, or creeks, and may and shall take into custody all persons suspected of being concerned in such felonies, and also take charge of all property suspected to be stolen.

## SPECIAL CONSTABLES.

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

35. In all cases where it shall be made to appear to any Special Magistrate or two Justices of the Peace, upon the oath of any creditable witness, that any tumult, riot, or felony hath taken place, or may be reasonably apprehended in any town or district, and

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and such Magistrate or Justices shall be of opinion that the ordinary constables or officers appointed for preserving the peace are not sufficient for the preservation thereof and for the protection of the inhabitants and the security of the property in the said town or district, or where, without such oath or evidence as aforesaid, any Special Magistrate, or two Justices of the Peace shall be of opinion that the constables or officers aforesaid are not sufficient for the preservation, protection, or security as aforesaid, or for the apprehension of any offenders, it shall be lawful for such Magistrate or Justices to appoint, by precept in writing under his or their hand or hands, so many as he or they shall think fit of the householders or other persons (not legally exempt from serving the office of constable) residing in such town or district as aforesaid to act as special constables for such time and in such manner as to the said Special Magistrate or Justices respectively shall seem fit and necessary for the public peace, and for the protection of the inhabitants, and the security of the property in such town or district; and the Special Magistrate, or any of the Justices who shall appoint any special constables by virtue of this Act, or any Justice of the Peace having jurisdiction in such town or district, is hereby authorized to administer to every person so appointed the following oath, that is to say—

“I, A. B., do swear that I will well and truly serve our Sovereign Lady the Queen in the office of special constable for the town or district of \_\_\_\_\_, without favor or affection, malice or ill will, and that I will to the best of my power cause the peace to be kept and preserved, and prevent all offences against the persons and properties of Her Majesty’s subjects, and that while I continue to hold the said office I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law—So help me God.”

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

36. Such Special Magistrate, or Justice of the Peace who shall have appointed any special constables under this Act, shall have power to make such orders and regulations as may from time to time be necessary and expedient for rendering such special constables more efficient for the preservation of the public peace, and shall also have power to remove any such special constable from his office for any misconduct or neglect of duty therein.

Justices may make regulations for special constables, and may remove them.

37. All persons willing to act as special constables under the provisions of this Act, shall be capable of being appointed and acting, and may be appointed and act as such special constables, notwithstanding

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

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Powers of special constables.

standing they may not be resident in such town or district as aforesaid, or in the neighborhood thereof; and any person appointed and acting as special constable under the provisions of this section shall have all the same powers and be entitled to, and enjoy all the same privileges and benefits, and be subject to all the same duties and liabilities as any constable duly appointed now has within this Province.

Penalty for refusing to take the oath of office.

38. If any person residing within such town or district, being appointed a special constable, shall refuse to take the oath when thereunto required by the Special Magistrate or Justices of the Peace so appointing him, he shall, on conviction thereof in a summary way, before the Magistrate or Justices so requiring him, forfeit and pay any sum of money not exceeding Five Pounds, and if any person being appointed a special constable shall neglect or refuse to appear at the time and place for which he shall be summoned for the purpose of taking the oath, or having been appointed as special constable and being called upon to serve, shall neglect or refuse to serve as such special constable, or to obey such lawful orders and directions as may be given to him for the performance of the duties of his office, every person so offending shall, on conviction thereof in a summary way, before any two Justices of the Peace, forfeit and pay for any such neglect any sum of money not exceeding Five Pounds, unless such person shall prove to the satisfaction of the said Justices that he was prevented by sickness or other such unavoidable cause, as shall in the judgment of the said Justices be a sufficient excuse.

Power to discontinue services of special constables.

39. The Special Magistrate or Justices, who shall have appointed any special constable are hereby empowered to suspend or determine the services of all or any of the said special constables called out by them, as to the said Special Magistrate or Justices respectively shall seem meet, and notice of such suspension or determination of the services of any special constable shall be forthwith transmitted to the Chief Secretary.

Special constables to deliver up staves, &c.

40. Every special constable shall forthwith after the expiration of his office, and after he shall cease to hold and exercise the same, deliver over to his successor (if any such shall have been appointed), or otherwise to such person and at such time and place as may be directed by the Special Magistrate or Justices who shall have appointed him, all arms, staves, weapons, and other articles which shall have been provided for such special constable; and if any such special constable shall omit or refuse so to do, he shall, on conviction thereof before two Justices of the Peace, forfeit and pay for such offence such sum of money, not exceeding Ten Pounds, as to the convicting Justices shall seem meet.

Penalty for assaulting or resisting special constables.

41. If any person shall assault or resist any special constable whilst in the execution of his office, or shall promote or encourage any other person so to do, every such person shall, on conviction thereof

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thereof in a summary way before two Justices of the Peace, forfeit and pay for such offence any sum not exceeding Ten Pounds, or shall be liable to such other punishment, upon conviction on any indictment or information for such offence, as any persons are liable to, for assaulting any constable in the execution of his office.

42. The Governor, with the advice of the Executive Council, may, upon the recommendation of the Special Magistrate or Justices of the Peace by whom such special constables shall have been appointed, order, from time to time, such reasonable allowances for their trouble, loss of time, and expenses, to be paid to such special constable who shall have served or be then serving as he may deem proper; and he may further order the payment of such expenses as may have been incurred in providing arms, staves, weapons, or other necessary articles for such special constables.

Governor in Council may direct reasonable allowances to be paid to special constables.

## POWERS OF CONSTABLES.

43. Any constable belonging to the police force, without any warrant, shall apprehend any person whom he shall find drunk in the streets or public places, at any hour of the day, and shall apprehend all loose, idle, drunken, or disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of having committed or being about to commit any felony, misdemeanor, or offence, or of any evil designs, and all persons whom he shall find between sun-set and the hour of eight in the forenoon, lying or loitering in any street, highway, yard, or other place, and not giving a satisfactory account of themselves; and shall deliver any person so apprehended into the custody of the constable who shall be in attendance at the nearest police station, in order that such person may be secured until he can be brought before a Justice of the Peace, to be dealt with according to law, or give bail for his appearance before a Justice of the Peace, if the constable shall deem it prudent to take bail in the manner hereinafter mentioned.

Powers of police.

44. Where any person found lying or loitering about as aforesaid, or charged with any petty misdemeanor, shall be brought without the warrant of a Justice of the Peace into the custody of any constable, during his attendance in the night-time at any police station, such constable may, if he shall deem it prudent, take bail by recognizance, with or without sureties, as the said constable shall think fit, without any fee or reward from such person; and every recognizance so taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof, as if the same had been taken before a Justice of the Peace; and the constable shall enter into a book, to be kept for that purpose in every police station, the name, residence, and occupation of the party, and his surety or sureties (if any), entering into such recognizance, together with the condition thereof, and the sums respectively acknowledged, and shall lay the same before such Justice as shall be present at the time and place when and where the party is required to appear; and if the party does not appear at the time and

Constables attending at the police station in the night may take bail by recognizance from persons brought before them for petty misdemeanors; such recognizance to be conditioned for the appearance of the parties before a Magistrate.

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In default of appearance, recognizance to be forfeited.

Time of hearing may be postponed.

place required, or within one hour after, the Justice shall cause a record of such recognizance to be drawn up and signed by the constable, and if the party not appearing shall apply by any person on his behalf to postpone the hearing of the charge against him, and the Justice shall consent thereto, the Justice shall be at liberty to enlarge the recognizance to such further time as he shall appoint; and when the matter shall be heard and determined, either by the dismissal of the case or by binding the party over to answer the matter thereof, or otherwise, the recognizance for the appearance of the party before a Justice shall be discharged without fee or reward.

Constables may apprehend any offender whose name and residence is not known.

45. Any constable, and all persons whom he shall call to his assistance shall take into custody, without a warrant, any person who, within view of such constable shall offend in any manner against this Act, and whose name and residence shall be unknown to such constable, and cannot be ascertained by such constable.

Power to police constables and persons aggrieved to apprehend certain offenders.

46. Any person found committing any offence punishable either upon indictment or as a misdemeanor upon summary conviction, may be taken into custody without a warrant by any constable, 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 constable, to be dealt with according to law; and every such 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 anything 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, may apprehend and detain, and, as soon as may be, deliver such offender into the custody of a constable, together with such property, to be dealt with according to law.

Persons charged with recent assaults may be apprehended without warrant.

47. Any constable may 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.

Apprehension of offenders.

48. Any person whosoever with or without warrant may apprehend any person who shall be found offending against this Act, and forthwith take and convey him before a Justice of the Peace, to be dealt with in such manner as herein directed, or deliver him to any constable or other peace officer of the place where he shall have been

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been apprehended, to be so taken and conveyed as aforesaid, and any constable who shall refuse or wilfully neglect to take such offender into custody or to take and convey him before a Justice of the Peace, or who shall not use his best endeavors to apprehend and to convey him before a Justice of the Peace, shall be deemed guilty of a neglect of duty and shall, on conviction, be punished in such manner as herein directed.

49. Any Justice of the Peace, upon oath being made before him that any person hath committed or is suspected to have committed any offence against this Act, may issue his warrant to apprehend and bring before him or some other Justice of the Peace the person so charged, to be dealt with as directed by this Act.

Warrants to apprehend offenders.

50. Every person who shall be found drunk in any street or public thoroughfare, shall forfeit and pay, on conviction, for every such offence, a penalty not exceeding One Pound; and every person who while drunk shall be guilty of any riotous or indecent behaviour, and also every person who shall be guilty of any violent or indecent behaviour in any police station, shall be liable to a penalty of not more than Forty Shillings for every such offence, or may be committed to any gaol in the said Province for any time not more than seven days.

Penalty on drunkenness. Drunkards guilty of riotous or indecent behaviour may be imprisoned.

51. Every person who shall be brought before any Justice of the Peace, charged with having in his possession, or conveying in any manner, anything 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 misdemeanor, and shall be liable to a penalty of not more than Five Pounds, or may be imprisoned in any gaol in the said Province, with or without hard labor, for any time not exceeding two calendar months.

Persons suspected of having stolen goods.

52. Any individual who shall offend against decency, by the exposure of his person in any street or public place, or in the view thereof, shall, on conviction before any Justice of the Peace, forfeit and pay for every such offence a sum not exceeding Ten Pounds, or shall be committed to gaol, there to be kept to hard labor for any time not exceeding one calendar month.

Penalty on indecent exposure of the person.

53. Any person who shall be convicted of wantonly or maliciously breaking or injuring any lamp or lamp-post, or extinguishing any lamp set up for public convenience, 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.

Injuring or extinguishing lamps.

54. Any person who shall sing any obscene song or ballad, or write or draw any indecent or obscene word, figure, or representation,

Obscenity.

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tation, or use any profane, indecent, or obscene language, or any common prostitute or street-walker who shall solicit, importune, or accost any person or persons for the purpose of prostitution in any public street, road, thoroughfare, or place, or within the view or hearing of any person passing therein, and any person who shall use any threatening, abusive, or insulting words or behaviour in any public street, road, thoroughfare, or place, with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned, shall forfeit and pay on conviction any sum not exceeding Two Pounds, and in default of immediate payment shall be committed to gaol for any period not exceeding one calendar month.

Challenge to fight.

55. Any person who shall send or accept, either by word or letter, any challenge to fight for money, or shall engage in any prize-fight, shall forfeit and pay a sum not less than Two Pounds, nor more than Twenty Pounds, and in default of payment, may be imprisoned, with or without hard labor, for any term not exceeding three calendar months, and the convicting Justice or Justices may, if he or they shall think fit, also require the offender to find sureties for keeping the peace.

IDLE AND DISORDERLY PERSONS.

Idle and disorderly persons.

56. Any person who shall commit any of the next following offences shall be deemed an idle and disorderly person within the meaning of this Act, and shall be liable to the punishment next hereinafter mentioned—

First—Any person having no visible lawful means of support or insufficient lawful means of support, who being thereto required by any Justice of the Peace, or who having been duly summoned for such purpose, or brought before any Justice, shall not give a good account of his means of support to the satisfaction of such Justice :

Second—Any person not being an aboriginal native, or the child of any aboriginal native, who, being found lodging or wandering in company with any of the aboriginal natives of the said Province, and being thereto required by any Justice of the Peace, shall not give a good account to the satisfaction of such Justice that he hath a lawful fixed place of residence and lawful means of support, and that such lodging or wandering hath been for some temporary and lawful occasion only :

Third—Any person wandering abroad, or placing himself in any public place, street, highway, court, or passage, to beg or gather alms, or causing, or procuring, or encouraging any child so to do :

Fourth—Any person found by night with any gun, pistol, sword, bludgeon, or any offensive weapon or instrument, who, being thereto required, shall not give a good account of his means of support, and assign a valid and satisfactory reason for his being so armed :

Fifth—



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Fifth—Any person having on or about his person, without lawful excuse, the proof of which excuse shall be on such person, any deleterious drug, or any article of disguise :

Sixth—Any habitual drunkard having been thrice convicted of drunkenness within the preceding twelve months, and any common prostitute, who, in any street or public highway, or being in any place of public resort, shall behave in a riotous or indecent manner :

Seventh—The occupier of any house which shall be frequented by reputed thieves, prostitutes, or persons who have no visible lawful means of support :

Eighth—Every common prostitute or night-walker, loitering or being in any thoroughfare or public place for the purpose of prostitution or solicitation, to the annoyance of the inhabitants or passengers :

Shall be liable to imprisonment in any gaol of the said Province for any time not exceeding two calendar months with or without hard labor.

## ROGUES AND VAGABONDS.

57. Any person who shall commit any of the next following offences shall be demed a rogue and vagabond within the meaning of this Act, and be liable to the punishment next hereinafter mentioned— Rogues and vagabonds.

First—Any person committing any of the offences hereinbefore mentioned, having been previously convicted as an idle and disorderly person :

Second—Any person soliciting, gathering, or collecting alms, subscriptions or contributions, under any false pretence :

Third—Any person imposing or endeavoring to impose upon any charitable institution or private individual, by any false or fraudulent representation, either verbally or in writing, with a view to obtain money or any other benefit or advantage :

Fourth—Any person having in his custody or possession without lawful excuse (the proof of which excuse shall be on such person), any picklock, key, crow, jack, bit, or other implement of housebreaking :

Fifth—Any person wilfully exposing to view in any street, road, thoroughfare, highway, or public place, or who shall expose, or cause to be exposed in any window, or other part of any shop or other building situate in any street, road, thoroughfare, public place, or highway, any obscene book, print, picture, drawing or representation :

Sixth—Any person wilfully and obscenely exposing his person in any street, highway, road, or public highway, or in the view thereof, or in any place of public resort :

Seventh—

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Seventh—Any person playing or betting at any unlawful game :

Eighth—Any person playing or betting in any street, road, highway, or other public place, at or with any table or instrument of gaming, at any game or pretended game of chance :

Ninth—Any suspected person or reputed thief frequenting any river, canal, navigable stream, dock, or basin, or any quay, wharf, or warehouse near or adjoining thereto, or any street, highway, or avenue leading thereto, or any place of public resort, or any avenue leading thereto, or any street, highway, or place adjacent, with intent to commit felony :

Tenth—Any person apprehended as an idle and disorderly person, and violently resisting any constable or other officer so apprehending him, and being subsequently convicted of the offence for which he shall have been so apprehended :

Shall be liable to imprisonment in any gaol in the said Province with or without hard labor for any time not exceeding three calendar months ; and every such picklock, key, crow, jack, bit, and other implement, and every such gun, pistol, sword, bludgeon, and other offensive weapon and instrument as aforesaid shall, by the conviction of the offender, become forfeited to Her Majesty.

**Incorrigible rogues.**

58. Any person who shall commit any of the next following offences shall be deemed an incorrigible rogue, and be liable to the punishment next hereinafter specified—

First—Any person who shall break or escape out of any place of legal confinement before the expiration of the term for which he shall have been committed :

Second—Any person committing any offence which shall subject him to be dealt with as a rogue and vagabond, such person having been previously convicted as a rogue and vagabond :

Third—Any person apprehended as a rogue and vagabond, and violently resisting any constable or other peace officer so apprehending him, and being subsequently convicted of the offence for which he shall have been so apprehended :

Shall be liable to imprisonment in any gaol in the said Province for any term not exceeding one year with hard labor: Provided that nothing shall prevent such offender being committed to the nearest gaol, there to remain until the next sitting of the Local Court, or the next criminal sittings of the Supreme Court, to be held in the said Province, or nearest to where the said offence shall have been committed ; and every offender who shall be so committed as aforesaid shall be there kept to hard labor during the period of his imprisonment.

LOCAL PROVISIONS TO BE IN FORCE IN CERTAIN PLACES UPON  
PROCLAMATION.

**Prohibition of nuisances by persons in the thoroughfares.**

59. Any person shall be liable to a penalty not more than Forty Shillings

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Shillings who shall in any street, road, or public place commit any of the following offences, that is to say—

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

Second—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 :

Third—Every person who by negligence or ill usage in driving cattle shall cause any mischief to be done by such cattle, or who shall in anywise 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, hurt, or drive any such cattle :

Fourth—Every driver of any waggon, wain, cart, or dray of any kind who shall ride upon any such carriage in any street or public place, not having some person on foot to guide the same (such as are drawn by horses and properly driven with reins only excepted) ; or the driver of any carriage whatsoever who shall wilfully be at such a distance from such carriage, or in such a situation whilst it shall be passing upon such street or public place that he cannot have the direction and government of the horses or cattle drawing the same ; or any person who shall ride upon the shafts of any waggon, cart, dray, or other carriage whatsoever, or the driver of any waggon, cart, dray, coach, or other carriage whatsoever meeting any other carriage, who shall not keep his waggon, cart, dray, coach, or carriage on the left or near side of the road ; or any person who shall in any manner wilfully prevent any other person from passing him or any carriage under his care upon such street or public place, or by negligence or misbehaviour prevent, hinder, or interrupt the free passage of any carriage or person so in or upon the same :

Fifth—Every person who shall cause any cart, public carriage, truck, or barrow, with or without horses, to stand longer than may be necessary for loading or unloading, or for taking up or setting down passengers (except hackney carriages standing for hire in any place not forbidden by law), or who by means of any cart, carriage, truck, or barrow, or any horse or  
other

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other animal, shall wilfully interrupt any public crossing, or wilfully cause any obstruction in any thoroughfare :

Sixth—Every person who shall use any threatening, abusive, or insulting words or behaviour, with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned :

Seventh—Every person who shall wantonly discharge any firearm, or burn any shavings or other things, or throw or discharge any stone or other missile to the damage or danger of any person, or make any bonfire, or throw or set fire to any firework, without as respects any such bonfire or firework made, thrown, or set fire to within the limits of any Municipal Corporation or District Council, having the consent of the Council thereof :

Eighth—Every person who shall wilfully and 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 :

Ninth—Any person who shall fly any kite, or play any game to the annoyance of the inhabitants or passengers, in any street or other thoroughfare, to the common danger of the passengers :

Tenth—Any person who shall ride or drive through any street or public place so negligently, carelessly, or furiously, that the safety of any other person might thereby be endangered :

No swine or goats to be suffered to wander about the streets.

Eleventh—Any person who shall suffer any kind of swine, or goats, belonging to him, or under his charge, to stray or go about, or to be tethered or depastured in any street or public place.

Hog-styes and nuisances not removed on complaint.

60. In case any privy, hog-stye, or any other thing, shall, at any time or times hereafter, be or become a nuisance to any of the inhabitants, it shall be lawful for any two Justices of the Peace, or any Special Magistrate, upon complaint thereof to him made by any such 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 being a nuisance, shall be remedied and removed 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 or her last or usual place of abode, or on the said premises ; and every such occupier neglecting to remedy or remove such nuisance, pursuant to such notice, and to the satisfaction of such Justices or Special Magistrates, shall forfeit and pay, on conviction before such Justices or Special Magistrate, the sum of Ten Pounds for every such neglect and disobedience ; and also it may be lawful for such Justices or Special Magistrate to lay information or prosecute for such nuisance such persons so neglecting or disobeying

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obeying any such notice, at the then next sitting of the Local Court nearest thereto; and such persons being found guilty thereof, such nuisances shall be removed, taken down, and abated, according to law, with regard to common or public nuisances; and the person so offending shall be subject to such punishment for the misdemeanor as the said Local Court shall direct.

61. Any owner or occupier of any house or place who shall neglect to keep clean all private avenues, passages, yards, and ways, within the said premises, so as by such neglect to cause a nuisance by offensive smell or otherwise, shall, on conviction before any two or more Justices of the Peace, or a Special Magistrate, forfeit and pay a sum not exceeding Forty Shillings nor less than Ten Shillings for every such offence. As to private avenues.

62. No person shall bathe near to or within view of any public wharf, quay, bridge, street, road, or other place of public resort, between the hours of six in the morning and eight in the evening; and any person who shall offend against this regulation, shall, on conviction before any Justice of the Peace, forfeit and pay a sum not exceeding One Pound. Bathing prohibited within certain limits.

63. Any person who shall damage any public building, wall, parapet, sluice, bridge, road, street, sewer, water-course, or other public property shall pay the cost of repairing the same; and if the same be wilfully done, shall forfeit and pay a further sum not exceeding Ten Pounds, nor less than Two Pounds. As to damaging public buildings.

64. Any person who shall cast any filth or rubbish into any water-course, or canal, or shall obstruct, or divert from its channel, any public sewer or water-course, shall forfeit a sum not exceeding Ten Pounds, nor less than One Pound, and shall pay the cost of removing such filth or obstruction, or of restoring such water-course or canal to its proper channel. As to water-courses.

65. Any person who shall injure any public fountain, pump, cock, or water-pipe, or any part thereof, shall pay the cost of repairing the same; and if the injury be wilfully done, shall forfeit a further sum not exceeding Ten Pounds nor less than One Pound; and any person who shall have in his possession any private key for the purpose of opening any cock, or who shall in any manner clandestinely, or unlawfully appropriate to his use any water from any public fountain or pipe, shall forfeit a sum not exceeding Ten Pounds, nor less than Two Pounds; and any person who shall open, or leave open, any cock or any public fountain or pump, so that the water shall or may run to waste, shall forfeit a sum not exceeding Two Pounds, nor less than Five Shillings; and any person who shall wash any clothes at any public fountain or pump, shall forfeit and pay a sum not exceeding One Pound, nor less than Five Shillings. As to injuring public fountains.

66. If any person shall drive or cause to be driven any cart or other carriage Slop, night-soil, &c., to be conveyed away only at certain hours.

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carriage with any night-soil or ammoniacal liquor therein through or in any of the streets or public places between the hours of five o'clock in the morning, and ten o'clock at night, or shall fill any cart or other carriage so as to turn over or cast any night-soil, ammoniacal liquor, slop, mire, or channel dirt or filth, in or upon any of the said streets, or other public places, it shall and may be lawful for any person whomsoever to seize and apprehend, and to assist in seizing and apprehending the offender, and by the authority of this Act, and without any other authority or warrant, to convey him before any Justice of the Peace; and such Justice is hereby authorized and required to hear evidence, and determine upon such offence; and every such person so offending shall, for every such offence, forfeit and pay the sum of Five Pounds: Provided always, that in case the person so offending cannot be apprehended, then the owner of such cart or carriage, in which such night-soil, or ammoniacal liquor, slop, filth, mire, or channel dirt, 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.

Penalty £5.  
Proviso.

In what case owner to  
be liable.

Hours of removing  
night-soil, &c.

And committed to  
prison.

Dead animals not to  
be thrown into any  
public way, creek, or  
river.

No turf, gravel, &c.,  
to be removed from  
streets without per-  
mission.

67. If any person shall empty any privy, or take away any night-soil from any house or premises within the streets or public places, or shall come with carts or carriages for that purpose, except between the hours of ten at night and five in the morning; or if any person shall put in or cast out of any cart, or tub, or otherwise any night-soil, in or near any of the streets or public places, it shall be lawful for any Justice of the Peace to commit every such offender, upon conviction, to gaol for any time not exceeding thirty days, to be computed from the day of commitment; and the owner of any carts, carriages, horses, or beasts employed in and about emptying and removing such night-soil, or coming for that purpose (save and except within the hours hereby allowed) or the employer of any person who shall so put or cast out any such night-soil, shall forfeit and pay the sum of Five Pounds for every such offence.

68. No person shall throw or leave, or cause to be thrown or left, any dead animal, or any part thereof, upon any street, lane, road, or other public place, or into any river, creek, or other stream which shall flow through, by, or along any such street, lane, road, or other place, or leave or cause the same to be left upon the shores thereof; 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.

69. Any person who shall form, dig, or open any drain or sewer, or remove, or cause to be removed, any turf, clay, sand, soil, gravel, stone, or other material used in the formation of the streets, roads, or other public highways, in or from any part of the carriage or foot-ways of any place not included in or forming part of any Municipal Corporation or District Council, without leave first had and obtained from the Police Magistrate, or who shall wantonly break up or otherwise damage the said streets, roads, 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.

70. If

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70. If any person shall haul or draw, or cause to be hauled or drawn upon any part of the streets or public places, any timber, stone, or other thing, otherwise than upon wheeled carriages, or shall suffer any timber, stone, or other thing, which shall be carried principally, or in part, upon wheeled carriages, to drag or trail upon any part of such street, road, or public place, to the injury thereof; or to hang over any part of any such carriage, so as to occupy or obstruct the street or road, beyond the breadth of the said carriage, every such person so offending shall, on conviction, forfeit and pay for every such offence the sum of Forty Shillings, over and above the damages occasioned thereby.

Drawing or trailing timber, &c.

71. If the owner or occupier of any house, building, or premises, having any iron or wooden rails, or bars over the areas, or openings to any kitchens or cellars, or other part or parts of the said house, building, or premises beneath the level of the footway of any streets or public places, or having any doorway or entrance into the basement or cellar story thereof, shall not either keep the same, or the rails of such kitchens or cellars in sufficient and good repair, or safely and securely guard, and constantly keep the same securely guarded by a rail, or cover the same over with a strong flap or trap-door according to the nature of the case, and so as to prevent danger to any persons passing and repassing; or if any such owner or occupier do or shall leave open, or not sufficiently and substantially cover, and keep covered and secured, any coal-hole, or other hole, funnel, trap-door, or cellar-flap belonging to, or connected with, his house, building, or premises (save and except only during such reasonable times as any coals, wood, casks, or other things shall be putting down, or taking up out of any such vault or basement story, or during such reasonable times as the flap, trap-door, or covering thereof shall be altering, repairing, or amending); or if such owner or occupier shall not repair, and from time to time keep in good and substantial repair, to the satisfaction of any Municipal Corporation or District Council, if situate within the limits thereof, or otherwise of any two Justices of the Peace or a Special Magistrate, all and every, or any such iron or wooden rails, guard-rails, flaps, trap-doors, and other covering, then, and in every such case, the persons neglecting so to do, for every such offence, on conviction before, or in view of any Justice of the Peace, shall forfeit and pay any sum not being less than Forty Shillings nor more than Five Pounds.

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

72. No person shall make any cellar, or any opening, door, or window in or beneath the surface of the footway of any street or public place, and if any person shall offend in the premises he shall, on conviction before any Justice of the Peace, 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.

Cellars or openings beneath the surface of footways prohibited.

73. Every person who shall have a well situated between his dwelling-house, or the appurtenances thereof, and any street or footway

Wells to be covered over within one month.

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way or at the side thereof, or in any yard or place, open and exposed to such street or footway, shall, within the space of one calendar month from and after the coming into operation of this Act, cause such well to be securely and permanently covered over or otherwise secured; and if any person having such well as aforesaid shall fail to cover or secure the same, as hereby required and directed, every such person shall, upon conviction, for every such offence, forfeit and pay the sum of Two Shillings and Sixpence for every day that such well shall remain open or uncovered contrary to the provisions of this Act.

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

74. If any person shall dig, or make, or cause to be dug or made, any hole, or leave, 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 about to be erected in, and adjoining to, any street or public place, formed, or to be formed, or forming for the purpose of making any vault, or the foundation to such house or other buildings, or for any other purpose whatsoever, and shall not forthwith enclose the same in a good and sufficient manner, or shall keep up, or cause to be kept up and continued, any such enclosure for any time which shall be longer than shall be absolutely necessary, or shall not, when thereunto required by any Justice of the Peace, or surveyor, or clerk of any Municipal Corporation or District Council, well and sufficiently fence or enclose any such hole, or area, or space, opened, or left open, and intended for an area, foundation, or for any other purpose whatsoever, in the front of, or behind, or on the side of any such vacant ground, house, or other tenement or building, in and adjoining to any such street or public place formed, or to be formed, or forming twenty-four hours after he or they shall be required to do so by any Justice of the Peace, or surveyor, or clerk as aforesaid, and in the manner, and with such materials, as he shall direct, and to his satisfaction, and shall not place a light upon the said enclosure, and keep the same constantly burning from sunset to sunrise, during the continuance of such enclosure; then, every person so offending shall 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.

**OFFENCES RELATING TO STOLEN PROPERTY.****Penalty on persons in whose possession property improperly taken or stolen is found, and not satisfactorily accounted for.**

75. Whenever any credible witness shall prove upon oath, before any Justice of the Peace, that there is reasonable cause to suspect that any of the articles of property hereinafter mentioned has been taken or stolen, and is to be found in any house or other place, it shall be lawful for such Justice to issue a warrant to search such house or place for such property, and any person in whose possession or on whose premises any of the said articles of property shall be found by virtue of any such search-warrant (or by any member of the police force when executing any warrant, or otherwise acting in the discharge of his duty), and who shall not satisfy the Justice before whom he shall be brought that he came lawfully by the same, or that the same was on his premises without his knowledge or assent



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assent, shall, on conviction of any of the next following offences, be liable to the punishment hereinafter specified—

First—Any person in whose possession or on whose premises any goods, merchandize, or other articles belonging to any ship or vessel in distress, or wrecked, stranded, or cast on shore, shall be so found, and who shall not satisfy the Justices that he came lawfully by the same, or that the same was on the premises without his knowledge or assent, shall be liable to a fine not exceeding Ten Pounds, or to be imprisoned, with or without hard labor, for any term not exceeding two months:

Second—Any person in whose possession or on whose premises the carcase, or the head, skin, hide, fleece, feet, or other part of any cattle, shall be so found, and who shall not account for the same in manner aforesaid, shall be liable to a fine not exceeding Ten Pounds, or to be imprisoned for a term not exceeding two months, with or without hard labor:

Third—Any person in whose possession or on whose premises the whole or any part of any tree, sapling, or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, rail, stile, or gate, or any part thereof (being of the value of One Shilling at the least), shall be so found, and who shall not account for the same in manner aforesaid, shall pay to the party aggrieved the value of the articles so found, and shall also be liable to a fine not exceeding Five Pounds, or to be imprisoned, with or without hard labor, for a term not exceeding one month:

Fourth—Any person who shall offer or expose for sale any goods, merchandize, or articles, which shall have been unlawfully taken, or reasonably suspected to have been unlawfully taken, from any ship or vessel in distress, or wrecked, stranded, or cast on shore, as aforesaid (whether found by virtue of a search warrant or not), and who shall not account for the same in manner aforesaid, shall pay such sum as the Justice aforesaid shall fix as a reasonable reward to the person who shall have seized the same, and shall also be liable to a fine not exceeding Ten Pounds, or to be imprisoned for a term not exceeding two months; and in every such case any person to whom the same shall be offered for sale, or any officer of the Customs, or member of the police, may lawfully seize the same, and shall with all convenient speed cause the same to be removed to some Justice of the Peace, and in every case it shall be lawful for the Justice by or before whom the case shall be heard, to direct that such articles of property shall be delivered over to the rightful owner if known, or, if not known, that the same shall be sold, and the proceeds thereof applied in like manner as any penalties under this Act:

Provided

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Provided that if any person shall not, under the provisions last aforesaid, be liable to conviction, it shall be lawful for the Justice, at his discretion, to compel the attendance before him of any person through whose hands any such articles or property, or any part thereof, shall appear to have passed, and if the person from whom the same shall have been first received, or any person who shall have had possession thereof, shall not satisfy such Justice that he came lawfully by the same, he shall be liable to the punishment hereinbefore specified in each case.

## CRUELTY TO ANIMALS.

Penalty on cruelty to animals.

76. Any person who shall commit any of the next following offences shall, on conviction thereof, be liable to the punishment hereinafter specified for the cases respectively, that is to say—

First—Any person who shall cruelly beat, ill-treat, overdrive, overload, abuse, or torture, or cause or procure to be cruelly beaten, ill-treated, over-driven, over-laden, abused, or tortured, or shall omit to supply with sufficient food or water any animal :

Second—Any person who shall keep or use, or act in the management of any place for the purpose of fighting or baiting any kind of animal, or shall permit or suffer any place to be so used :

Third—Any person who shall in any manner encourage, aid, or assist at the fighting or baiting of any animal :

Fourth—And any person who shall convey or carry, or cause to be conveyed or carried, any animal in such a manner or position as to cause unnecessary pain or suffering, shall, for every such offence be liable to a penalty not exceeding Five Pounds, or to imprisonment with or without hard labor for any period not exceeding two calendar months :

Fifth—Any person who shall, by cruelly beating, ill-treating, overdriving, overloading, abusing, inciting to fight, not supplying with sufficient food or water, or torturing any animal, do any damage or injury to such animal, or shall thereby cause any damage or injury to be done to any person or to any property, shall, in addition to such penalty or imprisonment as aforesaid, pay to the owner of such animal (if the offender shall not be the owner thereof), or to the person who shall sustain damage or injury as aforesaid, such sum of money, by way of compensation, not exceeding the sum of Twenty Pounds, as shall be ascertained and determined by the Justice of the Peace by or before whom such person shall have been convicted.

## DESTRUCTION OF PROPERTY.

Penalty on persons destroying property with intent to steal,

77. Any person who shall commit any of the next following offences as to any articles of property in this section mentioned (or who

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who shall receive any of the same, knowing them to have been stolen or unlawfully come by), shall for the first offence be liable to the punishment, and for any second or subsequent offence, to double the amount of punishment hereinafter specified in each case—

or retaining or disposing of property obtained as workmen.

First—Any person who shall steal, or damage with intent to steal, any part of any live or dead fence, or any post, pale, or rail, set up or used as a fence, or any stile or gate, or any part thereof respectively, shall pay to the party aggrieved the value of the property stolen, or the amount of the injury done, and shall also be liable to a fine not exceeding Five Pounds, or to be imprisoned with or without hard labor for a term not exceeding one calendar month:

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

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

Persons offering such property for sale may be arrested.

## ADULTERATED AND UNWHOLESOME FOOD.

78. Any person who shall commit any of the next following offences

Penalty on persons selling adulterated or

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unwholesome articles  
of food.

offences shall, on conviction, be liable to the punishments hereinafter specified in each case—

First—Any person who shall sell, or offer for sale as food for human consumption, any grain, flour, or vegetable, which in the whole or in part be spoiled, or in any manner adulterated, shall forfeit such grain, flour, or vegetable, to be disposed of as the Justice shall direct, and shall also be liable to a fine not exceeding Ten Pounds, or to be imprisoned for any term not exceeding two calendar months:

Second—Any person who shall exhibit for sale any unwholesome or fraudulently-prepared provisions or food of any kind for man or beast, or shall practise any deceit or fraud in respect to the quality of any such provisions or food, shall forfeit all such provisions, to be disposed of as the Justice shall direct, and shall be liable to a fine not exceeding Ten Pounds or to be imprisoned, with or without hard labor, for any term not exceeding two calendar months; and it shall be lawful for any Justice to seize, or cause to be seized, any of the articles hereinbefore last-mentioned as to which any such offence shall have been committed.

## PLACES OF PUBLIC RESORT.

Regulation of houses  
of public resort.

79. Every person who shall have or keep any house, shop, room, or place of public resort, 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 and knowingly permit drunkenness or other disorderly conduct in such house, shop, room, or place, or knowingly suffer any unlawful games or any gaming whatsoever therein, or knowingly permit or suffer 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, this enactment shall not be construed to exempt him from the penalties or penal consequences to which he may be liable for committing an offence against the tenor of the licence to him granted.

Prostitutes and re-  
puted thieves may be  
removed from places  
of public resort.

80. Any constable may enter into any house or room kept or used in the said Province for any theatrical or public entertainments, concerts, musical or other exhibition, or for any show of any kind whatsoever, whether admission thereto is obtained by payment of money or not, at any time when the same shall be open for the reception of persons resorting thereto, remove from such house, or room any common prostitute or reputed thief, or other loose, idle, or disorderly person who shall be found therein, and shall and may order any such common prostitute or reputed thief to leave the said house or room, and in case such person shall refuse to leave the said room or house, any such constable so ordering him may take such person into custody, and every such person remaining in such house

or

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or room after they shall have been so ordered to leave shall be liable to a penalty of not more than Twenty Shillings.

81. Any Justice of the Peace, upon information on oath that any person hereinbefore described to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, is, or is suspected to be, in any house, tent, or place, kept or purporting to be kept for the reception, lodging, or entertainment of travellers or others, or that any tent, house, or place is a disorderly house, house of ill-fame, or bawdy house, may enter the same at any time by day or night, or issue his warrant authorizing any constable or other person in like manner to enter the same, and to apprehend and bring before him, or any other Justice of the Peace, every such idle and disorderly person, rogue and vagabond, or incorrigible rogue, as shall be found therein, to be dealt with in the manner herein directed.

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

## GAMES AND WAGERS.

82. All constables and officers of police may enter into any house, room, premises, or place where any public table or board is kept for playing billiards, bagatelle, bowls, fives, racket, quoits, skittles, or ninepins, or any game of the like kind, when and so often as such constable and officer shall think proper.

Empowering constables to visit houses.

83. Every person who shall by any fraud or unlawful device, or ill practice in playing at or with cards, dice, tables, or other game, or in bearing a part in the stakes, wagers, or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime, or exercise, win from any other to himself, or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to defraud or cheat such person of the same, and being convicted thereof shall be punished accordingly.

Cheating at play.

## SEIZURES OF OFFENDERS' PROPERTY IN CERTAIN CASES.

84. Any constable, peace officer, or other person apprehending any person charged with being an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, may seize any horse or other cattle, or any goods or vehicle in the possession or use of such person, before a Justice of the Peace, and every Justice of the Peace by whom any persons shall be adjudged to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, shall order that such offender be searched, and that his trunks, boxes, bundles, parcels, or packages, and any cart or other vehicle which may have been found in his possession or use, shall be inspected and searched in the presence of the said Justice; and the said Justice shall order that any money which may then be found with or upon such offender shall be paid and applied for and towards the expense of apprehending and conveying to gaol, and maintaining such offender during the time for which he shall

Seizure of property  
and searching.

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shall have been committed, and towards the expense of the keep of any horse or other cattle so seized, during the time such horse or cattle shall be detained; and if upon such search, money sufficient for the purposes aforesaid, be not found, such Justice may order that such horse, cattle, and so much as is necessary of such other effects then found shall be sold, and that the produce of such sale shall be paid and applied as aforesaid, and also that the overplus of such money or effects, after deducting the charges for such sale, shall be returned to the said offender.

## RESTORATION OF GOODS.

Power to deliver things from brokers.

85. 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 a Justice of the Peace, 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, it shall be lawful for such Justice of the Peace 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 time as the Justice of the Peace 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 of the Peace: Provided always, that no such order shall bar any such 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 such order, so that such action be commenced within six calendar months next after such order shall be made.

Power to deliver other goods.

86. If any goods or money charged to be stolen, or fraudulently obtained, shall be in the custody of any constable by virtue of any warrant of a Justice, or in prosecution of any charge of felony or misdemeanor, in regard to the obtaining thereof, and the person charged with stealing or obtaining possession as aforesaid, shall not be found, or shall have been summarily convicted or discharged, or shall have been tried and acquitted, or if such person shall have been tried and found guilty, but the property so in custody shall not have been included in any indictment upon which he shall have been found guilty, it shall be lawful for any Justice of the Peace 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 of the Peace shall seem meet: Provided always, that no such order shall be any bar to the right of any person to sue the party to whom such goods or money shall be delivered, and to recover such goods or money from him, by  
action-

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action-at-law, so that such action shall be commenced within six calendar months next after such order shall be made.

## POWERS OF JUSTICES OF THE PEACE.

87. Any Justice of the Peace before whom any person may be charged for any offence under this Act may, without issuing any summons, forthwith issue his warrant for the apprehension of any person charged with any offence cognizable before him, whenever good grounds for so doing shall be stated on oath before him; and such Justice shall be empowered summarily to convict any such person, on the oath of one or more witnesses, or on his own confession, and award the penalty or punishment herein provided for such offence; and the matter of such complaint shall be heard and determined by the Justice of the Peace appointed to be the Police Magistrate in the City of Adelaide, or some Justice acting for the Police Magistrate, or the Special Magistrate in all other parts of the said Province wherein a Local Court may have been established; and if the said offence shall have been committed, or the offender apprehended in any part of the said Province where no Police or Special Magistrate shall be appointed, or where no Local Court shall be established, the matter of such complaint may be heard and determined by any two or more Justices of the Peace acting in and for, or residing in the neighborhood in which the offence was committed or the offender apprehended.

Offences, how to be tried.

88. In every case of the adjudication of a pecuniary penalty or amends under this Act, and non-payment thereof, it shall be lawful for the Justice or Justices of the Peace to commit the offender to any gaol in the said Province for a term not more than three calendar months, where the sum to be paid shall not exceed Five Pounds, the imprisonment to cease on the payment of the sum due, and the cost for the recovery thereof and so much of every pecuniary penalty as shall not be awarded to the informer or other persons who have contributed to the conviction, shall be applied to such uses as shall be directed by any Act in force in the said Province for the appropriation of such penalties, and in case the appropriation thereof shall not be provided for by any Act, then to the Treasurer for the public uses of the said Province.

On non-payment of penalty Justice may commit.

89. Every misdemeanor or other offence against this Act for which no special penalty is hereinbefore appointed, shall render the offender liable to a penalty of not more than Five Pounds, or to be imprisoned for any time not exceeding one calendar month in any gaol of the said Province.

Penalty for offences where no special penalty is appointed.

90. Nothing shall prevent any person from being indicted for any indictable offence made punishable on summary conviction, or prevent any person from being liable to any higher or other penalty or punishment than is provided for such offence by this Act, but no person shall be punished twice for the same offence.

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

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Certain offenders may be committed to Local Court.

91. Where any person is charged before any Justice of the Peace with any offence cognizable by a Local Court, and in the opinion of such Justice the case is proper to be disposed of by a Local Court, the Justice before whom such person is so charged may commit such person for trial accordingly.

Power to award costs.

92. It shall be lawful for any Magistrate, who shall hear and determine any charge or complaint, whether a warrant or summons shall have been issued in consequence of such charge or complaint or not, to award such costs as to him shall seem meet, to be paid to or by either of the parties to the charge or complaint.

Amends for frivolous informations.

93. In every case in which any information or complaint of any offence shall be laid or made before any of the said Magistrates, and shall not be further prosecuted, or in which, if further prosecuted, it shall appear to the Magistrate by whom the case shall be heard that there was no sufficient ground for making the charge, the Magistrate shall have power to award such amends, not more than the sum of Five Pounds, to be paid by the informer to the party informed or complained against, for his loss of time and expenses in the matter, as to the Magistrate shall seem fit.

Penalty for compounding informations.

94. In case any person shall lodge any information before any of the said Magistrates, for any offence alleged to have been committed, by which he was personally aggrieved, and shall afterwards directly or indirectly receive, without the permission of one of the said Magistrates, any sum of money or other reward for compounding, delaying, or withdrawing the information, it shall be lawful for any one of the said Magistrates to issue his warrant or summons as he may deem best, for bringing before him the party charged with the offence of such compounding, delay, or withdrawal; and if such offence be proved by the confession of the party or by the oath of any credible witness, such informer shall be liable to a penalty of not more than Ten Pounds.

Divisions of fines, &c., among the Police Force.

95. Where any person employed in the said Police Force shall be entitled to the whole or a proportion of any forfeiture, penalty, or seizure, under this or any other Act in force within the said Province, the amount or proceeds thereof shall go to a general fund to be distributed at the end of every year among the officers and men belonging to the said Police Force, in such proportions and according to such regulations as the Governor shall appoint, direct, and determine, and in default of appointing regulations, or directions being made, the said fine shall go to the person entitled to the same immediately upon the recovery thereof; and no such person shall by reason of the application of any penalty to the Police Funds be deemed to be an incompetent witness before any Court or Justice of the Peace in any proceeding whatever for any offence against this or any other law in force in the said Province.

Proceedings for penalties, appeals, &c.

96. All proceedings under this Act, in so far as not otherwise expressly



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expressly provided, may be had and taken, and all summonses to parties and witnesses and warrants (where necessary) for enforcing the same may be issued and served, or executed respectively, and all fines imposed, and all sums of money ordered to be paid, may be recovered before any one Justice, and shall be appropriated and applied; and every person feeling aggrieved by the imposition of any such fine, or by any order or adjudication under this Act, shall be entitled to appeal therefrom in manner and form, and on the terms respectively, which are prescribed by the Law of the Province in force for the time being, for regulating summary proceedings before Justices of the Peace.

97. No conviction, order, warrant, or other matter made, or purporting to be made, by virtue of this Act shall be quashed for want of form, or removed by *certiorari* or otherwise into the Supreme Court; and no warrant of commitment shall be held void by reason of any defect therein, provided that it be therein alleged that the party has been convicted, and that there be a good or valid conviction to sustain the same; and where any distress shall be made for levying any money by virtue of this Act the distress itself shall not be deemed 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.

No *certiorari* as to informality of warrant.

98. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act 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 ten days at least before the commencement of the action; and in any such action, the defendant may plead the general issue, and give this Act, and the special matter in evidence, at 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; or if a sufficient sum of money shall have been paid into Court after such action brought, by, or on behalf of defendant, together with the costs incurred up to that time; and if a verdict shall pass for the defendant, or the plaintiff become nonsuited, or discontinue any 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 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.

As to proceedings against persons acting under this Act.

Notice of action.

General issue.

Tender of amends.

If judgment be against plaintiff.

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## LOCAL PROVISIONS MADE OPERATIVE BY PROCLAMATION.

Local provisions made operative by Proclamation.

99. The foregoing clauses, numbered from fifty-nine to seventy-four inclusively, and described as Local Provisions, shall not come into operation or have the force of law in any part of the said Province until it shall have been declared by Proclamation in what parts of the said Province such clauses shall come into operation; and whenever it may be deemed advisable, the Governor, with the advice of the Executive Council, may from time to time, by Proclamation published in the *Government Gazette*, define the limits of such places in the said Province within which any of the said clauses shall come into operation and have the force of law, and may specify such clauses, naming them by their numbers, as it may be intended shall have the force of law within such limits, and may further cancel and alter any such Proclamation from time to time as may be necessary; and after every such Proclamation the clauses specified in such Proclamation shall come into operation and have the force of law within the limits defined in the Proclamation as fully and effectually as if the same were herein set forth.

Short title.

100. This Act may be cited as the "Police Act of 1863."

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

D. DALY, Governor.

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## SCHEDULE A.

*Table of Acts repealed.*

No. and year of Act.	Title of Act.
No. 19, 1844.....	An Ordinance for regulating the Police of South Australia.
No. 3, 1852. ....	An Act to provide for the separate appointment of a Commissioner of Police, and for the more effectual government of the Police Force.

## SCHEDULE B.

*Form of table showing contribution due by each Police District.*

Name of boundaries of district.	Number of police stationed therein.	Length of time police stationed therein.	Cost of maintenance of foot police in such district.	Amount of contribution chargeable on such district.