ANNO TRICESIMO TERTIO

VICTORIÆ REGINÆ

A.D. 1869-70.

No. 15.

An Act to consolidate and amend the Law relating to the Police in South Australia.

[Assented to, 9th February, 1870.]

WHEREAS it is expedient to consolidate and amend the law relating to the Police Force of South Australia—Be it therefore Enacted by the Governor 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:

1. The "Police Act of 1863" is hereby repealed, save as to all appointments made, penalties incurred, and all proceedings, matters, or things had, done, entered into, or pending under the said Act, and save so far as the said Act may repeal any Ordinance or Act or part of any Ordinance or Act.

2. This Act shall be divided into eight parts, as follows:

PART I.—As to the Appointment of Officers and Constables of the Police Force:

PART II.—As to the Regulations, Duties, and Discipline of the Police Force:

PART III.—As to the Appointment and Regulation of Special Constables:

PART IV.—As to the Establishment and Maintenance of Police Districts:

PART V.—As to the Powers of the Police Force and the Apprehension of Offenders: Sec. 42—57

The Police Act, 1863, repealed.

Saving.

DIVISION OF ACT.
PART VI.—General Provisions as to Offences and Penalties to be in force throughout the Province:

PART VII.—Provisions as to Offences and Penalties to be in force in Police Districts and Proclaimed Localities:

PART VIII.—Miscellaneous Provisions.

PART I.—As to the Appointment of Officers and Constables of the Police Force:

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

4. 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 shall require, may remove any Commissioner of Police and appoint another in his stead; and every Commissioner of Police shall be charged and invested with the general control and management of the Police Force of the said Province, and also of any special constables who may be appointed as hereinafter provided.

5. 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 Governor for such appointments, and such Inspectors, Sub-Inspectors, and other commissioned officers shall be subject to the control of the Commissioner of Police, and shall be respectively charged with the government and superintendence of such portion of the Police Force as such Commissioner may from time to time direct.

6. The Commissioner of Police or such other person as the Governor, with the advice of the Executive Council, may nominate for that purpose, may appoint so many 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 sergeants and constables shall have all such powers and privileges, and be liable to all such duties and responsibilities as any constable duly appointed now or hereafter may have, or be liable to, either by the common law, or by virtue of any statute law now or hereafter to be in force in the said Province.

7. 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 of Police, and upon any vacancy in any of the said offices by death, removal, disability, or otherwise,
otherwise, may appoint some other fit person to fill the same, and the Commissioner of Police may, from time to time, as he shall think fit, but subject always to the approval of the Chief Secretary, remove any constable not holding a commission, or in case of any vacancy in the Police Force by reason of the death, removal, or disability of any constable, or otherwise, the Commissioner of Police may appoint another constable to fill such vacancy.

PART II.—As to the Regulations, Duties, and Discipline of the Police Force:

8. 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 places of residence, their classification, distribution, particular service, and inspection, as to the description of the arms, accoutrements, and other necessaries to be furnished to them, as to which of them shall be supplied with horses, and all such other rules, regulations, and orders relative to the said Police Force as may be necessary for rendering the same efficient for the discharge of the several duties thereof, and for the purpose of preventing neglect or abuse; 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, however, to the approval of the Chief Secretary.

9. No person appointed to be Commissioner of Police, Inspector, Sub-Inspector, or other officer, nor any sergeant or constable, shall be capable of holding any such 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:—

“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 favour 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, or against the “Police Act, 1869;” 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 a Justice of the Peace, and shall, in all cases, be subscribed by such Justice.

10. 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 Majesty 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.
PART II.

Members of the Force not to resign without leave or notice.

11. No member of the Police Force shall be at liberty to resign his office, or to withdraw himself from the duties thereof, notwithstanding the period of his engagement shall have expired, unless expressly authorized in writing to do so by the Commissioner of Police, or unless he shall have given to such Commissioner one month's notice of his intention so to resign or withdraw, and every member who shall so resign or withdraw himself without such leave or notice shall, upon conviction thereof, be liable to forfeit all arrears of pay then due to him, and to a penalty of not more than Five Pounds, or may be committed to prison for a period not exceeding fourteen days.

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

12. Every member of the Police Force having been dismissed from, or having ceased to hold his office, shall forthwith deliver to the Commissioner of Police, or to such person, and at such time and place as the Commissioner of Police may direct, all and every the clothing, arms, ammunition, and accoutrements, horses, saddles, bridles, appointments, and other property which have been supplied to him for the execution of his duty, or which may be in his custody by virtue of his office, 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 and every the clothing, arms, ammunition, and accoutrements, horses, saddles, bridles, appointments, and property not so delivered, wherever the same may be found.

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

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

14. Any member of the Police Force who shall take any bribe, pecuniary or otherwise, either directly or indirectly, to forego his duty as such member, 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, forfeit and pay a penalty not exceeding Ten Pounds, or may be imprisoned or kept to hard labor for any period not exceeding three calendar months.

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

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

17. The holder of any licence to sell or dispose of fermented or spirituous liquors, or any person whosoever, 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, except such time as a constable is travelling, and knowing him in every such case to be a member of the Police Force; and any person who shall knowingly harbor or entertain any constable, or permit such constable to abide or remain in his house, shop, room, or other place during any part of the time appointed for such constable to be on duty elsewhere, on conviction thereof shall, for every such offence, forfeit and pay a sum not exceeding Five Pounds.

18. Every member of the Police Force who shall be guilty of any neglect or violation of duty in his office as such member 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.
PART II.

Assault on policemen.

19. If any person shall assault or resist any member of the 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; and also such further sum of money as shall appear to the convicting Justice or Justices to be a reasonable compensation for any damage or injury caused by such offender to the uniform, clothing, accoutrements, or horse of such member of the force, or for any medical or other expenses incurred in consequence of personal injury sustained by him in such assault or resistance as aforesaid, or such offender may be committed for trial before any competent Court; and in case any person shall disturb or hinder any member of the Police Force in the execution of his duty, 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, or may be liable to imprisonment for any time not exceeding two calendar months.

Obstructions to constables.

20. Every sergeant and constable of the Police Force shall execute all process to him directed for levying the amount of any recognizance forfeited to Her Majesty, or of any fine imposed on any jurors, witnesses, parties, or persons at any Court of Judicature, or of any other fine imposed under any other Act in force in the said Province, and any process, or any order, warrant, or command of any Justice or Justices of the Peace directed, delivered, or given to any such sergeant or constable, shall or may be executed and enforced by any other sergeant or constable, or his assistants, and every such last-mentioned sergeant, constable, and his assistants, shall have all and every the same rights, powers, and authorities for and in the execution of such process, order, warrant, or command as if the same had originally been directed to him or them expressly by name.

PART III.—As to the Appointment and Regulation of Special Constables:

21. 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 credible witness, that any tumult, riot, or felony hath taken place, or may be reasonably apprehended in any city, town, or district in the said Province, and such Special 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 such city, 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
hension 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 may think fit of the householders or other persons (not legally exempt from serving the office of constable), residing in such city, 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 city, 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, 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 Her Majesty Queen Victoria in the office of special constable for the city, town, or district of without favor or affection, malice, or ill-will, and that I will to the best of my power cause the peace to be kept and preserved, and prevent all offences against the persons and properties of Her Majesty's subjects, and that while I continue to hold the said office I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law—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.

22. The Commissioner of Police shall have power to make such orders or regulations as may from time to time be necessary and expedient for rendering such special constables 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, such orders or regulations to be approved by the Chief Secretary.

23. All persons willing to act as special constables under the provisions of this Act, shall be capable of being appointed and acting, and may be appointed and act as such special constables, notwithstanding they may not be resident in such city, 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 under the other provisions of this Act.

24. If any person residing within such city, town, or district, being
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 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, 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 cause.

25. The Commissioner of Police may suspend or determine the services of all or any of the said special constables called out by the said Special Magistrate or Justices, as to the Commissioner of Police 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.

26. Every special constable shall forthwith after the expiration of his office, and after he has ceased 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 Commissioner of Police, 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 to do so, he shall, on conviction thereof, forfeit and pay for such offence a sum of money, not exceeding Ten Pounds.

27. 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, forfeit and pay for such offence any sum not exceeding Ten Pounds, or shall be liable to such other punishment, upon conviction on any information for such offence, as any persons are liable to, for assaulting any constable in the execution of his office.

28. The Chief Secretary may, upon the recommendation of the Commissioner of Police, order, from time to time, such reasonable allowances for their trouble, loss of time, and expenses, to be paid to such special constables who shall have served or be then serving as he may deem proper; and he may further order the payment of such expenses as may have been incurred in providing arms, staves, weapons, or other necessary articles for such special constables.
PART IV.—As to the Establishment and Maintenance of Police Districts:

29. The city, towns, and places in the said Province, which have already been established or proclaimed as Police Districts, by or under the provisions of the "Police Act of 1863," shall continue to be Police Districts within the meaning and for the purposes of this Act; 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, either separately or conjointly, as the Proclamation may declare, shall constitute the limits of such Police District; and in every Proclamation establishing 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.

30. In every Police District wherein any foot police may be stationed during a longer period than three months in the year, one-half of 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 places, under Municipal Corporations and District Councils respectively, shall be included in any such Police District, such Corporations or Councils shall contribute to the half cost payable by such Police District, in proportion to the value of the rateable property in the places under such Corporations or Councils respectively: 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 Police Force.

31. 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 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.

32. Whenever any grant of money may be payable under any Act of the Parliament of the said Province, after the publication of such

Places already established or proclaimed Police Districts by or under the Police Act of 1863 to continue Police Districts under this Act. 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. All such Proclamations must give the number and rank of the police to be stationed in the district.

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

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.

Contribution to be deducted from amount of any Parliamentary
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 of the said Province to be devoted to the payment of such amount.

33. In case the amount so payable to any such Corporation or Council be insufficient to cover the amount of costs 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.

34. Whenever it shall be incumbent upon any Municipal Corporation or District Council to provide, by reason of its being included in a Police District, 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 shall, when necessary, 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 rate 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.

35. 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 of the said Province, 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 purpose 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.

36. The owners, inhabitants, and occupiers of all messuages, lands, hereditaments and tenements within any part of the said Province, beyond the limits of a Municipal Corporation or District Council which now is or hereafter may be established as a Police District, shall be liable to contribute to the expenses of the foot police
police as fully, and in the same manner as if such Police District were comprised in the limits of a Municipal Corporation or District Council, and shall be in like manner rateable in respect thereof; and the Governor may direct any 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, and rating the same for a police rate: Provided always that such 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 of 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.

37. 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 each Magistrate or Justice, 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: Provided that if at any time it shall appear to the said Special Magistrate or Justice of the Peace that any property which ought to be included in any assessment book shall have been omitted therefrom, or that the name of any person has been inserted therein as the inhabitant or occupier of any property, in respect of which some other person ought to have been assessed, or that any other matter, purely of error, shall need rectification in such book, the said Special Magistrate or Justice of the Peace may cause a description of the property so omitted, and the name of the inhabitant or occupier to be inserted therein, together with the annual value at which such property shall be assessed, and may also substitute for the name of the person erroneously inserted therein as the inhabitant or occupier of any property assessed, the name
38. 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.

39. 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 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 Local Court within, or nearest to, such police district: Provided that the person so intending to appeal shall, within thirty days after the publication of such notice of assessment, and within ten clear days, at least, before the sitting of such Court, give to the said Magistrate or Justice of the Peace employed in levying such police rate notice in writing of such appeal, and of the cause and matter thereof, and such appeal shall be heard at the Local Court held next after ten clear days from the giving of such notice of appeal; 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 as aforesaid, 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;
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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: Provided that no Special Magistrate or Justice of the Peace who shall have been employed in levying any police rate appealed from as aforesaid shall adjudicate in the matter of such appeal.

40. 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 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.

41. Any Special Magistrate or Justice of the Peace appointed by the Governor for the purpose of levying a police rate may do, or cause to be done, all such acts necessary, and shall have such powers 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 receipt by such Special Magistrate or Justice of the Peace of any moneys in respect of such rate, he 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 under the provisions of this Act.

Part v.—As to the powers of the Police Force and the Apprehension of Offenders.

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

44. Any member of the Police Force 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 any such member shall think proper; and may enter into any house, room, or place, kept or used in the said Province for any theatrical or public entertainments, concerts, musical or other exhibitions, or for any show of any kind whatsoever, whether admission thereto is obtained by payment of money or not, at any time
time when the same shall be open for the reception of persons resorting thereto, and may remove from such house, room, or place any common prostitute or reputed thief, or other loose, idle, or disorderly person who shall be found therein, and shall and may order any such common prostitute, reputed thief, or disorderly person to leave the said house, room, or place, and in case such person shall refuse to leave the same, any such constable so ordering him may take such person into custody, and every such person remaining in such house, room, or place after having been so ordered to leave, shall be liable to a penalty of not more than Twenty Shillings.

45. Any member of the Police Force, without any warrant other than this Act, at any hour of the day or night, may apprehend any person whom he shall find drunk, or fighting, or using profane, indecent, or obscene language, or 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 might be occasioned in any road, street, or public place, or thoroughfare; and also any person who shall ride or drive through any road, street, or public place, or thoroughfare so negligently, carelessly, or furiously that the safety of any other person might thereby be endangered; and also any person who shall cruelly beat, ill-treat, overdrive, overload, abuse, or torture any animal, or cause the same to be done; and also any person who shall convey or carry any animal in any road, street, or public place, or thoroughfare in such a manner or position as to cause unnecessary pain or suffering; and to apprehend all loose, drunken, or riotous persons whom he shall find disturbing the public peace, and all persons 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 lying or loitering in any street, highway, yard, or other place, and not giving a satisfactory account of themselves, and all idle and disorderly persons, rogues and vagabonds, and incorrigible rogues; 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 until he shall have given bail for his appearance before a Justice of the Peace, if the constable shall deem it prudent to take bail in the manner herein-after mentioned.

46. Any constable, when so ordered by any officer of police, or whenever called upon by the master or chief officer of any ship or vessel (not being then actually employed in Her Majesty's service, and not being a vessel of war, the commanding officer whereof shall hold a commission from any foreign Government or Power), lying in any harbor, or port, river, or creek, or any dock thereto adjacent, may enter into and upon such ship or vessel, and without any warrant other than this Act, to apprehend any person whom he may find drunk and riotously, or in-

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

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**Part v.**

prostitutes and reputed thieves.
Part V.

decently behaving himself, or whom he may find fighting or using threatening, abusive, or insulting words or behaviour and disturbing the peace and good order of such ship or vessel, or with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned; and any constable, whenever called upon by the holder of any licence for the sale of fermented or spirituous liquors, may enter into the house licensed for the sale of fermented or spirituous liquors occupied by the holder of such licence so calling upon him, and without any warrant other than this Act to apprehend any person whom he may find drunk and riotously or indecently behaving himself, or whom he may find fighting, or using threatening, abusive, or insulting words or behavior, and disturbing the peace and good order of such licensed house, or with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned; and any person so apprehended shall be delivered 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 until he shall have given bail for his appearance before a Justice of the Peace, if the constable shall deem it prudent to take bail in manner hereinafter mentioned.

47. Any member of the Police Force may, without a warrant, take into custody any person whom he may have reasonable or probable cause for believing or suspecting to be a person for whose apprehension a warrant shall have been issued by any Justice or Justices of the Peace; and any member of the Police Force may take into custody, without a warrant, any person who shall be charged by any other person with committing any felonious assault, in every case in which such member shall have good reason to believe that such assault has been committed, although not within view of such member, and that by reason of the recent commission of the offence a warrant could not have been obtained for the apprehension of the offender.

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

49. Any member of the Police Force, or any person whosoever, with or without a warrant may apprehend any reputed common prostitute, thief, loose, idle, or disorderly person, and all reputed rogues and vagabonds, or incorrigible rogues who, within view of such member of the Force or person apprehending, shall offend against this Act, and shall forthwith take and convey such offender 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 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.

50. Where any person who may be apprehended as aforesaid, or who may be 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 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, conditioned that such person shall appear for examination before a Justice of the Peace, at some place to be specified in the recognizance, at the hour of ten in the forenoon next after such recognizance shall be taken, unless that hour shall fall on a Sunday, or Christmas Day, or Good Friday, or any public holiday, and in that case at the like hour on the succeeding day; and every recognizance so taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating 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 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.

51. Any person found committing any offence punishable as a misdemeanor upon summary conviction, may be taken into custody without a warrant by any member of the Police Force, or may be apprehended by the owner of the property on or with respect to which the offence shall be committed, or by his servant, or any person 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 cart, carriage, or vehicle, in or upon which there shall be reason to suspect that anything stolen or unlawfully
Every person taken into custody by constable, without warrant, for offending against this Act, or for petty misdemeanor, to be taken to nearest police station.

PART VI.

Penalty on drunkards.

52. Every person who shall be found drunk in any road, street, or public place or thoroughfare, shall for the first offence, be liable on conviction, to a penalty not exceeding One Pound, or to imprisonment with or without hard labor, for any term not exceeding three days, and for any second or subsequent offence, to a penalty not exceeding Five Pounds, or to imprisonment with or without hard labor, for any period not exceeding fourteen days.

53. Every person who shall be guilty of any riotous or indecent behaviour, or of fighting, or of using obscene language in any road, street, or public place or thoroughfare, or of disturbing the public peace, and also every person who shall be guilty of any riotous or indecent behaviour in any police station, shall be liable to a penalty of not more than Forty Shillings for every such offence, or to imprisonment, with or without hard labor, for any term not exceeding fourteen days.

54. Every person who shall, on board of any vessel (not then actually engaged in Her Majesty’s Service) and not being a vessel of war, the commanding officer whereof shall hold a commission from any foreign Government or Power, lying or being in any harbor or port, river or creek, or in any dock adjacent thereto, be guilty of riotous or indecent behaviour while drunk, or of fighting or using threatening, abusive, or insulting words or behaviour, and disturbing the peace and good order of such vessel, or with intent to commit a breach of the peace, or whereby a breach of the peace might have been occasioned; and every person who shall, in any house licensed for the sale of fermented or spirituous liquors, be guilty of riotous or indecent behaviour while drunk, or of fighting or using threatening
threatening, abusive words, or insulting behaviour, and disturbing
the peace of any such licensed house, or with intent to commit a
breach of the peace, or whereby a breach of the peace might
have been occasioned, shall be liable to a penalty of not more than
Forty Shillings or to imprisonment for not more than seven days.

55. Every person who shall unlawfully assault or beat any other
person shall, upon conviction, be liable to a penalty of not more
than Five Pounds; but if the Justice, upon the hearing of any
such case of assault or battery, shall deem the offence not to have
been proved, or shall find the assault or battery to have been
justified, or so trifling as not to merit any punishment, he shall
accordingly dismiss such complaint, and forthwith make out a cer-
tificate under his hands, stating the fact and the grounds of such
dismissal, and deliver such certificate to the party against whom
the complaint was preferred; if any person against whom such
complaint shall have been preferred for any common assault or
battery shall have obtained such certificate as aforesaid, or having
been convicted shall have paid the whole amount adjudged to be
paid under such conviction, or shall have suffered the imprisonment
awarded for non-payment thereof, in every such case he shall be
released from all further or other proceedings, civil or criminal, for
the same cause: Provided that if the Justice shall consider the
assault or battery complained of a fit subject for indictment, he may
deal with the case in all respects as if this provision had not been
made: Provided also, that nothing herein contained shall authorize
any Justice or Justices to hear and determine any case of assault
and battery in which any question shall arise as to the title of any
lands, tenements, or hereditaments, or any interest therein, or
accruing therefrom, or as to any bankruptcy, or insolvency, or any
execution under the process of any Court of Justice.

56. Any person who shall ride or drive through any road, street,
or public place, or thoroughfare, so negligently, carelessly, or
furiously, that the safety of any other person might thereby be
endangered, shall be liable to a penalty of not more than Forty
Shillings.

57. Any individual who shall offend against decency, by the ex-
posure of his person in any street or public place, or in the view
thereof, shall, on conviction, 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.

58. Any person who shall be convicted of wantonly or maliciously
breaking or injuring any pane of glass, lamp or lamp-post, or ex-
tinguishing any lamp set up for public convenience, shall, over and
above the necessary expense for 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 exceeding Five Pounds.

59. Any
59. Any person who shall sing any obscene song or ballad, or
write or draw any indecent or obscene word, figure, or representation,
or use any profane, indecent, or obscene language, or any common prostitute who shall solicit, importune, or accost any person
or persons for the purpose of prostitution, or loiter about for the
purpose of prostitution in any 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 in-
sulting 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, or may be
committed to gaol for any period not exceeding one calendar month.

60. Any person who shall steal any dog, or shall steal any bird
or other animal ordinarily kept in a state of confinement, and not
being the subject of larceny, shall, on conviction, for every such
offence, forfeit and pay, over and above the value of the dog, animal,
or bird, such sum of money not exceeding Twenty Pounds, as to the
Justice shall seem meet.

61. 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, or may be imprisoned, with or without hard labor,
for any term not exceeding three calendar months; and the convict-
ing Justice or Justices may, if he or they shall think fit, also require
the offender to find sureties for keeping the peace.

62. 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 sup-
pport 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 wan-
dering in company with any of the aboriginal natives of the
said Province, or of the adjoining Colonies, 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 from house to house,
or placing himself in any public place, street, highway, court,
or passage to beg or gather alms, or causing, or procuring, or encouraging any child to do so:

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—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.

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

Eighth—Every common prostitute wandering in the public streets or highways, or being in any thoroughfare or place of public resort, and behaving in a riotous or indecent manner:

Shall be liable to imprisonment for any time not exceeding two calendar months with or without hard labor; and every such gun, pistol, sword, bludgeon, and other offensive weapon and instrument shall, on conviction of the offender, become forfeited to Her Majesty:

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

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, or wandering abroad and endeavoring by the exposure of wounds or deformities to obtain or gather alms:

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—Every person pretending to tell fortunes, or using any subtle craft, means, or device by palmistry, or otherwise, to deceive and impose upon any of Her Majesty's subjects:

Fifth—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:

Sixth—Any person wilfully exposing to view in any street, road, thoroughfare
PART VI.

thoroughfare, highway, or public place, or 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, or who shall offer for sale or attempt to dispose of any obscene book, print, picture, drawing or representation:

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

Eighth.—Any person playing or betting at thimble-rig, or any unlawful game:

Ninth.—Any person playing or betting at thimble-rig, or at or with any table or instrument of gaming, at any game or pretended game of chance in any street, road, highway, or other public place, or in any railway carriage, or at, on, or near any race-course, fair, exhibition, or show buildings, or grounds:

Tenth.—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:

Eleventh.—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:

Twelfth.—Any person being found in or upon any dwelling, lands, warehouse, coach-house, stable, or outhouse, or in any enclosed yard, garden, or area for any unlawful purpose:

Thirteenth.—Every person wandering about and lodging in any outhouse, deserted or unoccupied building, or in the open air, or in any cart or waggon, not having any visible means of subsistence, and not giving a good account of himself:

Fourteenth.—Every person leaving his wife or child chargeable, or whereby any of them shall become chargeable to the public, or without the means of support other than public charity:

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 of house-breaking, and every such table or instrument of gaming shall, on conviction of the offender, become forfeited to Her Majesty.

64. Any person who shall commit any of the next following offences shall be deemed an incorrigible rogue, and shall, on conviction
viction before two or more Justices, or a Special Magistrate, or a Local Court, 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 or ordered to be confined by virtue of this Act:

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 from 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.

65. 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: Provided that in case the true owner of the goods so suspected to have been stolen or unlawfully obtained shall not be discovered within one month from the conviction of the offender, such goods may be sold by public auction and the proceeds of such sale, if not claimed by the lawful owner within twelve months, shall be paid to the Treasurer for the purposes of the General Revenue of the said Province.

66. 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

Persons suspected of having stolen goods.

Penalty on persons in whose possession property improperly taken or stolen is found, and not satisfactorily accounted for.
or that the same was on his premises without his knowledge or 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 carcass, 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
Police Act.—1869-70.

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 article 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.

67. 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 wantonly and cruelly beat, ill-treat, overdrive, overload, abuse, or torture, or cause or procure to be wantonly and cruelly beaten, ill-treated, overdriven, overladen, abused, or tortured, or shall omit to supply with sufficient food or water any 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 subject such animal to 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 wantonly and 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.

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

69. Any person who shall commit any of the next following offences as to any articles of property in this section mentioned (or who shall receive any of the same, knowing them to have been stolen or unlawfully come by), shall 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:—

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 style 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 underwood, or any growing fruit or vegetable production, or any growing cultivated root or plant, shall (in case the value of the property stolen, or the amount of the 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 to 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 convicting Justice shall think reasonable, and shall also be liable to a fine not exceeding Ten Pounds, or to be imprisoned, with or without hard labor, for a term not exceeding three calendar months; and any person to whom
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.

70. Any person who shall commit any of the next following offences shall, on conviction, be liable to the punishments hereafter specified in each case—

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

Second—Any person who shall exhibit for sale any unwholesome or fraudulently-prepared provisions, meat, or other food of any kind for man or beast, or shall practise any deceit or fraud in respect to the quality of any such provisions or food, shall forfeit all such provisions, to be disposed of as 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 any Justice may seize, or cause to be seized, any of the articles hereinbefore last-mentioned as to which any such offence shall have been committed.

71. 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 youths under the age of sixteen years to enter and remain therein, or knowingly permit or suffer prostitutes or persons of notoriously bad character to meet together and remain therein, shall, 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.

72. Every
PART VI.
Cheating at play.

72. 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.

73. Any constable or other person apprehending any person charged with being an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, may seize any horse or other cattle, or any goods or vehicle in the possession or use of the person so apprehended and charged, 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; 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 towards the expense of apprehending and conveying to gaol, and maintaining such offender during the time for which he 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.

74. Every misdemeanor or other offence against this Act for which no special penalty is appointed, shall render the offender liable, on conviction, 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 either with or without hard labor.

75. In case any person shall lodge any information before any Justice of the Peace, for any offence alleged to have been committed, by which he was not personally aggrieved, and shall afterwards directly or indirectly receive, without the permission of such Justice, any sum of money or other reward for compounding, delaying, or withdrawing the information, any Justice of the Peace may 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.

76. In
76. In every case of the adjudication of a pecuniary penalty or amends under this Act, or of the forfeiture of a sum of money payable under a recognizance taken under this Act, or before any Justice of the Peace, and of the non-payment of such pecuniary penalty, amends, or money payable, as aforesaid, any Justice of the Peace may commit the offender or person making such default in payment to any gaol in the said Province, for any time not exceeding three calendar months, the imprisonment to cease on payment of the sum due, and the costs of such proceedings as may have been taken 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.

PART VII.—Provisions to be in force only in Police Districts and Proclaimed Localities:—

77. The provisions of this part of this Act, comprising clauses numbered from 77 to 95 inclusively, shall only extend to and be in operation, and have the force of law in such parts of the said Province as are hereinbefore referred to as already established and proclaimed as Police Districts, and which are by this Act also enacted as continuing to be Police Districts within the meaning, and for the purposes, of this Act, and to such parts of the said Province as may hereafter be established as Police Districts under the provisions of this Act, and in such parts of the said Province as shall at any time be declared and defined, by Proclamation, as hereinafter mentioned: Provided that 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 parts of the said Province within which all or 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 revoke 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 such Proclamation.

78. The Commissioner of Police, or the Mayor of any Municipality, or the Chairman of any District Council, from time to time, and as occasion shall require, may make regulations for the route to be observed by all carts, carriages, vehicles, horses, and persons, and for preventing obstruction of the streets and thoroughfares, in all times of public processions, public rejoicings, or illuminations, and by such regulations to give directions for keeping order and for preventing any obstructions of the thoroughfares in the immediate
immediate neighbourhood of all public buildings and offices, theatres, and other places of public resort, and in any case where the streets or thoroughfares may be thronged or may be liable to be obstructed.

79. Any person shall be liable to a penalty of not more than Forty Shillings who shall in any street, road, thoroughfare, 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 any person riding on horseback, or the driver or propeller of any waggon, cart, dray, coach, velocipede, or any other carriage or vehicle whatsoever, who on meeting any person riding on horseback, or driving or propelling any waggon, cart, dray, coach, velocipede, carriage, or vehicle aforesaid, shall not keep his horse, waggon, cart, dray, coach, velocipede, carriage, or vehicle aforesaid 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
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 animal, shall wilfully interrupt any public crossing, or wilfully cause any obstruction in any thoroughfare:

Sixth—Every person who, after being made acquainted with the regulations or directions which shall have been made as aforesaid for regulating the route of horses, carts, carriages and persons, for preventing obstructions during public processions, and on other occasions hereinbefore specified, shall wilfully disregard or not conform himself thereunto:

Seventh—Every person who, without the consent of the owner or occupier, shall affix any posting bill, or other paper, against or upon any building, wall, fence, or pale, or write upon, soil, deface, or mark any such building, wall, fence or pale, with chalk or paint, or in any other way whatsoever:

Eighth—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;

Ninth—Every person who shall wilfully and wantonly disturb any inhabitant by pulling or ringing any door-bell, or knocking at any house without lawful excuse, or who shall wilfully and unlawfully extinguish the light of any lamp:

Tenth—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, or to the common danger of the passengers:

Eleventh—Any person who shall turn loose, or 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:

Twelfth—Any person who shall wilfully injure or destroy, or attempt to injure or destroy, any native or acclimatized birds which may be on any park lands, or public road or reserve, without the authority of the person having the care and management of such park lands, or public road or reserve, as the case may be; but the provisions of this paragraph shall not apply to any road or reserve on the banks or shores of any navigable or tidal water;
And it shall be lawful for any constable to take into custody, without warrant, any person who shall commit any such offence within view of such constable.

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

81. In case any privy, pig-stye, or any other thing, shall be or become a nuisance to any of the inhabitants, any two Justices of the Peace, or any Special Magistrate, upon complaint, on oath, thereof to him made by any such inhabitants, and after due investigation of such complaint, by notice in writing, may order that every or any such privy, pig-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 and 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 Magistrate, shall forfeit and pay, on conviction before such Justices or Special Magistrate, the sum of Ten Pounds for every such neglect and disobedience; and such Justices or Special Magistrate may lay or cause to be laid an information for such nuisance against such person so neglecting or disobeying any such notice, at the then next sitting of the Court of competent jurisdiction 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 Court shall direct.

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

83. No person shall bathe near to or within view of any public wharf,
wharf, quay, jetty, bridge, street, road, or other place of public resort, between the hours of six in the morning and eight in the evening; and any person who shall offend against this regulation, shall, on conviction, forfeit and pay a sum not exceeding One Pound; and any constable may take into custody any person who shall commit any such offence within view of such constable: Provided that any Municipal Corporation shall have made, or shall make, any by-law for regulating public bathing, the hours named in such by-law shall be deemed to be inserted in this clause, and shall govern the offence, instead of the hours named in this clause, in the case of offences committed within the limits of any such Municipal Corporation, and within the places to which any municipal by-law shall apply.

84. 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.

85. 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.

86. 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 matter 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.

87. If any person shall drive or cause to be driven any cart or other carriage with any night-soil or ammoniacal liquor or other such offensive matter therein, through, or in any streets, public places, or thoroughfares, between the hours of five o'clock in the morning and eleven o'clock at night, or who shall at any time use for any such purpose any cask, tank, cart, or carriage not having a proper covering, or shall fill any cart or other carriage so as to turn over or cast any night-soil, ammoniacal liquor, or such other offensive matter, in or upon any of such streets, public places, or thoroughfares,
PART VII.

fares, 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 any sum not exceeding 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, or such other offensive matter 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.

88. If any person shall empty or begin to empty any privy, or take away any night-soil, or shall go with carts or carriages for that purpose except between the hours of eleven 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 streets, or public places, or thoroughfares, any Justice of the Peace may 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 going 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.

89. 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, or leave or cause the same to be left on or upon any private property abutting upon any such street, or on or near to any other public place, to the annoyance of the inhabitants or persons passing along or resorting to such street, lane, road, or other public place, or the occupiers of any dwelling-house, 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.

90. 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 footways, of any place not included in or forming part of any Municipal Corporation or District Council, without the written leave and licence of such Municipal Corporation or District Council or in case such place shall not be within the limits of any such Corporation or Council, without the written leave of a Special Magistrate or
two Justices of the Peace, first had and obtained, or who shall wantonly break up or otherwise damage the said streets, roads, carriage, or footways, shall, on conviction, forfeit and pay for every such offence any sum not exceeding Five Pounds nor less than One Pound.

91. 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.

92. 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.

93. 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
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.

Walls to be covered over.

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

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

95. Any person who, being the owner or occupier of any vacant ground, or any house, tenement, or building erected, or being erected, or about to be erected, before, adjoining, or at the side of which, and adjoining to any road, street, or public place, or thoroughfare formed, or to be formed, or in course of formation, any person shall dig or make, or cause to be dug or made, any hole, or cause to be left any hole, for the purpose of making any vault, or the foundation to such house or other buildings, or for any other purposes whatsoever, shall not forthwith enclose the same in a good and sufficient manner, or who shall keep up, or cause to be kept up and continued, any such enclosure for any time which shall be longer than shall be absolutely necessary, or shall not, when thereunto required by any Justice 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.

PART VIII.—Miscellaneous Provisions.

96. 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.

97. Any Justice of the Peace, upon information on oath that any person
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.

98. 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 Justices 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.

99. 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 with 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, any Justice of the Peace may 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 re-
cover such goods or money from him by action-at-law, so that such action shall be commenced within six calendar months next after such order shall be made.

100. Nothing in this Act contained shall save any person from an information 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.

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

102. Any Justice or Justices of the Peace 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, may award such costs as to him or them shall seem meet, to be paid to or by either of the parties to the charge or complaint.

103. In every case in which any information or complaint of any offence shall be laid or made before any Justice of the Peace, and shall not be further prosecuted, or in which if further prosecuted, it shall appear to the Justice or Justices of the Peace by whom the case shall be heard that there was no sufficient ground for making the charge, such Justice or Justices 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 such Justice or Justices shall seem fit.

104. When any person employed in the said Police Force shall be entitled to the whole or any portion of any forfeiture, penalty, or seizure under this or any other Act in force within the said Province, the amount of the proceeds thereof shall go to a general fund, to be called the “Police Fund,” and all moneys which at the commencement of this Act have accumulated in respect of any such forfeitures, penalties, or seizures shall be transferred to the said “Police Fund.” The said “Police Fund” shall be invested from time to time in the names of the Commissioner of Police, the Under Secretary, and the Under Treasurer for the time being, who shall, in all matters in relation to the said fund, act in obedience to such regulations as may from time to time be made by the Governor in Council in respect to the said fund; and the Governor in Council may make regulations—

For the disposal of the said fund, by providing for the retirement of members of the said force who may have retired after the
Provided, for reimbursing to any member of the said force the costs and expenses which he may have incurred in defending himself in any action or prosecution which may be instituted against him, in respect of any act done by him in the discharge of his duty as a member of the said force, or any damages awarded to be paid by such member, if the Chief Secretary shall be of opinion that such member be not blameable in respect of the subject matter of such action:

And for paying to any member such sum of money as a reward for any specially meritorious service as the Governor in Council may award:

But no member of the said force, who shall be on the fixed establishments of the Civil Service, within the terms of the said Act, No. 9 of 1865-6, shall be entitled to any retiring allowance or compensation out of the said fund:

Provided, however, that no person shall have any claim against the Government or revenue of the said Province in the event of the said fund proving insufficient to satisfy all demands upon it.

105. A copy of the Government Gazette containing a notification of any matter by this Act required to be published in such Gazette shall be prima facie evidence of the matters contained in such notification.

106. All proceedings under this Act, in so far as not otherwise 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 in the manner and form which are prescribed by the law of the said Province in force for the time being for regulating summary proceedings before Justices of the Peace.

107. Every complaint and information may be heard, tried, determined, and adjudged by any one Justice of the Peace, unless it be directed by the law upon which such complaint or information shall be framed that the same shall be heard and determined by more than one Justice of the Peace.

108. All fines imposed, and all sums of money ordered to be paid, may be recovered before any one Justice of the Peace, and shall be appropriated and applied; and any 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.
PART VIII.

Justices not bound to convict in certain cases.

No certiorari as to informality of warrant.

As to proceedings against persons acting under this Act.

Notice of action.

General issue.

Tender of amends.

If judgment be against plaintiff.

Interpretation clause.

law of the said Province in force for the time being, for regulating summary proceedings before Justices of the Peace.

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

110. 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.

111. 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.

112. In the construction of this Act, the following words and expression shall have the meanings hereby assigned to them (that is to say)—The words "public place," or "place of public resort," shall
shall include and apply to every place in the said Province, where free access is permitted to the public, with the direct or tacit consent of the owner or occupier thereof, and shall also include and apply to every place in the said Province to which the public are admitted on payment of money, and the test of the admittance is the payment of the money only; and shall also include and apply to every road, street, footway, court, alley, and thoroughfare, which the public are allowed to use, within any city, town, district, or place in the said Province, which may now or hereafter be established, proclaimed, or defined, as hereinafter mentioned and provided, notwithstanding that such roads, streets, footways, courts, alleys, and thoroughfares may be formed on private property: Provided that nothing herein contained shall be held to divest the owners of such property of their rights or property therein, and their power to resume the sale, use, and occupation thereof.

113. This Act may be cited as the "Police Act, 1869."

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

JAMES FERGUSSON, Governor.
THE SCHEDULE.

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

<table>
<thead>
<tr>
<th>Name of boundaries of District</th>
<th>Number of Police stationed therein</th>
<th>Length of time Police stationed therein</th>
<th>Cost of maintenance of Foot Police in such District</th>
<th>Amount of contribution chargeable on such District</th>
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