

No. II.

POLICE.

An Act for regulating the Police in the Towns of Parramatta Windsor Maitland Bathurst and other Towns respectively and for removing and preventing Nuisances and Obstructions and for the better alignment of Streets therein.
[10th August, 1838.]

Preamble.

The Governor may appoint Police Magistrates for the towns of Parramatta Windsor Maitland and Bathurst respectively.

WHEREAS it is expedient and necessary to make further provision for the maintenance of the public peace and good order and for the prosecution of certain offences committed within the towns of Parramatta Windsor Maitland Bathurst and such other towns in the Colony of New South Wales as shall be declared by His Excellency the Governor by Proclamation to come under the operation of this Act as well as for the removal and prevention of nuisances and obstructions in the said towns and for the better alignment of streets therein respectively Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That it shall be lawful for the Governor from time to time by warrant under his hand to appoint a Justice of the Peace to execute the duties of Police Magistrate within each of the said towns together with such other duties as shall be hereinafter specified or as shall be from time to time directed by the Governor for the more efficient administration of the police within the limits of the said towns respectively under the authority of this or any other Act

or

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or Ordinance in force within the said Colony and the said Justice from time to time to displace and remove and to appoint another in his place as to the said Governor shall seem fit.

2. And be it further enacted That every person to be appointed a Police Magistrate by virtue of this Act shall before he shall begin to execute the duties of his office take the following oath before one of the Judges of the Supreme Court of the said Colony (that is to say)—

Oath to be taken by
Police Magistrate.

I A. B. do swear that I will faithfully impartially and honestly according to the best of my skill and knowledge execute all the powers and duties of a Police Magistrate under and by virtue of an Act passed in the second year of the reign of Her Majesty Queen Victoria intituled "*An Act for regulating the Police in the Towns of Parramatta Windsor Maitland Bathurst and other Towns respectively and for removing and preventing Nuisances and Obstructions and for the better alignment of Streets therein.*"

3. And be it further enacted That it shall be the duty of the said Justices respectively to suppress all tumults riots affrays or breaches of the peace all public nuisances vagrancies and offences against the law and to uphold all regulations established by competent authority for the management and discipline of convicts within each of the said towns respectively.

Justice to suppress
riots tumults &c.

4. And be it further enacted That it shall be lawful for the Governor to authorize such Justice from time to time to nominate a sufficient number of fit and able men as a police force for any of the said towns for which he shall be appointed Police Magistrate who shall be sworn by the said Justice to act as constables for preserving the peace and preventing robberies and other felonies in the towns aforesaid and apprehending offenders as well as for preventing nuisances and obstructions in the said towns and the men so sworn shall obey all such lawful commands as they may from time to time receive from the said Justice for conducting themselves in the execution of their office.

A police to be ap-
pointed.

5. And be it further enacted That the said Justice shall from time to time subject to the approbation of the Governor frame such orders and regulations as he shall deem expedient relative to the general government of the men to be appointed constables under this Act the places of their residence the classification rank and particular service of each their distribution and inspection the description of arms accoutrements and other necessaries to be furnished to them and all such other orders and regulations relative to the said police force as the said Justice shall from time to time deem expedient for preventing neglect or abuse and for rendering such force efficient in the discharge of all its duties and the said Justice may at any time suspend or dismiss from his employment any man belonging to the said police force whom he shall think remiss or negligent in the discharge of his duty or otherwise unfit for the same and when any man shall be so dismissed or cease to belong to the said police force all powers vested in him as a constable by virtue of this Act shall immediately cease and determine.

The Magistrate sub-
ject to the approba-
tion of the Governor
to make regulations
for the management
of the police force.

Policemen may be
suspended or dis-
missed by the
Magistrate.

6. And be it further enacted That it shall be lawful for any man belonging to the said police force in the said towns of Parramatta Windsor Maitland and Bathurst respectively to apprehend any person whom he shall find drunk in the streets or public places of the said towns at any hour of the day and the same to convey before a Justice of the Peace to be dealt with according to law and to apprehend all loose idle drunken or disorderly persons whom he shall find between sun-set and the hour of eight in the forenoon lying or loitering in any street

Powers of police.

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street highway yard or other place within the said towns and not giving a satisfactory account of themselves and to deliver any person so apprehended into the custody of the constable appointed under this Act who shall be in attendance at the nearest watch-house in order that such person may be secured until he can be brought before a Justice of the Peace to be dealt with according to law or give bail for his appearance before a Justice of the Peace if the constable shall deem it prudent to take bail in the manner hereinafter mentioned.

Constables attending at the watch-house in the night may take bail by recognizance from persons brought before them for petty misdemeanor such recognizance to be conditioned for the appearance of the parties before a Magistrate.

7. And be it further enacted That where any person found lying or loitering about as aforesaid or charged with any petty misdemeanor shall be brought without the warrant of a Justice of the Peace into the custody of any constable appointed under this Act during his attendance in the night-time at any watch-house within any of the said towns it shall be lawful for such constable if he shall deem it prudent to taken 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 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 watch-house 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 shall return the same to the next General Quarter Sessions of the Peace with a certificate at the back thereof signed by such Justice that the party has not complied with the obligation therein contained and the Clerk of the Peace shall make the like estreats and schedules of every such recognizance as of recognizances forfeited in the Sessions of the Peace 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 at the Sessions or otherwise the recognizance for the appearance of the party before a Justice shall be discharged without fee or reward.

In default of appearance recognizance to be forfeited.

Time of hearing may be postponed.

Assault on policemen.

8. And be it further enacted That if any person shall assault or resist any person belonging to the said police force of any of the said towns in the execution of his duty or shall aid or incite any person so to assault or resist every such offender being convicted thereof shall for every such offence forfeit and pay a sum not exceeding five pounds.

Penalty on publicans harbouring policemen during the hours of duty.

9. And be it further enacted That if any victualler or licensed publican or other person shall knowingly harbour or entertain any man belonging to the said police force or permit such man to abide or remain in his house shop room or other place during any part of the time appointed for his being on duty elsewhere every such victualler licensed

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licensed publican or other person being convicted thereof shall for every such offence forfeit and pay a sum not exceeding five pounds.

10. And be it further enacted That such Justice shall as far as in him lies cause the Lord's Day to be duly observed by all persons in any of the said towns for which he shall be appointed and shall not permit or suffer any house shop or store or other place therein to be open on that day for the purpose of trade or dealing the shops or houses of butchers bakers fishmongers and greengrocers until the hour of ten in the forenoon and of bakers between the hours of one and two in the afternoon and of apothecaries at any hour only excepted and any person who shall trade or deal or keep open any shop store or other place (except as aforesaid) for the purpose of trade or dealing on the Lord's Day shall on conviction forfeit and pay for every such offence a sum not exceeding three pounds nor less than one pound.

To cause the Lord's Day to be observed.

11. And be it further enacted That the owner or occupier of any public billiard room or other public place of amusement within any of the said towns who shall permit or suffer any one to play in his house or premises any game on Sunday shall on conviction forfeit and pay a sum not exceeding five pounds nor less than three pounds and it shall be lawful for any Justice of the Peace appointed under this Act and he is hereby required to disperse or cause to be dispersed all persons gathering together on Sunday in any public or open place for the purpose of gambling or playing at any game and to take and seize or cause to be taken and seized any implements instruments or animals used or intended to be used therein and to destroy or carry away the same and all persons actually gambling or playing as aforesaid shall be prosecuted according to law.

As to not suffering games or play on Sunday.

12. And be it further enacted That any person who shall damage any public building wall parapet sluice bridge road street sewer watercourse or other public property within any of the said towns shall pay the costs of repairing the same and if the same be wilfully done shall forfeit and pay a sum not exceeding twenty pounds nor less than five pounds.

As to damaging public buildings.

13. And be it further enacted That any person who shall cast any filth or rubbish into any watercourse sewer or canal or shall obstruct or divert from its channel any public sewer or watercourse within any of the said towns shall forfeit a sum not exceeding five pounds nor less than one pound and shall pay the cost of removing such filth or obstruction or of restoring such watercourse or canal to its proper channel.

As to town water-courses.

14. And be it further enacted That 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 sum not exceeding twenty pounds nor less than one pound and any person who shall have in his possession any private key for the purpose of opening any cock or who shall in any manner clandestinely or unlawfully appropriate to his use any water from any public fountain or pipe shall forfeit a sum not exceeding twenty pounds nor less than five pounds and any person who shall open or leave open any cock of any public fountain or pump so that the water shall or may run to waste shall forfeit a sum not exceeding two pounds nor less than five shillings and any person who shall wash any clothes at any public fountain or pump shall forfeit and pay a sum not exceeding one pound nor less than five shillings.

As to injuring public fountains.

15. And be it further enacted That if any person or persons shall in any street or public place within any of the said towns beat or dust any carpet or carpets or shall fly any kite or kites or shall drive any carriage or carriages for the purpose of breaking exercising

Beating carpets flying kites breaking horses driving barrows and carriages on pavements and throwing filth &c. &c.

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or trying horses or shall ride any horse mare or gelding for the purpose of airing exercising trying shewing or exposing such horse mare or gelding for sale (otherwise than by passing through such streets or public places) or shall throw cast or lay or shall cause permit or suffer to be thrown cast or laid or to remain any ashes rubbish offal dung soil dead animal blood or other filth or annoyance or any matter or thing in or upon the carriage-way or foot-way of any such street or other public place within any of the said towns or shall kill slaughter dress scald or cut up any beast swine calf sheep lamb or other cattle in or so near to any of the said streets or other public places in any of the said towns as that any blood or filth shall run or flow upon or over or be on any or either of any such carriage or foot-ways or shall run roll drive draw place or cause permit or suffer to be run rolled driven drawn or placed upon any of the said foot-ways of any street or public place within any of the said towns any waggon cart dray sledge or other carriage or any wheel wheel-barrow hand-barrow or truck or any hogshead cask or barrel or shall wilfully lead drive or ride any horse ass mule or other beast upon any of the foot-ways aforesaid then and in every such case every person so offending upon conviction before any Justice of the Peace or upon the view of any such Justice shall forfeit and pay a sum not exceeding forty shillings nor less than five shillings.

Placing carriages
goods &c. on foot-
ways &c.

16. And be it further enacted That if any person shall set or place or cause or permit to be set or placed any stall-board chopping-block shew-board (on hinges or otherwise) basket wares merchandise casks or goods of any kind whatsoever or shall hoop place wash or cleanse or shall cause to be hooped placed washed or cleansed any pipe barrel cask or vessel in or upon or over any of the carriage or foot-ways in any streets or public places within any of the said towns or shall set out lay or place or shall cause or procure permit or suffer to be set out laid or placed any coach cart wain waggon dray wheel-barrow hand-barrow sledge truck or other carriage upon any of the said carriage-ways except for the necessary time of loading or unloading any cart wain waggon dray sledge truck or other carriage or taking up or setting down any fare or waiting for passengers when actually hired or harnessing or unharnessing the horses or other animals from any coach cart wain waggon dray sledge truck or other carriage or if any person shall set or place or cause to be set or placed in or upon or over any of the said carriage or foot-ways any timber stones bricks lime or other materials or things for building whatsoever (unless the same shall be enclosed as hereinafter is directed) or any other matters or things whatsoever or shall hang out or expose or shall cause or permit to be hung out or exposed any meat or offal or other thing or matter whatsoever from any house or houses or other buildings or premises over any part of either or any of such foot-ways or carriage-ways or over any area or areas of any houses or other buildings or premises or any other matter or thing from and on the outside of the front or any other part of any house or houses or other buildings or premises over or next unto any such street or public place and shall not immediately remove all or any such matters or things being thereto required by any Justice of the Peace or by any police constable appointed under this Act and shall not continue and keep the same so removed or if any person having in pursuance of any such requisition as aforesaid removed or caused to be removed any such stall-board shew-board chopping-block basket wares merchandise casks goods coach cart wain waggon dray wheel-barrow hand-barrow sledge truck carriage timber stones bricks lime meat offal or other matters or things shall at any time thereafter again set lay or place expose or put out or cause procure permit or suffer to be set laid placed exposed or put

Placing timber
bricks &c.

Not removing when
required.

Replacing the same
after removal.

out

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out the same or any of them or any other stall-board shew-board chopping-block basket wares merchandise goods timber stones bricks lime coach cart wain waggon dray truck wheel-barrow hand-barrow sledge meat offal or other things or matters whatsoever (save and except as aforesaid) in upon or over any of the carriage or foot-ways of or next unto any streets or public places as aforesaid then and in every such case every person so offending shall upon conviction forfeit and pay for the first offence a sum not exceeding forty shillings nor less than five shillings and also that not only shall such penalties become payable and to be recovered but that it shall and may be lawful to and for any Justice or for any police constable appointed under this Act without any warrant or other authority than this Act to seize any such stall-board shew-board chopping-block basket wares merchandise casks goods coach cart wain waggon dray wheel-barrow hand-barrow sledge truck or other carriage together with the horse or horses ass or asses mule or mules or other animal or animals if any shall be thereunto belonging with the harness gear and accoutrements thereof or any such timber or other materials or other matters or things aforesaid or any of them and in case any of the goods wares or merchandise so seized shall be perishable or shall be articles of food then the same shall be immediately forfeited and the person or persons who shall seize the same shall deliver the same or cause the same to be delivered to the Storekeeper of the Benevolent Society for the time being and the same shall and may be distributed for the benefit of those supported by the said Society to and for his her or their benefit but otherwise such Justice or police constable as aforesaid shall cause the stall-board basket cask goods coach cart waggon wain dray wheel-barrow hand-barrow sledge truck or other carriage horses asses mules or other animals materials or other things so seized and not being of a perishable nature to be removed to any place appointed for the reception thereof if any such there be or otherwise to such place or places as he or they shall judge convenient giving parole or written notice of such place or places whereunto the same shall be removed unto the owner driver or other person having interest in the things so seized and removed if he she or they shall be then and there present and the same shall be there kept and detained until such owner driver or other person interested therein as aforesaid shall cause to be paid the penalty in which he she or they shall be convicted together with the charges for taking and removing the same and of keeping such horse or horses ass or asses mule or mules or other animal or animals (if any) and in case the goods carriage horses animals materials or other things so removed (not being perishable or articles of food) shall not be claimed and the said penalty and charges be paid within five days next after such removal thereof then and in every such case it shall and may be lawful to and for the said Justice to order the same to be appraised and sold and the overplus of the money arising from such sale shall be paid to the owner or owners thereof after deducting the said penalty and such costs charges and expenses attending such seizing removing keeping appraising and selling the same as the said Justice shall ascertain and allow Provided always that in any town where no Benevolent Society is established it shall be lawful for the Police Magistrate for such town to dispose of any such perishable article or article of food which may be so seized as aforesaid towards any charitable purpose which he may think proper.

17. And be it further enacted That in all cases where by this Act it may be directed required and provided that any person or persons setting or placing any stall-board chopping-block basket merchandise

Stalls &c. may be seized.

Perishable seizures how disposed of.

Other seizures.

Placing nuisances and annoyances.

dise

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dise wares pipe barrel cask or vessel goods timber stone bricks lime or any other materials matters or things or causing or procuring the same or any of them to be placed or set upon any of the carriage or foot-ways or otherwise contrary to the regulations herein contained in any of the streets or public places within any of the said towns or that any person or persons setting or placing any coach cart waggon dray wheel-barrow hand-barrow sledge truck or other carriage in or upon or over any of the carriage or foot-ways in any street or public places within any of the said towns or procuring or causing the same to be so set or placed shall have notice and be required to remove the same previous to such person or persons being subject or liable to the penalty or penalties imposed by virtue of this Act and to the seizure forfeiture appropriation appraisement or sale of any such goods materials matters or other things coaches carts waggons drays wheel-barrows hand-barrows sledges trucks or other carriages in manner directed by this Act then if any person or persons shall set or place any goods materials matters or other things or shall set place or drive any coaches carts waggons drays wheel-barrows hand-barrows sledges trucks or other carriages upon or over the said carriage or foot-ways or any of them or any part of them at any time or times subsequent to his her or their having received such notice or having been required to remove the same or any other goods materials matters or things or any other coaches carts waggons drays wheel-barrows hand-barrows sledges trucks or other carriages from off the said carriage-ways or foot-ways or any of them shall cause or permit the same or any of them to be placed or set by his or their servants or by any person or persons employed by him or them in any and every such case it shall not be necessary or requisite that any Justice or police constable as aforesaid seeing such offence or offences committed again shall require the removal of such goods materials matters or other things or coaches carts waggons drays wheel-barrows hand-barrows sledges trucks or other carriages but the same or any of them being so set or placed in upon or over the said carriage or foot-ways or any part thereof contrary to the directions of this Act shall and may be seized forfeited removed applied detained appraised or sold in manner herein provided as to any other goods materials matters or things and the person or persons so committing the said offence or offences and the owner or owners of the goods materials matters or things or coaches carts waggons drays wheel-barrows hand-barrows sledges trucks or other carriages which shall be so placed or driven and the master or masters employer or employers of the person or persons so offending shall be subject and liable to the same penalty or penalties forfeitures proceedings charges and punishments as if such person or persons so offending had neglected or refused to remove the said goods materials matters or other things or coaches carts waggons drays wheel-barrows hand-barrows sledges trucks or other carriages when required to do so under and by virtue of this Act and although the said notices or requisitions shall have been again given or repeated to the person or persons committing or directing or permitting such offence or offences or any of them any thing in this Act to the contrary thereof in any wise notwithstanding.

Fresh notice not necessary.

Not to prevent awnings being erected in front of shops.

18. Provided always and be it further enacted That nothing in this Act contained shall be deemed to prevent any person from placing an awning in front of his or her shop or house provided however that such awning be at least seven feet above the height of the foot-way in front of such house or shop and that the posts be placed close up to the curb-stone or outer edge of such foot-way.

As to discharging fire-arms &c.

19. And be it further enacted That any person who shall discharge any fire-arms without any lawful cause or let off any fire-works in any

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any street or public place within the limits of any of the said towns shall on conviction forfeit and pay a sum not exceeding five pounds nor less than ten shillings.

20. And be it further enacted That it shall not be lawful for any person to burn any shavings or other matters or things in any street or public place within any of the said towns and any person so offending shall on conviction forfeit and pay for every such offence a sum not exceeding forty nor less than five shillings.

Burning shavings
&c. in the streets
prohibited.

21. And be it further enacted That it shall not be lawful for any person to bathe near to or within view of any public wharf quay bridge street road or other place of public resort within the limits of any of the towns aforesaid between the hours of six o'clock in the morning and eight in the evening and any person who shall offend against this regulation shall on conviction before or in view of any Justice of the Peace forfeit and pay a sum not exceeding one pound and it shall be lawful for any police constable appointed under this Act without any warrant or other authority than this Act to arrest any person who shall be found bathing contrary to the provisions hereof and such person to convey before any Justice of the Peace within any of the said towns wherein the offence shall have been committed to be dealt with according to law.

Bathing prohibited
within certain limits.

22. And be it further enacted That any individual who shall offend against decency by the exposure of his or her person in any street or public place within any of the said towns or in the view thereof shall on conviction before a Justice of the Peace forfeit and pay for every such offence a sum not exceeding ten nor less than five pounds and it shall be lawful for any police constable or other person to apprehend any person whom he may find in the act of committing any such offence and him or her to convey before any Justice of the Peace to be dealt with according to law.

Penalty on indecent
exposure of the per-
son.

23. And be it further enacted That it shall not be lawful for any person whomsoever to breed feed or keep any kind of swine in any house building yard garden or other hereditaments situate and being in or within forty yards of any street or public place within any of the said towns nor to suffer any kind of swine or any horse ass mule sheep goat or other cattle belonging to him or her or under his or her charge to stray or go about or to be tethered or depastured in any street or public place therein and any person who shall so offend shall on conviction forfeit and pay for every such offence a sum not exceeding forty shillings nor less than five shillings.

Swine not to be kept.

Or swine horse goat
&c. suffered to
wander about the
streets.

24. And be it further enacted That in case any privy hog-stye or any other matter or thing which shall at any time or times hereafter be in any place within any of the said towns shall be or become a nuisance to any of the inhabitants thereof it shall be lawful for any two Justices of the Peace upon complaint thereof to them made by any such inhabitants and after due investigation of such complaint by notice in writing to order that every or any such privy hog-stye or other matter or thing being a nuisance shall be remedied and removed within seven days after such notice shall have been given to the owner or occupier of the premises wherein such nuisance shall exist or shall have been left for such owner or occupier at his or her last or usual place of abode or on the said premises and every such occupier neglecting to remedy or remove such nuisance pursuant to such notice and to the satisfaction of such Justices shall forfeit and pay on conviction before the said Justices the sum of ten pounds for every such neglect or disobedience and also it may be lawful for such Justices to indict or cause to be indicted for such nuisance such person or persons so neglecting or disobeying any such notice at the then next Court of General Quarter Sessions to be held within any of the said towns and such person or persons being found

Hog-styes and
nuisances not
removed on com-
plaint.

guilty

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guilty thereof such nuisance or nuisances shall be removed taken down and abated according to law with regard to public or common nuisances and the person or persons so offending shall be subject to such punishment for the misdemeanor as the Justices assembled at a General Quarter Sessions within any of the said towns shall direct.

As to private
avenues.

25. And be it further enacted That any owner or occupier of any house or place within any of the said towns who shall neglect to keep clean all private avenues passages yards and ways within 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.

Cleansing butchers'
shambles and
slaughter-houses.

26. And be it further enacted That for preserving the cleanliness of the said towns and the health of their inhabitants it shall be lawful for any Justice appointed under this Act and for any police constable authorized and deputed by any writing under the hand of any such Justice from time to time and when and as often as he or either of them shall see occasion to visit and inspect the butchers' shambles and slaughter-houses in any of the said towns for which he or either of them shall be so respectively appointed and to give such directions concerning the cleansing the said shambles and slaughter-houses both within and without as to him shall seem needful and any butcher and the owner or occupier of any such shamble or slaughter-house who shall obstruct or molest any such Justice or constable in the inspection thereof or who shall refuse or neglect to comply with such directions within a reasonable time shall upon the view of any such Justice or on conviction on the complaint of any such constable forfeit and pay a sum not exceeding two pounds nor less than ten shillings.

Drawing or trailing
timber &c.

27. And be it further enacted That if any person shall haul or draw or cause to be hauled or drawn upon any part of the streets or public places within any of the said towns 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 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 beyond the breadth of the said carriage every such person so offending shall upon conviction forfeit and pay for every such offence the sum of forty shillings over and above the damages occasioned thereby and it shall be lawful for any police constable to apprehend any person whom he shall find in the act of committing any such offence and to convey such person before any Justice of the Peace to be dealt with according to law.

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

28. And be it further enacted That if the owner or occupier of any house building or premises within any of the said towns 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 surface of the foot-way of any streets or public places within the said town or having any door-way 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 rails 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 or her house building or premises (save and except only during such reasonable times as any
coals

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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 the Justice appointed under this Act 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 person or persons neglecting so to do shall for every or any such offence on conviction before or in the view of any Justice of the Peace forfeit and pay any sum not being less than forty shillings nor exceeding five pounds.

29. And be it further enacted That it shall not be lawful after the passing of this Act for any person to make any cellar or any opening door or window in or beneath the surface of the foot-way of any street or public place within any of the said towns and if any person shall offend in the premises he shall on conviction before any Justice of the Peace forfeit and pay the sum of five pounds over and above the expense of remedying or removing any such cellar opening door or window made contrary to the provisions hereof such expense to be assessed and allowed by such Justice.

Cellars or openings beneath the surface of foot-ways prohibited.

30. And be it further enacted That every person who shall have a well situated between his or her dwelling-house or the appurtenances thereof and any street or foot-way within the limits of any of the said towns or at the side thereof or in any yard or place open and exposed to such street or foot-way shall within the space of three calendar months from and after the passing of this Act cause such well to be securely and permanently covered over and shall not be at liberty to open the same or to draw water therefrom unless by means of a pump closely and securely fixed therein and if any person having such well as aforesaid shall fail to cover and secure the same within the time and in the manner hereby required and directed every such person shall upon conviction for every such offence forfeit and pay the sum of two shillings and sixpence for every day that such well shall remain open or uncovered contrary to the provisions of this Act.

Wells to be covered over within three months.

Penalty.

31. And be it further enacted That if any person or persons shall dig or make or cause to be dug or made any hole or leave or cause to be left any hole before any vacant ground or before or behind or on the side of any house or other tenement or building erected or being erected or about to be erected in and adjoining to any street or public place formed or to be formed or forming within any of the said towns for the purpose of making any vault or vaults or the foundation or foundations to such houses or other buildings or for any other purpose whatsoever and shall not forthwith enclose the same in a good and sufficient manner to the satisfaction of the Police Magistrates of the said towns respectively or shall keep up or cause to be kept up and continued any such enclosure for any time which shall be longer than shall be absolutely necessary in the opinion of the said Police Magistrate or shall not when thereunto required by the said Police Magistrate well and sufficiently fence or enclose any such hole or holes or area or areas or space or spaces opened or left open and intended for an area or areas foundation or foundations or for any other purpose whatsoever in 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 within twenty-four hours after he or they shall be required to do so by the said Police Magistrate 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 inclosure and keep the same constantly burning from sun-set

Holes made for vaults &c. to be enclosed.

Police.

to sun-rise during the continuance of such inclosure then and in every or any such case every person so offending shall forfeit and pay for every such offence and for every such refusal or neglect any sum not being less than forty shillings nor exceeding five pounds.

Rain not to be allowed to drop from eaves of houses on foot-ways.

Penalty.

Slop night soil &c. to be conveyed away only at certain hours.

Penalty £5.

Proviso.

In what case owner to be liable.

Hours of removing night soil &c.

Offender may be apprehended

and committed to the house of correction.

32. And be it further enacted That if at any time after the expiration of twelve months from the passing of this Act any house or building shall not be provided with gutters or otherwise so constructed as to prevent rain from dropping from the eaves thereof upon any part of the foot-ways of any street or public place within any of the said towns the owner or occupier of such house or building shall on conviction forfeit and pay the sum of five shillings and a like sum for every day that the same may not be prevented or remedied by gutters or otherwise.

33. And be it further enacted That if any person or persons shall drive or cause to be driven any cart or other carriage with any night soil or ammoniacal liquor therein through or in any of the streets or public places within any of the said towns between the hours of five o'clock in the morning and ten o'clock at night or shall fill any cart or other carriage so as to turn over or cast any night soil ammoniacal liquor slop mire or channel dirt or filth in or upon any of the said streets or other public places it shall and may be lawful for any person or persons whomsoever to seize and apprehend and to assist in seizing and apprehending the offender or offenders and by the authority of this Act and without any other authority or warrant to convey him or them before any Justice of the Peace within any of the said towns and such Justice is hereby authorized and required to hear evidence and determine upon such offence and every such person so offending shall for every such offence forfeit and pay the sum of five pounds Provided always that in case the person or persons so offending cannot be apprehended then the owner or owners of such cart or carriage in which such night soil or ammoniacal liquor slop filth mire or channel dirt shall be put or placed and also the employer or employers of the person or persons so offending shall be liable to and forfeit and pay such penalty as aforesaid.

34. And be it further enacted That if any person or persons shall empty or begin to empty any privy or privies or take away night soil from any house or premises within the streets or public places within any of the said towns or shall come with carts or carriages for that purpose except between the hours of ten at night and five in the morning or if any person or persons shall put in or cast out of any cart or tub or otherwise any night soil in or near any of the streets or public places within any of the said towns it shall be lawful for any constable (and he is hereby strictly charged so to do) or for any other person or persons whomsoever without any warrant or other authority than this Act to apprehend and convey any person or persons found committing any of the said offences or either of them to any watch-house within any of the said towns or to any other place of confinement or security and from thence to convey him or them as soon as conveniently may be before some Justice of the Peace within any of the said towns who shall commit every such offender or offenders upon conviction to the house of correction or common gaol for any time not exceeding thirty days to be computed from the day of commitment and the owner or owners of any carts carriages horses or beasts employed in and about emptying and removing such night soil or coming for that purpose (save and except within the hours hereby allowed) or the employer or employers of any person or persons who shall so put or cast out any such night soil shall forfeit and pay the sum of five pounds for every such offence.

Police.

35. And be it further enacted That any person who shall be convicted of wantonly or maliciously breaking or injuring any lamp or lamp-post or extinguishing any lamp set up for public convenience within any of the said towns shall over and above the necessary expense of repairing the injury committed to be estimated by the Justice before whom such offender shall be brought forfeit and pay upon conviction for every such offence any sum not less than one pound nor exceeding five pounds and it shall be lawful for any constable to seize any person whom he shall find in the act of committing any such offence and to convey him or her to the nearest watch-house or other place of security there to be detained until he or she can be brought before any Justice of the Peace within any of the said towns to be dealt with according to law.

Injuring or extinguishing lamps.

36. And be it further enacted That it shall not be lawful for any person to throw or cause to be thrown any dead animal into any street lane road or other public place within the limits of any of the said towns or into any river creek or other stream which shall flow through by or along any such street lane road or other public place within the same or to leave or cause the same to be left upon the shores thereof and any person who shall be guilty thereof shall on conviction forfeit and pay any sum not exceeding one pound nor less than five shillings and it shall be lawful for any constable to seize any person whom he shall find committing the said offence and to take him or her before any Justice of the Peace within any of the said towns or cause him or her to be detained in any watch-house or other place of security until he or she shall be brought before such Justice to be dealt with according to law.

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

37. And be it further enacted That any person who shall be desirous of blasting any rock within the limits of any of the towns aforesaid shall give notice in writing twenty-four hours previously to the Police Magistrate who shall appoint a time when the same may take place and give such other directions as he may deem necessary for the public safety and if any person shall blast or cause to be blasted any rock within the limits aforesaid without giving such notice or shall not conform to the directions given to him by the said Police Magistrate he or she shall on conviction forfeit and pay for every such offence any sum not less than ten pounds nor more than twenty pounds.

No rock to be blasted without notice to the Police Magistrate.

38. And be it further enacted That any person who shall form dig or open any drain or sewer or remove or cause to be removed any turf clay sand soil gravel stone or other material used in the formation of the streets in or from any part of the carriage or foot-ways within any of the said towns without leave first had and obtained from the Police Magistrate or who shall wantonly break up or otherwise damage the said carriage or foot-ways shall on conviction forfeit and pay for every such offence any sum not exceeding five pounds nor less than one pound.

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

39. And whereas many accidents happen and great mischiefs are frequently done in the streets and public places in the said towns by the negligence or wilful misbehaviour of persons driving therein Be it therefore enacted That if the driver of any waggon wain cart or dray of any kind shall ride upon any such carriage in any street or public place in any of the towns aforesaid not having some person on foot to guide the same (such light carts as are drawn by one horse and driven or guided with reins only excepted) or if the driver of any carriage whatsoever 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 horse or horses or cattle drawing the same or if

If any driver ride without a person to guide his beast

(light carts with reins excepted) or go to a distance from vehicle

Police.

or drive on the wrong side

or wilfully interrupt the free passage of any carriage or person

Penalty.

Offender may be seized.

As to riding or driving improperly through the streets.

Affixing placards on walls and chalking thereon.

Penalty.

Convicts in the streets at night to carry a pass.

Limits of the towns to be set out and published.

Police Magistrate to perambulate limits of the town annually.

any person shall ride upon the shafts of any waggon cart dray or other carriage whatsoever or if the driver of any waggon cart dray coach or other carriage whatsoever meeting any other carriage shall not keep his waggon cart dray coach or carriage on the left or near side of the road or if any person shall in any manner wilfully prevent any other person or persons from passing him or her or any carriage under his or her care upon such street or public place or by negligence or misbehaviour prevent hinder or interrupt the free passage of any carriage or person so in or upon the same every such driver or person so offending shall on conviction forfeit and pay for every such offence any sum not less than ten nor exceeding forty shillings and it shall be lawful for any police constable or other person to seize and convey any person so offending before any Justice within any of the said towns to be dealt with according to law.

40. And be it further enacted That any person who shall ride or drive through any street or public place within any of the said towns so negligently carelessly or furiously that the safety of any other person shall be actually endangered shall on conviction forfeit and pay a sum not exceeding ten pounds nor less than two pounds.

41. And be it further enacted That it shall not be lawful for any person to paste or otherwise affix any placard or other paper upon any wall house or building within any of the said towns nor to deface any such wall house or building by chalk or paint or in any other manner and any person who shall be guilty of any such offence shall upon the complaint of the owner or occupier of any such wall house or building forfeit and pay on conviction the sum of ten shillings.

42. And be it further enacted That every convict assigned to private service or in the employment of the Crown being in the streets or public places between the hours of sun-set and sun-rise and not having a written pass for the occasion from his or her master mistress or overseer unless such convict shall be in actual attendance upon his or her master mistress or overseer shall be taken into custody by any police constable and lodged in the nearest watch-house until he or she can be taken before a Justice of the Peace and every such convict on conviction shall be deemed guilty of disorderly conduct and be dealt with as by law is directed in such case.

43. And be it further enacted That within three months after the passing of this Act the Surveyor General of New South Wales or any person or persons deputed by him shall set out and mark with sufficient marks the limits of the said towns of Parramatta Windsor Maitland and Bathurst respectively subject to the approval of the Governor and upon a description of the boundaries thereof being published in the New South Wales *Government Gazette* the same shall be deemed to be the limits of the said towns respectively within the meaning of this Act and neither the said Surveyor General nor any of his assistants nor any person appointed by him or them shall be deemed to commit any trespass by entering upon the property of any individual in order to erect uphold or repair the said marks at any time after the passing of this Act and any person who shall pull down destroy deface or injure any of the said marks shall on conviction forfeit and pay the sum of five pounds for the first offence and the sum of ten pounds for the second offence and the sum of twenty pounds for the third and every subsequent offence.

44. And in order to uphold the limits of the said towns be it further enacted That the Police Magistrate of each town shall perambulate with proper assistants the said limits on some convenient day in Easter week in each and every year and shall make a record thereof to be filed and kept in the office of the Clerk of the Peace for each of the said towns and neither the said Police Magistrate nor any of his assistants

Police.

assistants shall be deemed to have committed any trespass in passing over the property of any individual in making such perambulation and any person who shall wilfully obstruct or hinder the said Police Magistrate or any of his assistants in making the said perambulation shall on conviction or on the view of a Justice of the Peace forfeit and pay the sum of five pounds.

45. And be it further enacted That the said Surveyor General or any person or persons deputed by him shall set out as far as may be practicable within twelve months after the passing of this Act or in case of unavoidable delay as soon thereafter as can be done the breadth of the carriage and foot-ways in the streets and public places within each of the said towns respectively and shall cause the said foot-ways to be marked by posts at the corners and intersections of the streets or wherever the same may be necessary for defining the foot-ways and the carriage and foot-ways when so set out shall be deemed to be the carriage and foot-ways within the meaning of this Act and the said foot-ways shall in all cases be taken and measured from the curb-stone or exterior edge thereof as laid down by the said Surveyor General or any person or persons deputed by him without reference being in any manner had to the breadth of the carriage-way adjoining thereto or any parts or part thereof whether such carriage-way may or may not in any part exceed the breadth of the carriage-way mentioned in a notice to be published in the New South Wales *Government Gazette*.

Carriage and foot-ways to be set out.

Breadth of the foot-ways to be measured from curb-stone or exterior edge of the foot-ways without reference to the breadth of the carriage-way.

46. And be it further enacted That before the said Surveyor General or any person deputed by him as aforesaid shall set out the foot-way in any street or part of a street or public place in any of the said towns after the passing of this Act he shall lay before the Governor and Executive Council a plan of the same setting forth the proposed breadth of the carriage and foot-ways and thereupon it shall and may be lawful for the said Governor and Council by notice in the New South Wales *Government Gazette* to fix and declare the distance from the curb-stone or exterior edge of the said foot-way in any such street or part of a street or public place within which it shall not be lawful to erect any building Provided that such distance shall in no case exceed twelve feet unless with the consent of the proprietor of the soil.

Surveyor General to lay before the Governor and Executive Council a plan of the carriage and foot-ways.

47. Provided always and be it further enacted That the curb-stone or exterior edge of the said foot-ways shall in no case be placed or formed upon land not hitherto forming part of the street or foot-way unless with the consent of the proprietor of such land or under and by virtue of the provisions of an Act of the said Governor and Council passed in the fourth year of the reign of His late Majesty King William the Fourth intituled "*An Act for altering and improving the Roads throughout the Colony of New South Wales and for opening and improving the Streets in the Towns thereof*" and provided also that all land which shall have been at the time of the publication of the general objects of this Act in the New South Wales *Government Gazette* or shall hereafter be left open and used as a carriage or foot-way within any of the towns aforesaid as well as all land which has been or shall hereafter be formed into a street within any of the said towns at the public expense shall be deemed and taken to be dedicated to the public and shall not be fenced in or reserved on any pretence whatsoever but shall be subject to all such and the like regulations orders powers authorities and provisions to which land used as a public thoroughfare now is or hereafter shall be subject by law Provided always That it shall and may be lawful for the Governor of the said Colony with the advice of the Executive Council thereof by any writing under his hand countersigned by the Clerk of the said Council

The curb-stone shall not be on private property.

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All land now open to the street or formed into a street at the public expense to be deemed dedicated to the public.

Land heretofore used as a carriage or foot-way may be resumed with the consent of the Governor.

Police.

Council to permit and suffer at the discretion of the said Governor and Council the owner or possessor of any land adjoining to any foot-way within any of the said towns which has been heretofore left open and used as a carriage or foot-way to resume the possession of so much of the said land as shall exceed the distance of twelve feet from the outer curb-stone or exterior edge of the foot-ways within the said towns as at present or hereafter to be laid down by the said Surveyor General or any person deputed by him as to the said Governor and Council shall seem fit subject however to and under and upon such conditions regulations and restrictions as shall be directed by the said Governor and Executive Council respecting the same.

Regulating the distance from the foot-way at which houses shall be built.

48. And be it further enacted That as soon as the foot-way of any street part of a street or public place of any of the said towns shall be fixed and declared by the Governor and Executive Council as hereinbefore mentioned no house shop or other building shall be erected nor allowed to project or encroach in any part within the distance from the curb-stone or exterior edge of the foot-way fixed and declared as aforesaid nor shall any house shop or other building which is now erected within the distance to be fixed and declared as aforesaid from the curb-stone or exterior edge of the said foot-way be rebuilt in the whole or in any part nor shall any addition or alteration be made to the same except in conformity with the provisions hereof and any person who shall erect or rebuild any such house shop or other building in whole or in any part or make any addition or alteration to the same except according to the provisions hereof shall forfeit and pay for every such offence the sum of twenty pounds and if the said house shop or other building or any addition or projection shall not be removed or abated within one month after notice shall be served to that effect by the Police Magistrate on the proprietor or occupier thereof or left at his or her usual place of abode the further sum of one pound for every day the same shall remain contrary to the provisions of this Act and it shall be lawful for two or more Justices of the Peace the said Police Magistrate being one of them to grant a warrant to cause the said house shop or other buildings and all additions or alterations thereto so far as the same may be contrary to the provisions of this Act to be taken down and the materials thereof to be sold and thereout to pay the charges of taking down the same and the surplus if any shall be paid to the owner of such materials.

Notice to be given to the Police Magistrate of intention to build.

49. And be it further enacted That after the passing of this Act no person whatsoever shall begin to erect any house shop or other building in any street within any of the towns aforesaid without first serving notice in writing on the said Police Magistrate on any lawful day between the hours of eleven and three o'clock stating such intention and describing the proposed situation of the building and the said Police Magistrate is hereby required and directed within seven days after the receipt of such notice to furnish such person with a paper signed by the said Police Magistrate specifying the provisions of this Act so far as the same may relate to the erection of such shop house or other building and if any person shall begin to erect the same without having first served such notice and received such paper he or she shall forfeit and pay a sum not exceeding ten pounds and if the said Police Magistrate shall refuse or neglect to furnish such written paper within seven days after the receipt of such notice he shall on conviction forfeit and pay the sum of ten pounds unless reasonable cause be shewn.

Open spaces and steps adjoining the foot-ways to be enclosed under penalty.

50. And be it further enacted That every owner or occupier of any house building or premises within the said towns having any entrance area garden or other open space adjoining the foot-way of any street or public place within the said towns beneath the level of the

Police.

the curb-stone or exterior edge of such foot-way shall protect and guard the same by good and sufficient rails fences or other inclosures so as to prevent danger to persons passing and repassing and further that every such owner or occupier of any such house building or other premises having any steps adjoining the foot-way of any street or public place shall in like manner protect and guard the same by rails or other inclosures so as to prevent the like danger to persons passing and repassing and in failure thereof every such owner or occupier shall as often as he shall be convicted of such offence either before or in the view of any Justice of the Peace forfeit and pay any sum not being less than forty shillings nor more than five pounds.

51. And be it further enacted That nothing in this Act contained shall be deemed to interfere with the powers vested in any Surveyor by the provisions of any other Act in force within the said Colony.

Not to interfere with powers formerly vested in Surveyors.

52. And be it further enacted That it shall and may be lawful for any person appointed by the Governor at any time after the passing of this Act to mark upon the walls of any house within any of the said towns the name of the street or place in which it is situated or such other notice as it may be conducive to the public convenience to affix either by painting or colouring the same upon the walls or by affixing a board thereto upon which such notice may be painted and also from time to time to allot a number to each house in every street or public place within any of the said towns which number the occupier of every such house is hereby required to paint or affix or cause to be painted or affixed in legible characters upon the door of his or her house within fourteen days after written notice from the said person so to be appointed by the Governor to that effect left at his or her said house and every person refusing or neglecting to paint or affix such number after such notice as aforesaid shall on conviction forfeit and pay the sum of ten shillings and the like sum for every week during the continuance of such refusal or neglect.

Police Magistrate may affix name of street &c. to any house.

53. And for the greater regularity and convenience in the said towns Be it further enacted That it shall and may be lawful for any person appointed by the Governor as soon as the foot-ways shall have been set out and marked in manner hereinbefore directed to cause the same to be levelled and made as nearly as may be practicable of an equal height and breadth and with an equal slope and inclination and for this purpose to remove and abate any flagging steps or any other matter or thing that may injure or obstruct the said foot-way or render it unequal or inconvenient and which now is or hereafter may be erected or placed on the space marked out for any of the said foot-ways.

Regulations respecting foot-ways.

Police Magistrate may remove obstructions.

54. And be it further enacted That if any person after the said foot-ways shall be so set out as aforesaid in any of the said towns shall be desirous of flagging paving gravelling or putting a curb-stone to the foot-way in the front of his or her house every such person shall twenty-four hours at the least before such work shall be begun give notice in writing to the Police Magistrate in any of the said towns at his office between the hours of eleven in the forenoon and three in the afternoon of any day (except as before excepted) of such his or her intention and shall conform to the directions of the said Police Magistrate as to the length breadth height slope and inclination of such foot-way and if any person shall commence any such work without giving the notice herein directed or shall refuse or neglect to conform to the directions of the Police Magistrate every such person shall forfeit and pay any sum not less than five pounds nor more than ten pounds and it shall be lawful for any two or more Justices of the Peace the said Police Magistrate being one of them to order the removal of all work which may be so executed contrary to such directions.

Persons to give notice to Police Magistrate of intention to pave foot-ways.

Police.

Obstructing Surveyors &c in performance of duty.

55. And be it further enacted That if any person or persons shall at any time or times hereafter in any manner whatsoever wilfully obstruct hinder or molest any person having the control of the streets or public places within any of the said towns or any Surveyor or Surveyors or any other officer or officers person or persons whomsoever who are or shall be appointed employed or authorized to put in execution this Act in the performance or execution of his or their duty then every person or persons so offending shall on conviction for the first offence forfeit and pay the sum of five pounds and for the second offence the sum of ten pounds and for the third or any subsequent offence the sum of twenty pounds.

First offence.
Second offence.
Third or subsequent offence.

Justices appointed under this Act to frame market regulations.

56. And whereas it is expedient that the markets to be held in the aforesaid towns respectively be placed under such regulations as shall provide for the convenience of all persons resorting thereto Be it therefore enacted That it shall and may be lawful for the Police Magistrate with the assistance of the Bench of Magistrates in any of the said towns to make and appoint such rules and regulations and the same to alter and vary from time to time as occasion shall require for the holding such markets and for the maintenance of good order and convenience therein and for the cleanliness of the several market-houses sheds and stalls as to them shall seem fit and to enforce such rules and regulations by imposing fines and penalties for the violation thereof any such fine or penalty in no case to exceed twenty shillings for any one offence and to be recovered in a summary way before any Justice of the Peace and applied as hereinafter directed Provided always that all such rules and regulations shall be first approved by the Governor of the said Colony and published in the *New South Wales Government Gazette* and that the same shall be painted in distinct legible black letters on a board with a white ground and be put up and continued in some conspicuous place in or near to every such market respectively.

The same to be subject to the approval of the Governor.

The Colonial Treasurer empowered to farm the stalls or standings in the market-houses.

57. And be it further enacted That from and after the first day of January one thousand eight hundred and thirty-nine it shall and may be lawful for the Colonial Treasurer or such other officer as the Governor of the said Colony shall authorize and appoint to farm by public auction for any term not exceeding twelve calendar months any one or more stall or stalls standing or standings which now are or hereafter may be in any market-house which now is or hereafter may be in any of the towns aforesaid and for that purpose to advertise and give such public notice in the newspapers or otherwise as to the said Colonial Treasurer or other officer as aforesaid shall seem fit of the time of letting the same and the conditions thereof any thing in any other Act or Ordinance to the contrary notwithstanding.

Jurisdiction of offences.

58. And be it further enacted That all complaints of offences against this Act shall be heard and determined in a summary manner by one or more Justice or Justices of the Peace as hereinbefore mentioned and it shall and may be lawful for any such Justice or Justices respectively to summon before him or them as the case may be on a day to be appointed in that behalf the person complained against or charged with any offence against the provisions of this Act and thereupon whether the said party having been duly summoned shall attend or not unless some reasonable excuse for his or her default to be allowed by the said Justice or Justices shall be made for his or her non-appearance the said Justice or Justices shall forthwith proceed to enquire touching the matters complained of and shall hear and examine on oath or affirmation the witnesses produced concerning the same and shall give judgment thereon and also for the costs of the said proceedings according to law Provided always that upon every such complaint so to be heard and determined as aforesaid

Proviso,

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Police.

an informer shall be considered and is hereby declared to be a competent witness And provided also that no person or persons shall be convicted of any offence or offences contrary to the provisions of this Act in a summary way before any Justice or Justices of the Peace after the expiration of one month from the time when such offence or offences shall have been committed.

59. And be it further enacted That it shall and may be lawful to and for any Justice or Justices as aforesaid to issue a summons under his or their hands to any person or persons whomsoever to attend as a witness or witnesses to give evidence upon oath or solemn affirmation before such Justice or Justices touching any matter of fact contained in any information or complaint for any offence against this Act whether on the part of the prosecutors or informers or of the person or persons complained of and which summons such Justice or Justices as aforesaid are hereby required to issue if demanded and if such person or persons summoned as aforesaid being within the limits of any of the said towns in which the cause of such complaint shall have arisen shall refuse or neglect to appear at such time and place to be for that purpose appointed without such excuse for his her or their refusal or neglect as shall be approved of by such Justice or Justices or appearing shall refuse to be examined on oath or solemn affirmation or to give evidence before such Justice or Justices then and in every such case every such person shall forfeit and pay for every such offence any sum not being less than five pounds nor exceeding ten pounds.

Justices may compel the attendance of witnesses.

Witnesses not appearing.

60. And be it further enacted That all penalties forfeitures and fines by this Act inflicted and imposed shall be paid forthwith or within such time as the Justice or Justices convicting shall order and direct and in default of such payment shall be levied by distress and sale of the goods and chattels of the party or parties offending by warrant under the hand or hands of such Justice or Justices as aforesaid and all the penalties and forfeitures when recovered (rendering the overplus if any there be after deducting all the costs charges and expenses of any summonses informations complaints hearings warrants and of such distress and the keeping appraisement or sale thereof or otherwise relating thereto unto the person or persons whose goods and chattels shall be so distrained and sold) shall be paid and applied as hereinafter is directed and in every such case where distress is directed to be made levied or taken by this Act and sufficient distress shall not be found and such penalties forfeitures and fines and costs charges and expenses shall not be forthwith paid it shall and may be lawful for such Justice or Justices as aforesaid and he or they is or are hereby authorized and required by warrant or warrants under his or their hand or hands to cause such offender or offenders to be committed to any common gaol or house of correction there to remain for any time not exceeding seven days from the time of such commitment where the whole sum to be levied and remaining unpaid together with the costs shall not exceed ten shillings fourteen days where the said sum and costs shall not exceed one pound one calendar month where the said sum and costs shall not exceed five pounds two calendar months where the said sum and costs shall not exceed ten pounds and three calendar months where the said sum and costs shall be of any greater amount unless the said sum to be levied together with the costs shall be sooner paid Provided always that if at the time of conviction it shall appear to such Justice or Justices either by the confession of the offender or offenders or otherwise that the offender or offenders has or have not sufficient goods or chattels whereupon the said penalties forfeitures and fines may be levied within the jurisdiction of such Justice or Justices no sale

Fines and penalties —how recoverable.

How and to whom penalties to be paid.

Where distress not found proceedings.

Police.

the third year of the reign of His late Majesty King William the Fourth intituled "*An Act to consolidate and amend the Laws for the* 3 W. IV. No. 3.
 "*transportation and punishment of Offenders in New South Wales*
 "*and for defining the respective powers and authorities of General*
 "*Quarter Sessions and of Petty Sessions and for determining the*
 "*Places at which the same shall be holden and for better regulating the*
 "*summary jurisdiction of Justices of the Peace and for repealing*
 "*certain Laws and Ordinances relating thereto*" any thing herein contained to the contrary notwithstanding.

64. And whereas there are many small towns in the said Colony that are rapidly increasing in population and trade to which it may hereafter be advantageous to extend the provisions of this Act Be it therefore enacted That whenever the Governor or Acting Governor for the time being shall deem it expedient to extend the same to any other town in the said Colony it shall and may be lawful for the said Governor or Acting Governor for the time being to declare the same by Proclamation to be published in the *Government Gazette* and from and after the publication thereof this Act shall be deemed and taken to apply and be in force in the town or towns to be specified in such Proclamation to all intents and purposes as fully and effectually as if the said town or towns were specially named therein.

65. And be it further enacted That 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 and 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 proceedings 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.

66. And for the protection of persons acting in the execution of this Act be it enacted That all actions and prosecutions to be commenced against any person for any thing 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 one calendar month at least before the commencement of the action and in any such action the defendant may plead the general issue and give this 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 the 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.

Maitland Jury Lists.

Appropriation of
fines.

67. And be it further enacted That all fines and penalties which may be recovered by virtue of this Act and which may not be otherwise specially appropriated shall be given and paid one-half to the informer or prosecutor if demanded and the residue to the use of Her Majesty Her Heirs and Successors for the public uses of the said Colony and the support of the Government thereof.

Commencement of
Act.

68. And be it further enacted That this Act shall commence and take effect from and after the first day of January one thousand eight hundred and thirty-nine.
