



**S U P P L E M E N T**  
TO THE  
**NEW SOUTH WALES**  
**GOVERNMENT GAZETTE**  
OF WEDNESDAY, AUGUST 22, 1838.  
Published by Authority.

SATURDAY, AUGUST 25, 1838.

ANNO SECUNDO.  
VICTORIÆ REGINÆ.

No. 2.

By His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, with the Advice of the Legislative Council.

*"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."*

**W**HEREAS 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 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.

*(Oath to be taken by Police Magistrate.)*

II. 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:)

*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, 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."*

*(Justices to suppress riots, tumults, &c.)*

III. 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.

*(A Police to be appointed.)*

IV. And be it further enacted, That it shall be lawful for the Governor to authorise 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.

*(The Magistrate, subject to the approbation of the Governor, to make regulations for the management of the Police force.)*

V. 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 necessities 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.

*(Powers of Police.)*

VI. 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, 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.)*

VII. 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 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, 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.

*(Assault on Policemen.)*

VIII. 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.)*

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

*(To cause the Lord's Day to be observed.)*

X. 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.

*(As to not suffering games or play on Sunday.)*

XI. 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 damaging public buildings.)*

XII. And be it further enacted, That any person who shall damage any public building, wall, parapet, sluice, bridge, road, street,

sewer, water course, 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 town water courses.)*

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

*(As to injuring public fountains.)*

XIV. 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.

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

XV. 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, 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.)*

XVI. 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, show-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 herein-after 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, show-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 out, the same, or any of them, or any other stall-board, show-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, show-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 Store-keeper 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.

*(Placing nuisances and annoyances.)*

XVII. 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, 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

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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 not have been again given or repeated to the person or persons committing or directing, or permitting such offence or offences, or any of them; anything in this Act to the contrary thereof, in any wise notwithstanding.

*(Not to prevent awnings being erected in front of shops.)*

XVIII. 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.)*

XIX. 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 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.

*(Burning shavings, &c., in the streets prohibited.)*

XX. 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.

*(Bathing prohibited within certain limits.)*

XXI. And be it further enacted, That it shall not be lawful for any person to bath near to, or within view of, any public wharf, quay, bridge, street, road, or other place of public re-

sort, 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.

*(Penalty on indecent exposure of the person.)*

XXII. 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.

*(Swine not to be kept.)*

XXIII. 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.

*(Hog-stys and nuisances not removed on complaint.)*

XXIV. And be it further enacted, That in case any privy, hog-sty, 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-sty, 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 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.)*

XXV. 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.)*

XXVI. 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, authorised 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.)*

XXVII. 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.)*

XXVIII. 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 footway 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 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, 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.

*(Cellars or openings beneath the surface of foot ways prohibited.)*

XXIX. 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 footway 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 here-

of, such expense to be assessed and allowed by such Justice.

*(Wells to be covered over within three months.)*

XXX. 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 six-pence 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.)*

XXXI. And be it further enacted, That if any person or persons shall dig or make, or cause to be dug and 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 Magistrate 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 enclosure, and keep the same constantly burning, from sun-set to sun-rise, during the continuance of such enclosure; 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.)*

XXXII. 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.

*(Slop, night soil, &c., to be conveyed away only at certain hours.)*

XXXIII. 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 authorised 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.

*(Hours of removing night soil, &c.)*

XXXIV. 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.

*(Injuring or extinguishing lamps.)*

XXXV. 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.

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

XXXVI. 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.

*(No rock to be blasted without notice to the Police Magistrate.)*

XXXVII. 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 turf, gravel, &c., to be removed from streets without permission.)*

XXXVIII. 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 footways 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 footways, shall, on conviction, forfeit and pay for every such offence, any sum not exceeding five pounds, nor less than one pound.

*(If any driver ride without a person to guide his beast (light carts with reins excepted); or go to a distance from vehicle; or drive on the wrong side; or wilfully interrupt the free passage of any carriage or person.)*

XXXIX. 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 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.

*(As to riding or driving improperly through the streets.)*

XL. 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,

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shall, on conviction, forfeit and pay a sum not exceeding ten pounds, nor less than two pounds.

*(Affixing placards on walls and chalking thereon.)*

XLI. 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.

*(Convicts in the streets at night to carry a pass.)*

XLII. 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 or 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.

*(Limits of the towns to be set out and published.)*

XLIII. 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.

*(Police Magistrate to perambulate limits of the town annually.)*

XLIV. 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, 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 perambula-

tion, shall, on conviction, or on the view of a Justice of the Peace, forfeit and pay the sum of five pounds.

*(Carriage and footways to be set out.)*

XLV. 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 footways in the streets and public places within each of the said towns respectively; and shall cause the said footways to be marked by posts at the corners and intersections of the streets, or wherever the same may be necessary for defining the footways; and the carriage and footways, when so set out, shall be deemed to be the carriage and footways within the meaning of this Act; and the said footways 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:

*(Surveyor General to lay before the Governor and Executive Council a plan of the said carriage and footways.)*

XLVI. And be it further enacted, That before the said Surveyor General, or any person deputed by him as aforesaid, shall set out the footway 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 footways; 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 footway, 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.

*(The curb-stone shall not be on private property.)*

XLVII. Provided always, and be it further enacted, That the curb-stone, or exterior edge of the said footways, shall in no case be placed or formed upon land not hitherto forming part of the street or footway, 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, intitled, "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 footway 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, to permit and suffer, at the discretion of the said Governor and Council, the owner or possessor of any land adjoining to any footway within any of the said towns, which has been heretofore left open, and used as a carriage or footway, 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 footways 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 footway at which houses shall be built.)*

XLVIII. And be it further enacted, That as soon as the footway 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 footway 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 footway, 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.)*

XLIX. 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 footways to be enclosed under penalty.)*

L. 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 footway of any street or public place within the said towns, beneath the level of the curb-stone or exterior edge of such footway, 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 footway 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.

*(Not to interfere with powers formerly vested in Surveyors.)*

LI. 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.

*(Any person appointed by the Governor may affix name of street, &c., to any house.)*

LII. 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.

*(Regulations respecting foot-ways.)*

LIII. 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 footways 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 footway, 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 footways.

*(Persons to give notice to Police Magistrate of intention to pave footways.)*

LIV. And be it further enacted, That if any person, after the said footways 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 footway 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 footway; 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.

*(Obstructing Surveyors, &c., in performance of duty.)*

LV. 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 authorised 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.

*(Justices appointed under this Act to frame Market Regulations.)*

LVI. 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 Colonial Treasurer empowered to farm the stalls or standings in the Market-houses.)*

LVII. 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 authorise 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)*

LVIII. 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, 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.

*(Justices may compel the attendance of witnesses)*

LIX. 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.

*(Fines and Penalties—how recoverable.)*

LX. 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 authorised 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 shall take place of the goods and chattels of such offender or offenders, but it shall be lawful for such Justice or Justices to commit such offender or offenders to the common gaol or house of correction for such time, and in such manner, as is hereinbefore mentioned and directed; and provided also, that any one Justice of the Peace may, and is hereby authorised and required to act in any and every case in which the concurrence of two Justices of the Peace shall not be expressly required by this Act.

*(Appeal from conviction of Justices to Quarter Sessions.)*

LXI. Provided always, and be it further enacted, That if any person or persons shall think himself, herself, or themselves aggrieved, by any conviction or order of any such Justice or Justices of the Peace, for any offence committed against this Act, in any penalty above the sum of five pounds, it shall and may be lawful for such person or persons to appeal to the next Court of General Quarter Sessions of the Peace, to be holden for the district where the offence shall have been committed; provided the same shall not be held within seven days after such conviction or order shall be made, and then to the General Quarter Sessions of the Peace for such district then next ensuing; and that the execution of every conviction or order so appealed from, shall be suspended, in case the person so appealing shall forthwith, after such conviction shall take place, with two sufficient sureties, before such Justice or Justices, enter into a bond or recognizance to

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Her Majesty, Her Heirs and Successors, in the sum of double the amount of the penalty incurred, conditioned to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the said Court of General Quarter Sessions, and to pay such costs as the said Court shall award on such occasion; and the Justices at the said Court of General Quarter Sessions are hereby authorised and required to hear and determine the matter of the said appeal, and to award costs as to them shall appear just and reasonable, to be paid by either party; and such decision shall be final, binding, and conclusive between the said parties, to all intents and purposes.

*(Form of Conviction.)*

LXII. And be it further enacted, That all and every Justice or Justices of the Peace before whom any person or persons shall be convicted of any offence against this Act, shall and may cause the conviction to be drawn up in the following words, or any other form of words to the same effect:—That is to say,

*Be it remembered, That on this day of in the year of Our Lord A. B. is duly convicted before of Her Majesty's Justices of the Peace, of having (here state the offence, as the case may be) contrary to the form of an Act in that case made and provided: And I (or we, as the case may be) do declare and adjudge that the said A. B. hath forfeited for his (or her, as the case may be) said offence, the sum of and also the sum of for the costs, charges, and expenses already incurred thereabout.—Given under my hand and seal (or our hands and seals, as the case may be) the day and year first above written.*

*(Punishment of convicts for offences under this Act.)*

LXIII. Provided always, and be it further enacted, That when any offence against this Act (except as is hereinbefore specially provided for) shall be committed by any convict or offender under sentence of transportation, such convict or offender being convicted of the said offence, shall and may, at the discretion of the Justice or Justices before whom such conviction shall take place, be punished for the same, as any offender under sentence of transportation, convicted of a misdemeanor, or of disorderly conduct, is liable to be punished under an Act of the Governor of this Colony, with the Advice of the Legislative Council, passed in 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 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*:" anything herein contained to the contrary notwithstanding.

*(Governor may extend provisions of Act to any other town.)*

LXIV. 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.

(No certiorari as to informality in warrant, &c.)

LXV. 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.

(As to proceedings against persons acting under this Act.)

LXVI. 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 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, 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.

(When plaintiff shall have costs against the defendant.)

LXVII. 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.)

LXVIII. 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.

"GEORGE GIPPS."

(Passed the Legislative Council)  
this tenth day of August,  
one thousand eight hundred  
and thirty-eight.

WM. MACPHERSON,  
Clerk of Councils.

ANNO SECUNDO

VICTORIÆ REGINÆ.

No. 3.

By His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, with the Advice of the Legislative Council.

"An Act to alter and amend an Act, intituled  
"An Act for regulating the Police in the  
"Town and Port of Sydney, and for re-  
"moving and preventing Nuisances, and  
"Obstructions therein."

WHEREAS by an Act of the Governor and Council, passed in the Fourth Year of the Reign of His late Majesty King William the Fourth, intituled "An Act for regulating the Police in the Town and Port of Sydney, and for removing and preventing Nuisances and Obstructions therein," it was, among other things, enacted, That no Placards, or other Papers, should be pasted, or otherwise affixed to any wall, house, or building within the Town of Sydney, under a certain penalty; and whereas it is deemed expedient to alter and modify the same: Be it therefore enacted, by His Excellency the Governor, with the Advice of the Legislative Council thereof, that it shall not be lawful for any person to affix any Placard or other Paper upon any wall, house, or building, within the said Town, 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, any sum not exceeding twenty shillings.

"GEORGE GIPPS."

(Passed the Legislative Council,  
this tenth day of August,  
One thousand eight hundred  
and thirty-eight.)

WM. MACPHERSON,  
Clerk of Councils.

ANNO SECUNDO  
VICTORIÆ REGINÆ.  
No. 4.

By His Excellency Sir George Gipps, Knight, Captain, General, and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, with the Advice of the Legislative Council.

"An Act to give further time to prepare and settle the Jury Lists for the District of Maitland, for the year One thousand eight hundred and thirty-eight."

WHEREAS by a certain Act of the Governor and Legislative Council of New South Wales, passed in the fourth year of the Reign of His late Majesty, intituled "An Act to continue for a limited time an Act of the Governor and Council of New South Wales," intituled "An Act for regulating the Constitution of Juries, and for the Trial of Issues in certain Cases in the Supreme Court of New South Wales, and to make further Provision for Trial by Jury in Criminal Cases in the said Colony," it was, among other things enacted, That every man residing within the distance of thirty miles from the Town of Maitland, and who shall be qualified as therein directed with respect to Juries for the trial of issues joined in the Supreme Court, shall be liable to serve on Juries for the trial of crimes, offences, and misdemeanors, in the Court of Quarter Sessions appointed to be holden in said Town: And whereas it was further enacted, That the Justices in Petty Sessions, to be holden in the said Town of Maitland, in the first week of the month of January in every succeeding year after the passing of said recited Act, should prepare, or cause to be prepared, Lists of all men within the said Township, or District, liable to serve on the said Juries as in the said Act is mentioned; and that, as soon as the said Lists should be settled as therein provided, the same should be immediately transmitted by the said Justices to the Sheriff, to be by him entered in a book, styled the Jurors' Book, in the manner therein set forth; and whereas Jury Lists for the said Town or District of Maitland have not been prepared for the current year, according to the Provisions of the said recited Act, and it is expedient and necessary to remedy such omission, and to give further time for the preparing and settling the said Lists, and transmitting the same to the Sheriff to be transcribed in the Jurors' Book, and in the meantime to make provision for the Administration of Justice: Be it therefore enacted and declared, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, that the Jurors' Book for the said Township or District of Maitland, for the past year, prepared in pursuance of the Provisions of the said recited Act, shall be and continue, and be deemed and taken to be, and to have been in force, until the Lists and Jurors' Book for the current year shall be prepared, as hereinafter is provided and directed.

(Preparation of Jury Lists for current year.)

II. And be it further enacted, That the Police Magistrate for Maitland shall, on the seventeenth

day of August, in this present year, prepare, or cause to be prepared, Lists of all men within the said Township, or District, liable to serve on Juries, according to the Provisions of the said recited Act; and shall subscribe the said Lists, and shall cause a copy thereof to be, within three days after the same shall be prepared, affixed to the principal door of the Court-house, and also the principal door of every public place of Religious Worship within the said Town, in like manner and form as is in and by the said recited Act directed and provided.

(Special Session to be held for correcting Jury Lists.)

III. And be it further enacted, That a Special Sessions of the Peace shall be held on the thirty-first day of the month of August in this present year, in the said Town of Maitland, for the correcting of said Lists, and for such purpose the Justices for the said District, shall be summoned by the said Police Magistrate, and shall attend, as in the said recited Act is directed, and the said Police Magistrate shall in like manner attend, and produce the Lists so prepared and verified as hereinbefore directed, and thereupon the Justices at such Sessions assembled, shall examine and correct the said Lists, in like manner and form, as in and by the said recited Act is directed and required.

(Lists to be transmitted to the Sheriff to be transcribed into Jurors' Book.)

IV. And be it further enacted, That as soon as the said Lists shall be settled, as hereinbefore is directed, the same shall be immediately transmitted by the said Police Magistrate to the Sheriff, and the Sheriff, upon receiving such Lists, shall, within seven days after the receipt thereof, cause to be transcribed fairly in the Jurors' Book for said District, for the current year, the names of all persons contained in the said Lists, in such form and manner, in all respects, as if the same had been transmitted to him within the time appointed by the said recited Act, and shall cause a faithful copy of the said Jurors' Book to be made and delivered to the Clerk of the Peace for the said District, and such Jurors' Book shall thereupon be, and continue in force, for the current year, and until the Jury Lists for the ensuing year shall be transcribed by the Sheriff into the Jurors' Book, and shall be of the same force and effect, to all intents and purposes, as if the same had been made and prepared according to the provisions of the said recited Act.

(Jurors liable to same mode and form of proceeding as under former Act.)

V. And be it further enacted, That all persons who shall be summoned to attend the said Court of Quarter Sessions, for the said District of Maitland, as Jurors, under the provisions of this Act, shall be subject and liable to such and the like rules, forms, course, and manner of empannelling, and proceeding in all respects on the trial of any issue, and shall be entitled to receive such and the like respective rates of allowance, for attendance upon said Court, as are prescribed by the said recited Act, and in default of such attendance, shall be subject and liable to such and the like forfeitures, to be recovered in like manner, as in and by the said recited Act is directed and provided.

*(Penalties on Officers neglecting duties herein prescribed.)*

VI. And be it further enacted, That any Sheriff, or other Officer, or any Police Magistrate, or Justice of the Peace, Clerk of the Petty Sessions, or other Ministerial Officer, who shall wilfully neglect, or refuse, to execute any of the duties, in the manner herein directed and specified, shall be subject and liable to such and the like penalties, and to be recovered in like manner, as in and by the said recited Act is directed and provided.

*(Act not to interfere with preparation of Jury Lists for 1839.)*

VII. And be it further enacted and declared, That nothing herein contained shall be deemed or

construed to interfere with the preparing, settling, and transcribing into the Jurors' Book of the Jury Lists, for the year One thousand eight hundred and thirty-nine, but that the same shall be prepared and completed, in all respects, according to the provisions of the said recited Act, as if this Act had not been passed.

"GEORGE GIPPS."

*Passed the Legislative Council,  
this tenth day of August,  
One thousand eight hundred  
and thirty-eight.*

WM. MACPHERSON,  
Clerk of Councils.