

VICTORIA.



ANNO DECIMO SEXTO

## VICTORIÆ REGINÆ.

*By His Excellency CHARLES JOSEPH LA TROBE, ESQUIRE, Lieutenant Governor of the Colony of Victoria and its Dependencies, with the advice and consent of the Legislative Council.*

### No. XXXVI.

**An Act to amend an Act, 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.*” [Assented to 28th January, 1853.]**

WHEREAS it is expedient to amend an Act of the Governor and Legislative Council of the Colony of New South Wales 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*” Be it therefore enacted by His Excellency the Lieutenant Governor of the Colony of Victoria by and with the advice and consent of the Legislative Council thereof as follows

Preamble.  
2 Vic. No. 2.

I. This Act shall extend to and be in force in such Cities Towns and places as the Lieutenant Governor of the said Colony with the advice of the Executive Council shall by Proclamation in the *Government Gazette* declare to come under the operation of the same and it shall be lawful for the said Lieutenant Governor to define the limits of such places and to vary and alter such limits and to revoke any such Proclamation.

Act, where to be in force.

II. From and after the passing of this Act the nineteenth twenty-fifth twenty-sixth thirty-third thirty-fourth thirty-sixth fortieth and forty-third sections of the said recited Act shall be and the same are hereby repealed.

Repeal of Sections 19, 25, 26, 33, 34, 36, 40, and 43, of 2 Vic., No. 2.

III. Any

As to discharging fire-  
arms, &c.

III. Any person who shall discharge any firearms or let off any fireworks in any street or public place within the limits of any of the Cities Towns or places to which the provisions of the said recited Act or of this Act shall extend shall on conviction forfeit and pay a sum not exceeding ten pounds and proof of the discharge of any firearms in or out of any door window or opening of any building shall be sufficient *prima facie* evidence that any person then being in such building discharged such firearms unless the contrary be proved And it shall be lawful for any Justice of the Peace or any member of the Police Force with or without warrant to enter at any time by day or night by force if needful any house in pursuit of any person guilty or supposed to be guilty of offending against the provisions of this section.

Carrying loaded fire-  
arms within limits  
of City, &c., punish-  
able summarily.

IV. Any person who shall carry on or about his person any gun pistol or any other description of firearms or other arms loaded with any explosive or destructive material or any sword dagger dirk or other deadly weapon within the limits of any City or Town to which this Act shall or may extend shall on conviction forfeit and pay any sum not exceeding twenty pounds nor less than five pounds Provided that nothing in this section contained shall apply to any Justice of the Peace any person in Her Majesty's Naval or Military service or in the service of the revenue or to any Officer or Member of the Police Force or other Peace Officer or to any Special Constable or to any person actually in pursuit of any felon or offender.

As to private avenues.

V. The owner or occupier of any house or place within any of the said Cities Towns or places who shall neglect to keep clean all private avenues passages yards and ways within the said premises shall on conviction forfeit and pay for every such offence a sum not exceeding twenty pounds.

Cleansing Butchers'  
Shambles & Slaugh-  
ter-houses.

VI. For preserving the cleanliness of any such City Town or place as aforesaid and the health of its inhabitants it shall be lawful for any person authorized by the mayor of the Corporation of such City or Town or if there be no such Corporation for any Justice of the Peace and for any Constable authorized and deputed by writing under the hand of any Justice from time to time and as often as he or any of them shall see occasion to visit and inspect the butchers shambles and slaughter-houses in such Cities Towns and places and to give such directions concerning cleansing of the said shambles and slaughter-houses both within and without as to him shall seem needful and any butcher or the owner or occupier of any such shamble or slaughter-house who shall obstruct or molest any such person 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 person or Constable forfeit and pay a sum not exceeding twenty pounds.

Mayors or Justices  
may order house  
or premises to be  
cleansed.

VII. It shall be lawful for the Mayor of the Corporation of any City or Town or if there be no such Corporation for any two Justices of the Peace in and for any City Town or place to which this Act shall or may extend upon complaint on oath that any house outbuilding yard or premises or any part thereof respectively is in such a filthy and unwholesome condition that the health of the inmates or of the public is thereby affected or endangered to cause and direct if such Mayor or Justices shall think fit notice to be affixed on the door or other conspicuous part of such house outbuilding yard or premises requiring the occupier thereof to appear before him or them to answer such complaint or to cause the same to be cleansed within seven days from the date of affixing such notice And if within the said seven days such house outbuilding yard and premises and every part thereof shall not be cleansed to the satisfaction of such Mayor or Justices and if such occupier after such notice has been affixed shall not appear before the Mayor or Justices and show sufficient cause to the contrary such Mayor or Justices is and are hereby empowered and required on proof of such notice having

having been affixed and of such neglect as aforesaid to issue an order under his or their hand and seal or hands and seals to any constable or other person directing him to cause such house outbuilding yard and premises and every part thereof to be cleansed and to cause the amount of the expense thereby incurred to be demanded from the occupier and if there be no occupier from the owner of such premises and in case of non-payment to cause such amount to be levied by distress and sale (by warrant under the hand and seal or hands and seals of such Mayor or Justices) of the goods and chattels of such occupier or if no such occupier can be found or in default of sufficient distress of the goods and chattels of such occupier then after notice to and non-payment by the owner of such house out-building yard or premises by distress and sale as aforesaid of the goods and chattels of such owner. Provided that such Mayor and Justices respectively shall if necessary assess in a summary way the amount of such expense and every such distress as aforesaid shall be irrepleviabie.

VIII. If any person 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 city or town to which this Act shall or may extend between the hours of five o'clock in the morning and ten o'clock at night or shall at any time by over filling any cart or other carriage or in any other manner drop or spill or permit or suffer to fall or to be dropped or spilled any night soil ammoniacal liquor slop mire dirt or filth in or upon any of the said streets or other public places such person so offending shall for every such offence forfeit and pay any sum not exceeding ten pounds together with the expenses to be assessed by the convicting Justice or Justices of removing such soil liquor slop mire dirt or filth. Provided that in case the person so offending cannot be apprehended the owner of such cart or carriage and also the employer of any person so offending shall be liable to and forfeit and pay such penalty as last aforesaid.

Night-soil, &c., to be conveyed away only at certain hours.

IX. If any person shall empty or begin to empty any privy or take away night soil from any house or premises within the streets or public places in any of the cities or towns to which this Act shall or may extend or shall come with carts or carriages for that purpose except between the hours of ten at night and five in the morning or if any person shall at any time cast throw or deposit any night soil ammoniacal liquor manure slop mire dirt or filth in or near any of the said streets or public places or in any place within the limits of any City or Town to which this Act extends except at the places lawfully appointed for such purpose every such offender shall upon conviction be imprisoned in any gaol or house of correction for any time not exceeding two months or in the discretion of the committing Justice or Justices forfeit and pay any sum not exceeding twenty pounds together with the expenses as aforesaid and the owner of any carts carriages horses or beasts employed in and about emptying and removing such night soil or coming for that purpose (save and except within the hours hereby allowed) or the employer of any person who shall so put cast or deposit any such night soil liquor manure slop mire dirt or filth shall for every such offence forfeit and pay upon conviction the sum of ten pounds.

Hours for removing night-soil, &c., and penalty for depositing except at appointed place.

X. Any person who shall cast throw or deposit or cause to be cast thrown or deposited into or upon any street lane road or other place within the limits of any of the said cities or towns to which this Act shall or may extend or into any river creek or other stream which shall flow through by or along any such street lane road or other place within such limits any dead animal or part thereof or leave or cause the same to be left upon the shores thereof shall upon conviction for every such offence forfeit and pay any sum not exceeding ten pounds nor less than one pound.

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

XI. Any person who shall furiously ride or drive through any street or public place within any of the said cities or towns to which this Act shall or may extend shall on conviction for every such offence forfeit and pay a sum not exceeding twenty pounds nor less than five pounds.

As to riding or driving furiously through the streets.

XII. Every

Penalty for permitting  
disorderly conduct,  
&c.

XII. Every person who shall have or keep any house shop room or place of public resort within any such city town or place to which this Act shall or may extend as aforesaid wherein provisions liquors or refreshments of any kind shall be sold or consumed (whether the same shall be kept or retailed therein or procured elsewhere) and who shall wilfully and knowingly permit or suffer drunkenness or other disorderly conduct in such house shop room or place or knowingly suffer any unlawful games or any gaming whatsoever therein or knowingly permit or suffer prostitutes or persons of notoriously bad character to meet together and remain therein shall for any such offence be liable to a penalty of not more than twenty pounds nor less than five pounds Provided that if the offender be the holder of any license to sell any liquors or refreshments this enactment shall not be construed to exempt him from penalties or the penal consequences to which he may be liable for committing an offence against the tenor of the license to him granted.

Boatmen to be licensed  
and to wear  
Badges.

XIII Every person who shall be desirous of plying any Boat for hire within any Port or Harbor in the said Colony shall make application for such purpose to the Court of Petty Sessions holden in any City Town or place to which this Act extends and nearest to any such Port or Harbor and on being approved shall register his name and place of abode in the said Court and thereupon such person shall receive a License signed by such Justice and also a Badge on which shall be inscribed his name and the number of his license which badge he shall wear conspicuously exhibited on the left breast and for such License and Badge he shall pay a fee of five shillings and any person who shall ply a boat for hire within any such port or harbor as aforesaid without such license or being licensed without a Badge worn and exhibited as aforesaid shall on conviction in a summary way before any Justice of the Peace forfeit and pay for every such offence a penalty or sum of not less than twenty shillings nor more than five pounds and every such License shall continue and be in force until the thirty-first day of December in each year and no longer: Provided however that such fee of five shillings shall not be payable by any person who at the time of the passing of this Act shall be registered as a Boatman under the provisions of the said repealed Acts.

Justices in Petty  
Sessions to frame  
Table of Rates and  
Fares to be charged  
by Carters and  
Boatmen.

XIV. It shall be lawful for the Council of the Corporation of any City or Town or if there be no such Corporation for three or more Justices assembled in any Court of Petty Sessions holden in and for any city town or place to which this Act extends in the month of March in the year One thousand eight hundred and fifty-three and in the respective months of April and October in every succeeding year to regulate and fix by a Table to be by them for such purpose made the several and respective rates and fares to be charged by any carter or boatman for the conveying of goods or other articles or passengers and to fix and regulate the distances to which such carters and boatmen respectively should be liable to go and the said rates and fares and distances to vary and alter from time to time and other rates fares and distances to fix and establish in lieu thereof and such rates and fares when so regulated and fixed or altered shall be published in the *Government Gazette* and shall be deemed to be the rates and fares which from and after such publication may be lawfully taken and demanded by any such carter or boatman as aforesaid and any such carter who shall take or demand any higher rates than shall be so regulated and fixed as aforesaid shall on conviction forfeit and pay for every such offence a sum not less than one pound nor more than five pounds and any licensed boatman who shall take or demand any higher rate or fare than shall be regulated and fixed as hereby provided or shall refuse to employ his boat when thereunto required between the hours of sunrise and eight o'clock in the evening (unless he be then actually hired by some other person or unless the state of the weather should render it dangerous for him so to do) shall on conviction forfeit and pay for every such offence any sum not less than one pound nor more than five pounds.

XV. It

XV. It shall be lawful for any person whosoever with or without Warrant to apprehend any person who shall be found offending against this Act or the said recited Act and forthwith to take and convey him before any Justice of the Peace to be dealt with in such manner as herein directed or to deliver him to any Constable or other Peace Officer of the place where he shall have been apprehended to be so taken and conveyed as aforesaid and any Constable or other Peace Officer who shall refuse or wilfully neglect to take such offender into custody or to convey him before some Justice of the Peace or who shall not use his best endeavours to apprehend and to convey before some Justice of the Peace any person whom he shall find offending against this Act shall be deemed guilty of a neglect of duty and shall on conviction in a summary way before one Justice of the Peace be liable to a penalty or sum not exceeding five pounds.

Apprehension of Offenders.

XVI. It shall be lawful for any one Justice of the Peace to order and adjudge any person convicted of offending against any of the provisions of this Act either on the view of such or any other Justice or the confession of such offender or the oath of any informer who shall be deemed a competent witness or of any other witness or witnesses to forfeit the penalties or undergo the imprisonments hereby authorised to be imposed or awarded.

One Justice may act.

XVII. All proceedings under this Act shall be had and taken in a summary way and no such proceeding shall be quashed for want of form or removed by *certiorari* or otherwise into the Supreme Court of the Colony of Victoria.

Summary proceedings no *certiorari*.

XVIII. Every complaint or information for any penalty or forfeiture and every conviction or warrant of commitment for any penalty shall be deemed valid and sufficient in which the offence for which such penalty is to be or shall have been inflicted or the cause of such forfeiture is set forth in the words of this Act and no warrant of commitment for any such offence shall be held void by reason of any defect in such warrant nor shall any party be entitled to be discharged out of custody on account of such defect provided it be alleged in such warrant that the said party has been convicted of such an offence and provided it shall appear to the Court or Judge before whom such warrant is returned that such conviction proceeded upon good and valid grounds.

Information, &c., to be deemed valid if the offence is set forth in the words of the Act.

XIX. The Justice of the Peace by whom any person shall be convicted and adjudged to pay any sum of money for any offence under this Act may adjudge that such person shall pay the same together with reasonable costs to be fixed by such Justice either immediately or within such period as the said Justice shall think fit and in case such sum of money shall not be paid at the time so appointed the same shall be levied by distress and sale of the goods and chattels of the offender together with the reasonable charges of such distress and for want of sufficient distress or in the discretion of such Justice without making any such distress such offender shall be imprisoned with or without hard labour in any Gaol or House of Correction in the said Colony as to the convicting Justice shall seem meet for any term not exceeding one calendar month where the sum remaining unpaid shall not exceed five pounds and for any term not exceeding two calendar months where such sum shall not exceed ten pounds and for any term not exceeding six calendar months where such sum shall exceed ten pounds the term to cease in each of the cases aforesaid upon payment of the sum due.

Payment of Penalties and mode of levying the same.

XX. The monies arising from the fines penalties and forfeitures imposed by this Act shall when recovered be paid and applied unless herein otherwise specially directed one half to the informer or person prosecuting not being a member of the Police Force and the other half to the Police Reward Fund and if such informer or person shall be a member of the Police Force then the whole to the Police Reward Fund Provided that in every case in which any such fines penalties or forfeitures shall be incurred in any City or Town in which any Corporation or Municipal

Application of Penalties, &c.

Municipal Body shall exist for the local regulation and improvement thereof the same shall be paid one moiety to the Treasurer of such Corporation for the public uses thereof and the other moiety to the Informer if not a Constable and if a Constable to the Police Reward Fund.

Appeal.

XXI. Any person ordered or adjudged to forfeit or pay any fine penalty or forfeiture exceeding twenty pounds who shall feel himself aggrieved by the judgment of the Justice or Justices adjudicating or before whom he was convicted may appeal from any such judgment or conviction to the next Court of General Sessions of the Peace which shall be held nearest to the place where such judgment or conviction shall have been given or made and the execution of every judgment or conviction so appealed from shall be suspended in case such person shall with two or more sufficient sureties immediately before such Justice or Justices enter into a bond or recognizance to Her Majesty Her Heirs and Successors in the penal sum of double the amount of such fine penalty or forfeiture which bond or recognizance respectively such Justice and Justices is and are hereby authorized and required to take and such bond or recognizance shall be conditioned to prosecute such appeal with effect and to be forthcoming to abide the determination of the said Court of General Sessions and to pay such Costs as the said Court shall award on such occasion and such Court of General Sessions is hereby authorized and required to hear and determine the matter of the said appeal and the decision of such Court shall be final between the parties to all intents and purposes.

What to be public streets.

XXII. Every street court and alley on private property within the City of Melbourne and the Town of Geelong respectively formed under the provisions of the Acts of the Governor and Legislative Council of the Colony of New South Wales intituled respectively "*An Act for regulating the formation drainage and repair of Streets Courts and Alleys on private property within the City of Melbourne*" and "*An Act for regulating the formation drainage and repair of Streets Courts and Alleys on private property within the Town of Geelong*" shall be and be deemed to be a public place within the meaning of this and of the said recited Act.

Act not to repeal 13 Vic., No. 20.

XXIII. Nothing in this Act contained shall be deemed or taken to repeal the provisions of an Act of the Governor and Legislative Council of the Colony of New South Wales passed in the thirteenth year of the Reign of Her Majesty Queen Victoria, intituled "*An Act to consolidate and amend the Laws relating to the Licensing of Public Houses and to regulate the sale of fermented and Spirituous Liquors in New South Wales*" but no person shall be punished for the same offence under this Act and that Act.

Duration of Act.

XXIV. This Act shall continue in force for two years from the passing hereof.