

Sydney Police.

No. VII.

SYDNEY POLICE.

An Act for regulating the Police in the Town and Port of Sydney and for removing and preventing Nuisances and Obstructions therein.
[6th August, 1833.]

Preamble.

The Governor may appoint two or more proper persons as Police Magistrates for the town of Sydney.

WHEREAS it is expedient and necessary to make further provision for the maintenance of the public peace and good order and for the prosecution of certain offences committed within the town and port of Sydney as well as for the removal and prevention of nuisances and obstructions in the said town and port 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 two or more fit persons as Justices of the Peace to execute the duties of Police Magistrates within the town and port of Sydney 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 said limits under the authority of this or any other Act or Ordinance in force within the said Colony and the said Justices from time to time to displace and remove and to appoint others in their place as to the said Governor shall seem fit.

Oath to be taken by the Police Magistrates.

2. And be it further enacted That every person to be appointed a Justice of the Peace 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 Justice of the Peace under and by virtue of an Act passed in the fourth year of the reign of 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.*"

Justices to suppress riots tumults &c.

3. And be it further enacted That it shall be the duty of the said Justices 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 the said town and port.

A police for the town and port of Sydney to be appointed.

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

The Magistrates subject to the approbation of the Governor to make regulations for the management of the police force.

5. And be it further enacted That the said Justices shall from time to time subject to the approbation of the Governor frame such orders and regulations as they 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

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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 Justices 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 Justices may at any time suspend or dismiss from his employment any man belonging to the said police force whom they 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.

Policemen may be suspended or dismissed by the Magistrates.

6. And be it further enacted That it shall be lawful for any man belonging to the said police force to apprehend any person whom he shall find drunk in the streets or public places of the said town 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 town 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.

Powers of police.

7. And be it further enacted That where any person found lying or loitering about as aforesaid or charged with any petty misdemeanor shall be brought without the warrant of a Justice of the Peace into the custody of any constable appointed under this Act during his attendance in the night-time at any watch-house within the said town 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 names 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 this behalf to

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.

In default of appearance recognizance to be forfeited.

Time of hearing may be postponed.

postpone

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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 police-men.

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

Penalty on publicans harbouring police-men during the hours of duty.

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

10. And be it further enacted That the said Justices shall as far as in them lies cause the Lord's Day to be duly observed by all persons in the said town and port 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.

11. And be it further enacted That the owner or occupier of any public billiard room or other public place of amusement within the said town and port 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 within the said town or within five miles of any part thereof 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.

12. 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 the said town or port 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.

13. 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 the said town 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.

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

As to injuring public fountains.

15. And be it further enacted That if any person or persons shall in any street or public place within the said town 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 the said town 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 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 the said town 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.

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

16. And be it further enacted That if any person shall set or place or cause or permit to be set or placed any stall-board chopping-block shew-board (on hinges or otherwise) basket wares merchandise casks or goods of any kind whatsoever or shall hoop place wash or cleanse or shall cause to be hooped placed washed or cleansed any pipe barrel cask or vessel in or upon or over any of the carriage or foot ways in any streets or public places within the said town or shall set out lay or place or shall cause or procure permit or suffer to be set out laid or placed any coach cart wain waggon dray wheel-barrow hand-barrow sledge truck or other carriage upon any of the said carriage-ways except for the necessary time of loading or unloading any cart wain waggon dray sledge truck or other carriage or taking up or setting down any fare or waiting for passengers when actually hired or harnessing or unharnessing the horses or other animals from any coach cart wain waggon dray sledge truck or other carriage or if any person shall set or place or cause to be set or placed in or upon or over any of the said carriage or foot ways any timber stones bricks lime or other materials or things for building whatsoever (unless the same shall be enclosed as hereinafter is directed) or any other matters or things whatsoever or shall hang out or expose or shall cause or permit

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

Placing timber bricks &c.

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Not removing when
required.

Replacing the same
after removal.

Stalls &c. may be
seized.

Perishable seizures
how disposed of.

Other seizures.

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 house or other buildings or premises or any other matter or thing from and on the outside of the front or any other part of any house or houses or other buildings or premises over or next unto any such street or public place and shall not immediately remove all or any such matters or things being thereto required by any Justice of the Peace or by any police constable appointed under this Act and shall not continue and keep the same so removed or if any person having in pursuance of any such requisition as aforesaid removed or caused to be removed any such stall-board shew-board chopping-block basket wares merchandise casks goods coach cart wain waggon dray wheel-barrow hand-barrow sledge truck carriage timber stones bricks lime meat offal or other matters or things shall at any time thereafter again set lay or place expose or put out or cause procure permit or suffer to be set laid placed exposed or put out the same or any of them or any other stall-board shew-board chopping-block basket wares merchandise goods timber stones bricks lime coach cart wain waggon dray truck wheel-barrow hand-barrow sledge meat offal or other things or matters whatsoever (save and except as aforesaid) in upon or over any of the carriage or foot ways of or next unto any streets or public places as aforesaid then and in every such case every person so offending shall upon conviction forfeit and pay for the first offence a sum not exceeding forty shillings nor less than five shillings and also that not only shall such penalties become payable and to be recovered but that it shall and may be lawful to and for any Justice or for any police constable appointed under this Act without any warrant or other authority than this Act to seize any such stall-board shew-board chopping-block basket wares merchandise casks goods coach cart wain waggon dray wheel-barrow hand-barrow sledge truck or other carriage together with the horse or horses ass or asses mule or mules or other animal or animals if any shall be thereunto belonging with the harness gear and accoutrements thereof or any such timber or other materials or other matters or things aforesaid or any of them and in case any of the goods wares or merchandise so seized shall be perishable or shall be articles of food then the same shall be immediately forfeited and the person or persons who shall seize the same shall deliver the same or cause the same to be delivered to the Superintendent of the Benevolent Asylum for the time-being and the same shall and may be distributed for the benefit of the inmates of the said Asylum 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

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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 Justices to order the same to be appraised and sold and the overplus of the money arising from such sale (if any) 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.

If goods (not perishable) be not claimed within five days proceedings.

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

Placing nuisances and annoyances.

Fresh notice not necessary.

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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 any thing in this Act to the contrary thereof in any wise notwithstanding.

Not to prevent awnings being erected in front of shops.

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

As to discharging fire-arms &c.

19. And be it further enacted That any person who shall discharge any fire-arms without any lawful cause or let off any fire-works in any street or public place within the limits of the said town shall on conviction forfeit and pay a sum not exceeding five pounds nor less than ten shillings.

Burning shavings &c. in the streets prohibited.

20. And be it further enacted That it shall not be lawful for any person to burn any shavings or other matters or things in any street or public place within the said town 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.

Penalty.

Bathing prohibited within certain limits.

21. And be it further enacted That it shall not be lawful for any person to bathe in any part of Sydney Cove or near to any public wharf or quay in Darling Harbour 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 the said town to be dealt with according to law.

Indecent exposure of the person.

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

Penalty.

Swine not to be kept.

23. And be it further enacted That it shall not be lawful for any person whomsoever to breed feed or keep any kind of swine in any house building yard garden or other hereditaments situate and being in or within forty yards of any street or public place within the said town 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.

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

Hog-styes and nuisances not removed on complaint.

24. And be it further enacted That in case any privy hog-stye or any other matter or thing which shall at any time or times hereafter be in any place within the said town shall be or become a nuisance to any of the inhabitants thereof it shall be lawful for any two Justices appointed under this Act upon complaint thereof to them made by any of the inhabitants and after due investigation of such complaint by notice in writing to order that every or any such privy hog-stye or other matter or thing being a nuisance shall be remedied and removed within seven days after such notice shall have been given

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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 the said town 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 the said town shall direct.

25. And be it further enacted That any owner or occupier of any house or place within the said town 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 nor less than ten shillings for every such offence.

*As to private
avenues.*

26. And be it further enacted That for preserving the cleanliness of the said town and the health of its inhabitants it shall be lawful for any Justice appointed under this Act and for any police constable authorized and deputed by any writing under the hand of any such Justice from time to time and when and as often as he or either of them shall see occasion to visit and inspect the butchers shambles and slaughter-houses in the said town 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.

*Cleansing butchers
shambles and
slaughter-houses.*

27. And be it further enacted That if any person shall haul or draw or cause to be hauled or drawn upon any part of the streets or public places within the said town 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.

*Drawing or trailing
timber &c.*

28. And be it further enacted That if the owner or occupier of any house building or premises within the said town having any iron or wooden rails or bars over the areas or openings to any kitchens or cellars or other part or parts of the said house building or premises beneath the surface of the foot-way of any streets or public places within the said town or having any doorway or entrance into the basement

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

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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 re-passing 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 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 one Justice appointed under this Act forfeit and pay any sum not being less than forty shillings nor exceeding five pounds.

Cellars or openings
beneath the surface
of foot-ways pro-
hibited.

29. And be it further enacted That it shall not be lawful after the passing of this Act for any person to make any cellar or any opening door or window in or beneath the surface of the foot-way of any street or public place within the said town and if any person shall offend in the premises he shall on conviction before any Justice appointed under this Act 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 hercof such expense to be assessed and allowed by such Justice.

Wells to be covered
over within three
months.

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

Penalty.

Holes made for vaults
&c. to be enclosed.

31. And be it further enacted That if any person or persons shall dig or make or cause to be dug or made any hole or leave or cause to be left any hole before any vacant ground or before or behind or on the side of any house or other tenement or building erected or being erected or about to be erected in and adjoining to any street or public place formed or to be formed or forming within the said town 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 Surveyor of the said town 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 Surveyor of the said town or shall not when thereunto required by the said Surveyor well and sufficiently fence or enclose

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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 Surveyor 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.

32. And be it further enacted That if at any time after the expiration of twelve months after 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 the said town the owner or occupier of such house or building shall on conviction forfeit and pay the sum of five shilling and a like sum for every day that the same may not be prevented or remedied by gutters or otherwise.

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

Penalty.

33. And be it further enacted That if any person or persons shall drive or cause to be driven any cart or other carriage with any night soil or ammoniacal liquor therein through or in any of the streets or public places within the said town 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 the said town and such Justice is hereby authorized and required to hear evidence and determine upon such offence and every such person so offending shall for every such offence forfeit and pay the sum of five pounds. Provided always that in case the person or persons so offending cannot be apprehended then the owner or owners of such cart or carriage in which such night soil or ammoniacal liquor slop filth mire or channel dirt shall be put or placed and also the employer or employers of the person or persons so offending shall be liable to and forfeit and pay such penalty as aforesaid.

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

Penalty £5.

Proviso.

In what case owner to be liable.

34. And be it further enacted That if any person or persons shall empty or begin to empty any privy or privies or take away night soil from any house or premises within the streets or public places within the said town 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 the said town it shall be lawful for any constable (and they are 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 the said district 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 the said town who shall commit every such offender or offenders upon

Hours for removing night soil &c.

Offender may be apprehended

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and committed to
the house of cor-
rection.

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.

Hoards to be erected
but not without
Surveyor's license.

35. And be it further enacted That no person or persons whatsoever shall erect place set up or build in any street or public place within the said town any hoard or scaffolding or place or erect any posts bars rails boards or other things by way of enclosure for the purpose of making mortar or of depositing sifting screening or slacking any brick stone lime sand or any other materials for building or repairing any house or other tenement or erection or for other works or for any other purpose without leave or license first had and obtained under the hand of the Surveyor of the said town who is hereby required to grant the same forthwith for the purpose of making mortar and depositing or sifting screening or slacking any bricks stone lime sand or any other materials for building or repairing any house or other tenement or erection specifying therein the length of time for which the same when so erected and set up may be continued and giving such other directions respecting the same as he may think necessary on being paid by every person so applying for such license the sum of two shillings and sixpence and that if any person or persons shall place set up erect or build or cause or permit to be erected placed set up or built any such hoard or scaffolding or any enclosure posts bars or rails or any other matter or thing for the purposes aforesaid or for any other purpose without the leave or license signed as aforesaid of the said Surveyor so had and obtained or shall erect set up or build or shall cause or permit the same to be erected set up or built in any other manner or to be continued for any longer time than shall be allowed or expressed in such license then and in either of the said cases such person or persons or the person or persons by whom he or they shall or may be employed shall forfeit and pay the sum of ten shillings for every day that the same shall have been and shall be set up and continued and also that it shall and may be lawful for the said Surveyor to cause the same to be pulled down and removed and the same and all the materials thereof and of every part thereof to be kept and detained until such person or persons shall and do pay to the said Surveyor or to the person or persons in whose custody the same shall be all the penalties incurred by such person or persons together with the charges of pulling down removing and keeping the same to be ascertained and determined by the said Surveyor and in case the same shall not be claimed and the said penalties and charges aforesaid shall not be paid within the space of five days next after the pulling down and removing thereof then it shall and may be lawful to and for the said Surveyor to order or cause the same to be appraised and sold and the money arising therefrom after deducting the said charges shall be appropriated in manner hereinafter mentioned.

What is to be
specified in license.

Fee.

Erecting without
license.

Penalty.

Surveyor may cause
hoard to be removed.

Proceedings there-
upon.

Injuring or extin-
guishing lamps.

36. 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 the said town 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

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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 the said town to be dealt with according to law.

37. 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 part of Sydney Cove or Darling Harbour 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 the said town or to cause him or her to be detained in any watch-house or other place of security until he or she shall be brought before such Justice to be dealt with according to law.

Dead animals not to be thrown into Sydney Cove or Darling Harbour.

38. And be it further enacted That any person who shall be desirous of blasting any rock within the limits of the town of Sydney shall give notice in writing twenty-four hours previously to the Town Surveyor 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 Surveyor he or she shall on conviction forfeit and pay for every such offence any sum not less than ten pounds nor more than twenty pounds.

No rock to be blasted without notice to the Surveyor.

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

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

40. And whereas many accidents happen and great mischiefs are frequently done in the streets and public places in the said town 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 as 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 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 such street or public place 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 the said town to be dealt with according to law.

If any driver ride without a person to guide his beast

light carts with reins excepted

or go to a distance from his vehicle

or drive on the wrong side

or wilfully interrupt the free passage of any carriage or person.

Penalty.

Offender may be seized.

41. And be it further enacted That any person who shall ride or drive through any street or public place within the said town so negligently

As to riding or driving improperly through the streets.

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negligently carelessly or furiously that the safety of any other person shall be actually endangered shall on conviction forfeit and pay a sum not exceeding ten pounds nor less than two pounds.

Cattle to be driven into the town at certain hours only.

42. And be it further enacted That no cattle intended for sale or slaughter shall be driven into the town of Sydney north of the new cattle market excepting between the hours of twelve at night and six in the morning and any person who shall be convicted of driving cattle as aforesaid at any other hour shall on conviction forfeit and pay the sum of ten shillings for each and every head of cattle so driven.

Affixing placards on walls and chalking thereon.

43. 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 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 forfeit and pay on conviction the sum of ten shillings.

Penalty.

Seamen in public-houses or streets without a pass.

44. And be it further enacted That every seaman or mariner who shall be in any public-house or any street or public place in the said town at any time after the hour of nine o'clock at night and before sun-rise in the morning shall unless such seaman or mariner shall produce a written pass from the master or other person in charge of the ship or vessel to which he shall belong or a discharge from the master of the ship or vessel to which he last belonged be taken into custody by any police constable and lodged in the nearest watch-house and taken at the usual hour of the following morning before one of the Justices appointed under this Act unless in the meantime the master or other person in charge of the ship or vessel to which such seaman or mariner may belong shall sooner apply for his discharge.

Convicts in the streets at night to carry a pass.

45. 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 shall be taken into custody by any police constable and lodged in the nearest watch-house until he or she can be taken before one of the Justices appointed under this Act and every such convict on conviction shall be deemed guilty of disorderly conduct and dealt with as by law is directed in such case.

Limits of the town to be set out and published.

46. And be it further enacted That within one month after the passing of this Act the Surveyor General shall set out and mark with sufficient marks the limits of the town of Sydney and shall further set out and describe the limits of the said port and of Sydney Cove and Darling Harbour subject to the approval of the Governor and upon a description of the boundaries thereof being published in the *Government Gazette* the same shall be deemed to be the limits of the said town port cove and harbour respectively within the meaning of this Act and neither the said Surveyor General nor any of his assistants nor any person appointed by him 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.

Justices to perambulate limits of the town annually.

47. And in order to uphold the limits of the said town Be it further enacted That some one of the Justices appointed under this Act shall perambulate with proper assistants the said limits on some

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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 the said town and neither the said Justice 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 Justice or any of his assistants in making the said perambulation shall on conviction or on the view of the said Justice forfeit and pay the sum of five pounds.

48. And be it further enacted That the Surveyor General of the said Colony for the time-being shall appoint one or more fit and proper persons as Surveyor or Surveyors of the said town subject to the approbation of the Governor and upon the appointment of such Surveyor or Surveyors and the place or places of holding his or their office or offices being notified in the *Government Gazette* the person or persons so to be appointed shall be deemed to be the Surveyor or Surveyors of the said town within the meaning of this Act and every such Surveyor or some person on his behalf shall attend at his office every day Sunday Christmas Day and Good Friday excepted between the hours of eleven in the forenoon and three in the afternoon.

49. And be it further enacted That the said Surveyor General shall set out as far as may be practicable within three months after the passing of this Act or in case of unavoidable delay as soon thereafter as can be done the breadth of the carriage and foot ways in the streets and public places within the said town and shall cause the said foot-ways to be marked by posts at the corners and intersections of the streets or wherever the same may be necessary for defining the foot-ways and the carriage and foot ways when so set out shall be deemed to be the carriage and foot ways within the meaning of this Act.

50. And be it further enacted That it shall and may be lawful for the Town Surveyor or other person appointed by him at any time after the passing of this Act to mark upon the walls of any house within the said town 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 the said town 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 Town Surveyor 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.

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

52. And be it further enacted That if any person after the said foot-ways shall be so set out as aforesaid shall be desirous of flagging paving

Town Surveyor to be appointed.

Carriage and foot ways to be set out.

Town Surveyor may affix name of street &c. to any house.

Regulations respecting foot-ways.

Surveyor may remove obstructions.

Persons to give notice to Surveyor of intention to pave foot-ways.

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paving gravelling or putting a curb-stone to the foot-way in the front of his or her house every such person shall twenty-four hours at the least before such work shall be begun give notice in writing to the Surveyor of the said town 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 Surveyor as to the length breadth height slope and inclination of such foot-way and if any person shall commence any such work without giving the notice herein directed or shall refuse or neglect to conform to the directions of the Town Surveyor 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 the said Surveyor and his Assistants to remove all work which may be so executed contrary to his directions.

Obstructing Surveyors &c. in performance of duty.

53. 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 the said town or any Surveyor or Surveyors or any other officer or officers person or persons whomsoever who are or shall be appointed employed or authorized to put in execution this Act in the performance or execution of his or their duty then every person or persons so offending shall on conviction for the first offence forfeit the sum of five pounds and for the second offence the sum of ten pounds and for the third or any subsequent offence the sum of twenty pounds.

First offence.

Second offence.

Third or subsequent offence.

Carters to be licensed.

54. And be it further enacted That every carter who shall ply with a cart or dray for hire within the said town shall on being approved of by any Justice of the Peace appointed under this Act register his name and place of abode in the Police Office in the said town and shall thereupon receive a license signed by the said Justice on which shall be written his name and place of abode and the number of the license and for such license he shall pay the sum of two shillings and sixpence and if any such person shall ply with a cart or dray for hire within the said town without being so licensed he shall forfeit and pay for every such offence the sum of one pound.

Penalty on refusing to produce license or on plying without.

Stands for carts to be appointed.

55. And be it further enacted That it shall and may be lawful for the said Justices appointed under this Act or any two of them and they are hereby required by notice under their hands to be published in the *Government Gazette* to appoint proper places within the said town to be used as stands on which the said licensed carters may ply with their carts and drays for hire and every carter who shall after such notice draw up or station his cart or dray at any other place in order to ply for hire shall upon conviction forfeit and pay for every such offence the sum of ten shillings.

Carter's name and number of license to be painted on his cart.

56. And be it further enacted That the name and place of abode of every licensed carter together with the number of his license and and the words "licensed cart or dray" as the case may be shall be legibly painted in letters not less than one inch in length upon the right or off-side of the cart or dray which he shall ply for hire and if any licensed carter shall fail in this regulation he shall on conviction forfeit and pay for every such offence the sum of one pound and if any person not being duly licensed as aforesaid shall ply with a cart or dray upon which there shall be painted the words "licensed cart or dray" whereby it might appear that such cart or dray belonged to or was driven by a person duly licensed under this Act he shall on conviction forfeit and pay for every such offence the sum of one pound.

Porters to be registered and wear a badge and carry a card of rates.

57. And be it further enacted That every person desirous of plying for hire as a porter within the said town shall upon being approved of by a Justice of the Peace appointed under this Act register his

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his name and place of abode at the Police Office in the said town and shall thereupon receive a badge on which shall be engraved his name and the number of his license which he shall wear firmly sewed to his coat or jacket on the left breast and any person who shall so ply without such license and registration or being licensed without a badge so sewed as aforesaid shall on conviction forfeit and pay the sum of ten shillings and for such registration and badge each porter shall pay the sum of five shillings. Penalty on omission.

58. And be it further enacted That every boatman who shall be desirous to ply with a boat for hire in Sydney Cove and Darling Harbour shall on being approved of by any Justice of the Peace appointed under this Act register his name and place of abode in the Police Office in the said town and shall thereupon receive a badge on which shall be inscribed his name and the number of his license which he shall wear firmly sewed to his coat or jacket on the left breast and for such registration and badge he shall pay the sum of five shillings and any person who shall ply for hire with a boat within the said limits without such license and registration or being licensed without a badge so sewed as aforesaid shall on conviction forfeit and pay for every such offence the sum of ten shillings. Boatmen to be licensed.

59. And be it further enacted That every licensed boatman shall have his name and place of abode legibly painted in letters not less than one inch in length on the inner side of the gunwale of the stern sheets of the boat which he shall ply for hire and his number upon the inside of the gunwale of the fore-sheets thereof and if any licensed boatman shall fail in this regulation he shall on conviction forfeit and pay for every such offence the sum of one pound and if any person not being duly licensed as aforesaid shall ply with a boat upon which there shall be painted a name and a number as hereinbefore directed whereby it might appear that such boat belonged to a person duly licensed under this Act he shall on conviction forfeit and pay for every such offence the like sum of one pound. Licensed boatmen to have their names &c. painted on their boats.

60. And be it further enacted That it shall be lawful for the Justices in their Quarter Sessions to be holden for the said town in the month of October in this present year and in the respective months of April and October in every succeeding year to regulate and fix by a table or tables to be by them for such purpose made the several and respective rates and fares to be charged by any licensed carter porter or boatman for the conveying of goods or other articles or passengers and to fix and regulate the distance at which such licensed carters porters and boatmen respectively should be liable to go and the said rates and fares to vary and alter from time to time and other fares and rates 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 it shall be lawful to be taken and demanded by any such licensed carter porter or boatman as aforesaid and any such licensed 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 the sum of one pound or who shall refuse or neglect between the hours of sun-rise and sun-set to carry a good and sufficient load or to employ his horse cart or dray when thereunto required (unless he be then actually hired by some other person) shall on conviction forfeit and pay for such last-mentioned offence any sum not exceeding one pound nor less than five shillings and any licensed porter who shall refuse to engage for hire at the rate to be so regulated and fixed as hereby provided on being required so to do between the hours of sun-rise and sun-set (unless he be then actually employed by some other person) shall on conviction forfeit and Justices in Quarter Sessions to frame tables of rates and fares to be charged by licensed carters porters and boatmen.

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and pay for every such offence the sum of ten shillings and any licensed boatmen 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 sun-rise 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 the sum of ten shillings.

Distances to be determined by Justices.

61. And be it further enacted That if any complaint shall be brought before any Justice of the Peace appointed under this Act touching the distance for which any licensed carter porter or boatman may be entitled to charge such distance shall be determined by such Justice as incident to the cause and any necessary expense which the said Justice may think fit to incur for ascertaining the same shall be paid as costs by the party against whom a decision shall be given by such Justice.

Penalty on un-licensed persons wearing a badge or carrying a license or licensed porters or boatmen lending their badges or licenses.

62. And be it further enacted That any person not being duly licensed as aforesaid who shall wear a badge as a licensed porter or boatman and any licensed porter or boatman who shall suffer any other person to wear his badge or shall lend his license to any person shall on conviction forfeit and pay for every such offence the sum of one pound.

Justices may deprive carters porters and boatmen of their licenses and badges for improper conduct.

63. And be it further enacted That it shall be lawful for any two or more Justices of the Peace appointed under this Act to deprive of his badge or license any porter carter or boatman who upon complaint made before them upon oath shall be found guilty of dishonest or improper conduct.

Justices appointed under this Act to frame market regulations.

64. And whereas market-houses are now erecting in the said town and it is expedient that the markets to be held therein 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 any two or more Justices appointed under this Act 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 *Government Gazette* and that the same shall be painted in distinct legible black letters on a board with a white ground and be put up and continued in some conspicuous place in or near to every such market respectively.

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

2 Wm. IV. No. 16.

The Collector of Internal Revenue empowered to farm the stalls or standings in the market-houses.

65. And whereas by an Act or Ordinance of the Governor of the said Colony with the advice of the Legislative Council thereof intituled "*An Act for regulating the Rates of Tolls or Dues to be levied at the Markets of Sydney and Parramatta*" it is amongst other things enacted That from and after the thirty-first day of March one thousand eight hundred and thirty-two there shall be demanded paid and taken at the markets held in the town of Sydney for every stall in the market-place the sum of one shilling and eight-pence per week And whereas it is expedient to let the stalls in the market-houses now erecting as aforesaid or hereafter to be erected under other conditions Be it therefore enacted That from and after the first day of January one thousand eight hundred and thirty-four it shall and may be lawful for the Collector of Internal Revenue or such other officer as the Governor

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Governor of the said Colony shall authorize and appoint to farm by public auction for any term not exceeding twelve calendar months any one or more stall or stalls standing or standings in any of the said market-houses and for that purpose to advertise and give such public notice in the newspapers or otherwise as to the said Collector or other officer as aforesaid shall seem fit of the time of letting the same and the conditions thereof any thing in the said recited Act or Ordinance to the contrary notwithstanding.

66. And whereas by an Act of the Governor of the said Colony with the advice of the Legislative Council thereof intituled "*An Act*" 3 Gul. IV. No. 6.

"*for the better preservation of the Ports Harbours Havens Roadsteads Channels Navigable Creeks and Rivers in New South Wales and the better regulation of Shipping in the same*" provision is made

for preventing rubbish being placed on any public pier or quay and for the removal of timber or other bulky article from the same as therein directed and it is expedient that the pier or quay situated in Darling Harbour commonly known by the name of the Market Wharf be placed under the direction of the said Justices and be subject to such rules and regulations as shall be by them made for enforcing the said recited Act and providing for the convenience of persons resorting to the said wharf Be it therefore enacted That it shall be lawful for any two or more Justices appointed under this Act to make and appoint such rules and regulations and the same from time to time to alter and vary as occasion shall require for enforcing and carrying into effect the said provisions of the said recited Act and for the maintenance of good order cleanliness and convenience on and at the said market wharf and such rules and regulations to enforce 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 is directed Provided always that all such rules and regulations shall be first approved by the Governor of the said Colony and published in the *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 on the said market wharf.

Justices appointed under this Act to make regulations for the cleanliness and good order of the Market Wharf.

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

67. 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 on 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.

Jurisdiction of offences.

Proviso.

68. 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

Justices may compel the attendance of witnesses.

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Witnesses not appearing.

under his or their hand or 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 the said town and port 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 less than five pounds nor exceeding ten pounds.

Fines and penalties how recoverable.

How and to whom penalties to be paid.

Where distress not found proceedings.

69. And be it further enacted That all penalties forfeitures and fines by this Act inflicted and imposed shall be paid forthwith or within such time as the Justice or Justices convicting shall order and direct and in default of such payment shall be levied by distress and sale of the goods and chattels of the party or parties offending by warrant under the hand or hands of such Justice or Justices as aforesaid and all the penalties and forfeitures when recovered (rendering the overplus if any there be after deducting all the costs charges and expenses of any summonses informations complaints hearings warrants and of such distress and the keeping appraisement or sale thereof or otherwise relating thereto unto the person or persons whose goods and chattels shall be so distrained and sold) shall be paid and applied as hereinafter is directed and in every such case where distress is directed to be made levied or taken by this Act and sufficient distress shall not be found and such penalties forfeitures and fines and costs charges and expenses shall not be forthwith paid it shall and may be lawful for such Justice or Justices as aforesaid and he or they is or are hereby authorized and required by warrant or warrants under his or their hand or hands to cause such offender or offenders to be committed to the common gaol or house of correction of the said town there to remain for any time not exceeding fourteen 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 one calendar month where the said sum and costs shall not exceed one pound two calendar months where the said sum and costs shall not exceed five pounds four calendar months where the said sum and costs shall not exceed ten pounds and six 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 authorized 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.

Sydney Police.

70. 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 of Sydney 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 the said 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 His Majesty His 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 authorized 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.

Appeal from conviction of Justices to Quarter Sessions.

71. 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

Form of conviction.

Be it remembered That on this _____ day of _____ in the year of our Lord _____ of His 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.

72. 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 present Majesty 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*" any thing herein contained to the contrary notwithstanding.

Punishment of convicts for offences under this Act.

3 Will. 4 No. 3.

*Sydney Police.*No *certiorari*as to informality in
warrant &c.As to proceedings
against persons
acting under this
Act.

Notice of action.

General issue.

Tender of amends.

If judgment be
against plaintiff.When plaintiff shall
have costs against
the defendant.Appropriation of
fines.Commencement of
Act.

73. 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.

74. And for the protection of persons acting in the execution of this Act be it enacted That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act shall be commenced within two calendar months after the fact was committed and not otherwise and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action and in any such action the defendant may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant together with the costs incurred up to that time and if a verdict shall pass for the defendant or the plaintiff become nonsuit 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.

75. 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 His Majesty His Heirs and Successors for the public uses of the said Colony and the support of the Government thereof.

76. And be it further enacted That this Act shall commence and take effect from and after the thirtieth day of September next.