— 1845. —

No. 1 of 1845.

* *To make provision for the preservation of Good Order and Cleanliness and the prevention of Nuisances.*

[26th Dec., 1845.]

Short title.

1. The Summary Offences Ordinance, 1845.

Interpretation of terms. *

2. In this Ordinance,—

"Public officer", or "Public department", extends to and includes the Governor and every officer or department invested with or performing duties of a public nature, whether under the immediate control of the Governor or not:

"Lawful authority" extends to and denotes any permission which may be lawfully given by a public officer or department or by a private person:

Where no specific description is given of the ownership of any property, the word "property" shall be taken to apply to all such property of the kinds specified, whether owned by the Crown, by a public department, or by a private person.

Nuisances, Trespasses, and similar offences.

Nuisances committed in thoroughfare or public place, or place adjacent thereto. †

3. Every person shall be liable to a fine not exceeding 50 dollars who, in any thoroughfare or public place or place adjacent thereto, commits any of the following offences:—

(1) throws or lays, or causes or knowingly permits to be thrown or laid, any carrion, dirt, soil, straw, or dung, or any other filth, rubbish, or noisome or offensive matter whatsoever, on any of the roads, streets, ways, or public passages, or into any well, stream, or watercourse, ford, or reservoir for water, or any drain or sewer; or permits or suffers any such noisome or offensive substance as aforesaid to remain exposed in any drain, sewer, or elsewhere, opposite to or in the immediate neighbourhood of his house; or allows any accumulation of filth or offensive substances within the premises occupied by him, to the annoyance of the inhabitants or

* As amended by No. 50 of 1911.

† As amended by No. 1 of 1909, No. 30 of 1911, No. 50 of 1911 and No. 51 of 1911.

passengers; or in any manner defiles or pollutes any well, stream, or watercourse used by any of the inhabitants of the City of Victoria, or for the supplying with water of ships resorting to the harbour; or

(2) commits any nuisance in the neighbourhood of any house or place of public passage; or

(3) sets out or leaves, or causes to be set out or left, any scaffolding, bricks, lime, barrels, bales or cases of merchandise, or any other matter or thing which obstructs, incommodes, or endangers, or may obstruct, incommode, or endanger, any person or carriage in any public road or thoroughfare; or

(4) exposes anything for sale in or upon, or so as to hang over, any carriage-way or footway, or on the outside of any house or shop; or sets up or continues any pole, blind, awning, line, or other projection from any window, parapet, or other part of any house, shop, or other building so as to cause any annoyance or obstruction in any thoroughfare; or

(5) encroaches on any public way or Crown land by erecting any building, either on or projecting over the same, or constructs any spout which projects the rain-water thereon; or

(6) being the occupier or owner of any house, building, or other erection, neglects to repair or remove the same when in a ruinous or unsafe state, and when it endangers or may endanger the passengers in any thoroughfare; or

(7) rides or drives on any foot-path without obvious necessity; or rides or drives in a furious manner, or so as to endanger the life or limb of any person, or to the common danger of the passengers in any public road or thoroughfare; or, when passing or meeting another horse or carriage, does not keep to the customary side of the road; or

(8) leads or rides any horse or other animal, or draws or drives any cart, carriage, sledge, truck, or barrow, upon any footway; or fastens any horse or other animal so that it can stand across or upon any footway; or turns loose any horse or cattle upon the public road or thoroughfare; or

(9) in any thoroughfare or public place, to the annoyance of the inhabitants or passengers, kills or slaughters, or exposes for show or sale (except in a market lawfully appointed for that purpose), or

feeds or fodders, any horse or other animal; or shoes, bleeds, or farries any horse or any animal (except in case of accident); or turns loose, cleans, dresses, exercises, trains, or breaks any horse or other animal; or cleans, makes, or repairs any part of any cart or carriage, except in case of accident, where repair on the spot is necessary; or

(10) keeps any dog accustomed to annoy passengers by barking or otherwise; or suffers to be at large any unmuzzled ferocious dog or other animal belonging to him; or sets on or urges any dog or other animal to attack, worry, or put in fear any person, horse, or other animal; or

(11) upon any public footway, rolls or carries any barrel, cask, butt, or other thing calculated to annoy or incommode the passengers thereon, except for the purposes of housing it or of loading any cart or carriage on the other side of the footway; or

(12) in, near, or adjoining any public road or thoroughfare, wantonly or unnecessarily blows any horn, beats any gong or drum, or makes any other noise calculated to annoy or alarm any person or to frighten any horse or other animal; or

(13) wantonly discharges any firearm, or throws or discharges any stone or other missile, or makes any bonfire, or throws or sets fire to any firework, to the damage or danger of any person; or

(14) wilfully and wantonly disturbs any inhabitant by pulling or ringing any door-bell, or by knocking or striking at any door without lawful excuse; or wilfully and unlawfully extinguishes the light of any lamp; or

(15) plays at any game or pastime to the annoyance of the inhabitants or passengers; or

(16) plays at any game in any public passage or road, so as to obstruct the same or create a noisy assembly therein; or

(17) lewdly and indecently exposes his person by bathing or otherwise near any public road or dwelling-house; or

(18) uses, exercises or follows in or upon any premises, or any part of any premises, held under a lease from the Crown in breach of any covenant contained in such lease, the trade or business of a brazier, slaughterman, soapmaker, sugarbaker, fellmonger, melter of tallow, oilman, butcher, distiller, victualler or tavern-keeper, blacksmith, nightman, scavenger, or any other noisy, noisome, or offensive trade or business whatever, without the previous licence

of His Majesty, signified in writing by the Governor or other person duly authorized in that behalf.

Dressing stone in Victoria. *

4. Every person shall be liable to a fine not exceeding 25 dollars who, within the City of Victoria, in any street, thoroughfare, or public place, or in any place adjacent thereto, contrary to any regulations made by the Governor-in-Council, rough-dresses or causes to be roughdressed granite or any other stone whatever for the erection of any building or for any other purpose.

Street cries for buying or selling. †

5. Every person shall be liable to a fine not exceeding 25 dollars who uses or utters cries for the purpose of buying or selling any article whatsoever, or who makes any noise whatsoever with the object of disposing of or attracting attention to his goods, wares, or trade, within any district or place not permitted by regulation of the Governor-in-Council.

Other offences against good order. **

6. Every person shall be liable to a fine not exceeding 50 dollars who commits any of the following offences:—

(1) erects any shed or house of matting or other inflammable material, so as in case of fire to endanger any neighbouring building; or

[*cf. No. 19 of 1913.*]

(2) without the consent of the owner or occupier, affixes any poster or other paper against or upon any building, wall, fence, or paling; or writes upon, soils, defaces, or marks any building, wall, fence, or paling with chalk or paint, or in any other way whatsoever; or wilfully breaks, destroys, or damages any part of any building, wall, fence, or paling, or any fixture or appendage thereto; or

[sub-sec. (3), *rep.* No. 45 of 1902.]

(4) neglects to affix to his house, and keep alight during the night, such lamp or lantern as may be required and approved of by the Captain Superintendent of Police; or

[*cf. No. 4 of 1897.*]

(5) keeps a house or other building for the occupation or resort of public prostitutes, to the annoyance of any person inhabiting or residing near thereto; or

* As amended by No. 51 of 1911.

† As amended by No. 50 of 1911 and No. 51 of 1911.

** As amended by No. 45 of 1902, No. 50 of 1911 and No. 51 of 1911.

(6) assembles together with other persons in the night-time without lawful excuse; or, seeing any such illegal assemblage, or knowing or having reason to suspect that such assemblage has taken place or is about to take place, does not give immediate notice thereof to the nearest police station or to some police constable; or

(7) being employed as a private guard or watchman, sleeps on his post, or is negligent, remiss, or cowardly in the execution of his duty; or

(8) wantonly or cruelly mutilates or otherwise ill-uses any horse, mule, dog, or other animal.

Apprehension of offenders. *

7.—(1) It shall be lawful for any police constable to take into custody without warrant any person who has committed within his view any offence mentioned in the last four sections, or, if such offence has not been committed within view of such constable, then on the complaint of any person who has been injured or annoyed by, or been witness to, the commission of such offence.

(2) In the absence of any such constable, it shall be lawful for any person so injured or annoyed, or who has seen the offence committed, to seize and detain the offender until he can be given into the custody of a police constable, or until he can be taken before a Magistrate.

Other nuisances, in the nature of trespass or damage. †

8. The offences next hereinafter specified shall be deemed to be nuisances within the meaning of all laws at any time in force for the better repression of nuisances, save that the Court or Magistrate before whom any person is found guilty of any such offence, in lieu of all other punishment for the same, shall order him for every such offence to pay a fine not exceeding 100 dollars; that is to say,—

(1) felling, cutting, destroying, or injuring any standing or growing tree, shrub, or underwood, any grass-sod or turf, or any fence or portion thereof (except in any case where any such offence is proved to have been committed with a felonious intention);

(2) doing any act whereby injury or obstruction, whether directly or consequentially, may accrue to a public road, path, or walk, or to the shore of the sea, or to navigation, mooring, or anchorage, transit, or traffic;

* As amended by No. 51 of 1911.
† As amended by No. 50 of 1911.

(3) trespassing, by man or beast, upon or in any messuage, tenement, cemetery, or land vested in or under the control or management of any public officer or department whatsoever; and

(4) obeying any call of nature on any way or in any public exposed or other improper place, to the annoyance of other persons.

Occupying or building on Crown land, without licence.

9.—(1) No private person shall occupy or erect any building or other thing whatsoever upon land not being under lease from the Crown, without the licence of the Director of Public Works.

(2) In this section the word "building" includes any shop, outhouse, shed, or roof. *

Mendicancy.

10. Mendicancy in the public highways or streets is hereby forbidden.

Penalties for violation of ss. 9 and 10. †

11. Every person who violates, disobeys, or fails to comply with any of the provisions—

(*a*) of section 9, shall be liable to a fine not exceeding 50 dollars, besides the expenses of removing the building or thing occupied or erected;

(*b*) of section 10, shall be liable to a fine not exceeding 5 dollars.

Females soliciting for prostitution. **

11a.—(1) Every female who being in any thoroughfare or public place, or being on any verandah or at any window or doorway over or opening on to any thoroughfare or public place, solicits persons for the purpose of prostitution shall, on summary conviction, be liable to a fine not exceeding 50 dollars.

(2) It shall be lawful for any constable to take into custody without warrant any female whom he shall find in any thoroughfare or public place offending against the provisions of this section.

(3) "Thoroughfare" and "public place" shall include all thoroughfares, streets, roads, lanes, alleys, courts, squares, archways, passages, paths, ways and places to which the public have access either continuously or periodically, whether the same are the property of the Crown or of private persons.

* As amended by No. 51 of 1911 and No. 21 of 1912.

† As amended by No. 14 of 1911 and No. 22 of 1912.

** As amended by No. 7 of 1905, No. 1 of 1906, No. 50 of 1911 and No. 8 of 1912

Shouts while playing *Chai-Mui*. *

12.—(1) No person shall utter any shouts or cries or make other noises while playing the game known as "*Chai-Mui*" within the hours prescribed for any district or place by regulation of the Governor-in-Council.

(2) Every person who contravenes this enactment shall be liable to a fine not exceeding 10 dollars: Provided that where such contravention takes place in any brothel or common lodging-house, the keeper, mistress, or other person having or appearing to have the care or management thereof, either alone or with others, shall be liable to the same penalty.

Making noise at night calculated to disturb public tranquillity. †

13.—(1) No person shall, between sunset and 6 a.m., make or cause to be made any noise whatever calculated to disturb, annoy, or interfere with the public tranquillity or the quiet of the occupier or inhabitant of any dwelling-house within the City of Victoria or its vicinity.

(2) In case any person makes or causes to be made any such noise as aforesaid, it shall be lawful for any such occupier or inhabitant or for any police constable or other person to summon the person so offending before a Magistrate, and it shall be lawful for the Magistrate to deal with the case summarily, and to impose a fine on such offender not exceeding 100 dollars.

Watchman or servant making noise by direction of proprietor of dwelling-house, etc. *

14. If it appears to the Magistrate that the person so offending acted as watchman or servant of the proprietor or occupier of any dwelling-house, warehouse, or other out-house, office, or premises, or of the inhabitant or person in charge thereof, or by or with the direction, knowledge, sanction, sufferance, or permission of such proprietor or occupier or of such inhabitant or person in charge as aforesaid, it shall be lawful for the Magistrate to dismiss the charge as against the watchman or servant or person acting as such and to summon forthwith before him the proprietor or occupier, or inhabitant or person in charge aforesaid, and being satisfied that he did so direct, sanction, suffer, or permit the making of the said noise, to impose a fine on such proprietor or occupier, or inhabitant or person in charge aforesaid, not exceeding 100 dollars.

* As amended by No. 50 of 1911 and No. 51 of 1911.

† As amended by No. 50 of 1911, No. 51 of 1911, No. 21 of 1912 and No. 22 of 1912.

Liability of proprietor of dwelling-house. *

15. When any such noise as aforesaid is made in or upon any dwelling-house or premises, if it is impracticable or difficult to apprehend, discover, or identify the person so making it, it shall be lawful for the Magistrate, on information thereof, to summon before him the proprietor or occupier, or inhabitant or person in charge, of such dwelling-house or premises, and if it appears that such noise was made by the direction or with the knowledge, sanction, sufferance, or permission of the preprietor, occupier, inhabitant, or person in charge, to impose on him a fine not exceeding 100 dollars.

Destruction of rabid dogs and animals. †

16.—(1) It shall be lawful for any police constable to destroy any dog or other animal reasonably suspected to be in a rabid state, or which has been bitten by any dog or animal reasonably suspected to be in a rabid state.

(2) The owner of any such dog or animal who permits the same to go at large, after having information or reasonable ground for believing it to be in a rabid state, or to have been bitten by a dog or other animal in a rabid state, shall be liable to a fine not exceeding 100 dollars.

Stray dogs. [*cf. No. 54 of 1911.*] †

17. It shall be lawful for any police constable to destroy any dog which is found straying or wandering about during the day-time without any owner and not wearing a collar with the name and residence of the owner inscribed thereon; and any such constable is hereby further authorised to destroy any dog which is found straying or wandering about between the hours of 10 p.m. and 5 a.m.

Firing near dwelling-house. *

18. No person, other than a person acting in obedience to lawful authority, shall discharge any cannon or other firearm of greater calibre than a common fowling-piece within 300 yards of any dwelling-house to the annoyance of any inhabitant thereof; and every person who, after being warned of the annoyance by any inhabitant, so discharges any such firearm, shall be liable to a fine not exceeding 100 dollars.

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* As amended by No. 50 of 1911 and No. 51 of 1911.

† As amended by No. 51 of 1911.

Offences relating to vessels, seamen, and merchandise. *

19. Every person who within the Colony or in the harbour or waters thereof, commits any of the following offences shall be liable to a fine not exceeding 100 dollars, or to imprisonment without hard labour for any term not exceeding 14 days,—

(1) knowingly takes in exchange from any seaman or other person, not being the owner or master of any vessel, anything belonging to any vessel lying in the harbour or waters aforesaid, or any part of the cargo of any such vessel, or any stores or articles in charge of the owner or master of any such vessel; or

(2) for the purpose of protecting or preventing anything whatsoever from being lawfully seized within the Colony or in the harbour or waters thereof, on suspicion of its being stolen or otherwise unlawfully obtained, or of preventing the same from being produced or made to serve as evidence concerning any felony or misdemeanor committed or supposed to have been committed within the Colony or in the harbour or waters thereof, frames or causes to be framed any bill of parcels containing any false statement in regard to the name or abode of any alleged vendor, the quantity or quality of any such thing, the place whence or the conveyance by which the same was furnished, the price agreed upon or charged for the same, or any other particular, knowing such statement to be false; or fraudulently produces such bill of parcels, knowing the same to have been fraudulently framed; or

(3) bores, pierces, breaks, cuts open, or otherwise injures any cask, box, or package containing wine, spirits, or other liquors on board any ship, boat, or vessel, or in or upon any warehouse, wharf, quay, or bank, with intent feloniously to steal or otherwise unlawfully obtain any part of the contents thereof; or unlawfully drinks or wilfully spills or allows to run to waste any part of the contents thereof; or

(4) wilfully causes to be broken, pierced, started, cut, torn, or otherwise injured any cask, chest, bag, or other package containing any goods, while on board of any barge, lighter, or other craft, lying in the harbour or waters aforesaid, or any quay, creek, wharf, or landing-place adjacent to the same, or on the way to or from any warehouse, with intent that the contents of such package or any part thereof may be spilled or dropped from such package.

* As amended by No. 30 of 1911 and No. 50 of 1911.

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Removing land-mark. *

20. Every person who removes or carries away any stone or stake driven into the ground as a land-mark, or for the purpose of defining or marking the boundaries of any lot or parcel of ground, shall be liable to a fine not exceeding 50 dollars, or to imprisonment, without hard labour, for any term not exceeding 7 days.

Wilful damage to trees, etc. [*cf. No. 10 of 1910.*] *

21. Every person who wilfully,—

(1) cuts, breaks, damages, injures, or destroys any tree, shrub, or underwood, whether the same is the property of the Crown or of any private person; or

(2) damages, breaks, or destroys any fence, or any wall, bridge, or embankment,

shall be liable to a fine not exceeding 100 dollars, or to imprisonment, without hard labour, for any term not exceeding 14 days.

Possession of offensive weapon, etc., with intent. *

22. Every person who has in his possession any spear, bludgeon, or other offensive weapon, or any crowbar, picklock, skeleton-key, or other instrument fit for unlawful purposes, with intent to use the same for any such unlawful purpose, or is unable to give a satisfactory account of his possession thereof, shall be liable to a fine not exceeding 100 dollars, or to imprisonment, without hard labour, for any term not exceeding 14 days.

Behaving riotously or provoking breach of peace. *

23. Every person who behaves in a riotous, noisy, or disorderly manner, or uses any profane or indecent language or any threatening, abusive, or insulting words or behaviour, with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned, shall be liable to a fine not exceeding 50 dollars, or to imprisonment, without hard labour, for any term not exceeding 7 days.

Improper possession of arms or clothing, or assumption of character, of police constable. †

24. Every person, not being a police constable, who—

(1) has in his possession any article being part of the clothing, accoutrements, or appointments supplied to any police constable, and is not able satisfactorily to account for his possession thereof; or

(2) puts on the dress, or takes the name, designation, or character, of any police constable, for the purpose of thereby obtaining admission into any house or other place, or of doing or procuring to be done any act which a constable would be entitled to do or procure to be done of his own authority, or for any other unlawful purpose,

* As amended by No. 30 of 1911 and No. 50 of 1911.
† As amended by No. 50 of 1911 and No. 51 of 1911.

shall, in addition to any other punishment to which he may be liable for such offence, be liable to a fine not exceeding 200 dollars.

Apprehension of Offenders, etc.

Offender whose name and residence are unknown. *

25. It shall be lawful for any police constable, and for all persons whom he may call to his assistance, to take into custody without warrant any person who within view of such constable offends in any manner against this Ordinance, and whose name and residence are unknown to and cannot be ascertained by such constable.

Disorderly person. †

26. It shall be lawful for any police constable to take into custody without warrant any loose, idle, and disorderly person whom he finds disturbing the public peace, or whom he has good cause to suspect of having committed or being about to commit any felony, misdemeanor, or breach of the peace, and any person whom he finds between sunset and 6 a.m. lying or loitering in any highway, yard, or other place, and who cannot give a satisfactory account of himself.

Power of constable and person aggrieved to apprehend offender in certain cases.

27. § Any person found committing any offence punishable either on indictment or as a misdemeanor on summary conviction by virtue of this Ordinance may be taken into custody without warrant by any police constable, or may be apprehended by the owner of the property on or with respect to which the offence is committed, or by his servant or any person authorised by him, and may be detained until he can be delivered into the custody of a police constable, to be dealt with according to law.

Power to stop, search, and detain vessel, etc., or person suspected of conveying stolen property.

28. § Any police constable may stop, search, and detain any vessel, boat, cart or carriage in or upon which there is reason to suspect that anything stolen or unlawfully obtained may be found, and also any person who may be reasonably suspected of having or conveying in any manner anything stolen or unlawfully obtained; and any person to whom any property is offered to be sold, pawned, or delivered, if he has reasonable cause to suspect that any such offence has been committed with respect to such property, or that the same or any part thereof has been stolen or otherwise unlawfully obtained, is hereby authorized, and if it is in his power, is required, to apprehend and detain such offender, and as soon as may be to

§ This section is not applicable to pawnbrokers: No. 1 of 1860, s. 28.
* As amended by No. 50 of 1911.
† As amended by No. 51 of 1911.

deliver him into the custody of a constable, together with such property, to be dealt with according to law.

Power to detain person, etc., removing furniture in night-time, etc.

29. It shall be lawful for any police constable to stop and detain, until due inquiry can be made, any person whom, and any horse, cart, or carriage, or any other animal or thing which, he finds employed in removing the furniture of any house or lodging, between 8 p.m. and 6 a.m., or whenever such constable has good grounds for believing that such removal is made for the purpose of evading the payment of rent.

Apprehension without warrant of person charged with aggravated and recent assault. *

30. It shall be lawful for any police constable to take into custody without warrant any person who is charged by any other person with committing any aggravated assault, in every case in which he has good reason to believe that such assault has been committed, although not within view of such constable, and that by reason of the recent commission of the offence a warrant could not have been obtained for the apprehension of the offender.

Detention and sale of horse, cart, etc., of person apprehended. †

31.—(1) When any person having charge of any horse, cart, carriage, or boat, or any other animal or thing, is taken into the custody of any police constable under this Ordinance, it shall be lawful for any constable to take charge of such horse, cart, carriage, or boat, or such other animal or thing, and to deposit the same in some place of safe custody as a security for payment of any penalty to which the person having had charge thereof may become liable, and of any expenses necessarily incurred for taking charge of and keeping the same.

(2) It shall be lawful for the Magistrate before whom the case is heard to order such horse, cart, carriage, or boat, or such other animal or thing, to be sold for the purpose of satisfying such penalty and reasonable expenses, in default of payment thereof, in like manner as if the same had been subject to be distrained, and had been distrained, for the payment thereof.

Person apprehended without warrant to be taken to Police Station.

32. Every person taken into custody by a police constable without a warrant, except a person detained for the mere purpose of ascertaining his name and residence, shall be forthwith delivered into the custody of the constable in charge of the nearest police station, in order that such person may be secured until he can be brought

* As amended by No. 51 of 1911.
† As amended by No. 50 of 1911 and No. 51 of 1911.

before a Magistrate to be dealt with according to law, or may give bail for his appearance before a Magistrate, if the constable in charge deems it prudent to take bail in the manner hereinafter mentioned.

Taking of recognizance of person charged with summary offence. *

33. When any person charged with any offence of which he is liable to be summarily convicted before a Magistrate, or with having carelessly done any hurt or damage, is, without warrant, in the custody of any constable in charge of any police station, during the time when the Police Court or Magistrates' office is shut, it shall be lawful for such constable, if he deems it prudent, to take the recognizance of such person, with or without sureties, conditioned as hereinafter mentioned.

Binding over of person making charge. *

34. When any person charged with any felony, or any misdemeanor punishable by imprisonment with hard labour, or any other grave misdemeanor, is without warrant, in the custody of a constable at any police station during the time when the Police Court or Magistrates' office is shut, it shall be lawful for the constable in charge of the police station to require the person making such charge to enter into a recognizance conditioned as hereinafter mentioned; and, on his refusal to do so, it shall be lawful for such constable, if he deems it prudent, to discharge from custody the person so charged upon his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Condition of recognizance.

35. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of a person thereby bound before a Magistrate of the district in which the police station is situated, at his next sitting, and the time and place of appearing shall be specified in the recognizance; and the constable shall enter in a book, to be kept for that purpose at every police station, the name, residence, and occupation of the party and his surety, if any, entering into such recognizance, together with the condition thereof and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

Possession of stolen goods.

Persons suspected of having or conveying stolen property. †

36. Every person who is brought before any Magistrate charged with having in his possession or conveying in any manner anything which may be reasonably suspected of being stolen or unlawfully

* As amended by No. 50 of 1911.
† As amended by No. 30 of 1911 and No. 50 of 1911.

obtained, and who does not give an account, to the satisfaction of the Magistrate, how he came by the same, shall be deemed guilty of a misdemeanor, and shall be liable to a penalty not exceeding 100 dollars, or to imprisonment for any term not exceeding 14 days.

Search warrant for thing stolen or unlawfully obtained. *

37. If information is given upon oath to any Magistrate or Justice of the Peace that there is reasonable cause for suspecting that any thing stolen or unlawfully obtained is concealed or lodged in any dwelling-house or other place, it shall be lawful for the Magistrate or Justice, by special warrant under his hand directed to any police constable, to cause every such dwelling-house or place to be entered and searched at any time of the day or by night, if power for that purpose is given by such warrant; and the Magistrate or Justice may empower such constable, with such assistance as may be found necessary (such constable having previously made known such his authority), to use force for effecting such entry, whether by breaking open doors or otherwise; and if, on search thereupon made, any such thing is found, then to convey the same before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and moreover to take into custody and carry before a Magistrate every person found in such house or place who appears to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained.

Examination of person from whom stolen thing received. †

38.—(1) When any person is brought before any Magistrate charged with having or conveying any thing stolen or unlawfully obtained, and declares that he received the same from some other person, or that he was employed as a carrier, agent, or servant to convey the same for some other person, the Magistrate is hereby authorised and required to cause every such person, and also if necessary every former or pretended purchaser or other person into whose possession the same has passed, to be brought before him and examined, and to examine witnesses upon oath touching the same.

(2) If it appears to the Magistrate that any person has had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, every such person shall be deemed guilty of a misdemeanor, and to have had possession of

* As amended by No. 2 of 1906, No. 50 of 1911, No. 51 of 1911 and No. 8 of 1912.

† As amended by No. 30 of 1911 and No. 50 of 1911 and No. 51 of 1911.

such thing at the time and place when and where the same has been found and seized (and the possession of a carrier, agent, or servant shall be deemed to be the possession of the person who has employed such other person to convey the same); and shall be liable to a fine not exceeding 100 dollars, or to imprisonment for any term not exceeding 3 months.

Order for dilivery of goods stolen or fraudulently obtained and in possession of dealer in second-hand property. †

39. §—(1) If any goods are stolen or unlawfully obtained from any person, or, having been lawfully obtained, are unlawfully deposited, pawned, pledged, sold, or exchanged, and complaint is made thereof to a Magistrate, and that such goods are in the possession of any broker, dealer in marine stores, or other dealer in second-hand property, or of any person who has advanced money upon the credit of such goods, it shall be lawful for the Magistrate to issue a summons or warrant for the appearance of such broker or dealer, and for the production of such goods, to be delivered up to the owner thereof, either without payment or on payment of such sum and at such time as the Magistrate may think fit.

(2) Every broker or dealer who, having been so ordered, refuses or neglects to deliver up the goods, or who disposes of or makes away with the same after notice that such goods were stolen or unlawfully obtained as aforesaid, shall forfeit to the owner of the goods the full value thereof: Provided always that no such order shall bar any such broker or dealer from recovering possession of such goods by action from the person into whose possession they may come by virtue of the Magistrate's order, provided that such action is commenced within 6 months next after such order has been made.

Restoration of property unlawfully pawned. *

40.§ It shall be lawful for a Magistrate to order that any goods brought before him which have been unlawfully pawned, pledged, or exchanged, and the ownership of which is established to his satisfaction, shall be delivered up to the owner by the person with whom they were so unlawfully pawned, pledged, or exchanged, either without compensation or with such compensation to that person as he may think fit.

Forfeiture of stolen goods or unclaimed money. **

41. When any goods or money charged to be stolen or unlawfully obtained, and of which the owner is unknown, are or is ordered by a Magistrate to be delivered to the Captain Superintendent of Police, it shall be lawful for a Magistrate, after the expiration of 12 months

§ This section is not applicable to pawnbrokers: No. 1 of 1860, s. 28.
† As amended by No. 50 of 1911.
* As amended by No. 51 of 1911.
** As amended by No. 50 of 1911 and No. 51 of 1911.

during which no owner has appeared to claim the same, to order such goods or money to be forfeited.

Miscellaneous Provisions.

Amends to person charged on unfounded information or complaint. *

42. Whereas informations are often laid for the mere sake of gain, or by parties not truly aggrieved, and the offences charged in such informations are not further prosecuted, or it appears upon prosecution that there was no sufficient ground for making the charge :—

In every case in which any information or complaint of any offence is laid or made before a Magistrate and is not further prosecuted, or in which, if further prosecuted, it appears to the Magistrate by whom the case is heard that there was no sufficient ground for making the charge, the Magistrate shall have power to award amends, not exceeding 100 dollars, to be paid by the informant or complainant to the party informed or complained against, for his loss of time and expenses in the matter.

Penalty on common informer for compounding without permission of Magistrate. †

43. In case any person lays any information before a Magistrate for any offence alleged to have been committed, by which he was not personally aggrieved, and afterwards directly or indirectly receives, without the permission of a Magistrate, any sum of money or reward for compounding, delaying, or withdrawing the information, it shall be lawful for a Magistrate to issue his warrant or summons, as he may deem best, for bringing before him the person charged with such compounding, delay, or withdrawal ; and if such offence is proved by the confession of the said informer or by the oath of any credible witness, he shall be liable to a penalty not exceeding 100 dollars.

Second or subsequent offences. **

44. For every second or subsequent offence under this Ordinance (not being an offence made punishable under sections 4, 5, and 13 to 19), the offender shall be liable to a penalty in double the amount or to imprisonment for not more than 14 days where the penalty imposed for the first offence does not exceed 50 dollars, and for not more than one month where the penalty imposed for the first offence does not exceed 100 dollars.

Order for delivery of goods or money

45. If any goods or money charged to be stolen or fraudulently obtained are or is in the custody of any constable by virtue of any warrant of a Magistrate, or in prosecution of any charge of

* As amended by No. 19 of 1911 and No. 50 of 1911.
† As amended by No. 19 of 1911, No. 50 of 1911 and No. 51 of 1911.
** As amended by No. 30 of 1911 and No. 50 of 1911.

charged to have been stolen or fraudulently obtained, and in custody of constable. *

felony or misdemeanor in regard to the obtaining thereof, and the person charged with stealing or obtaining possession is not found, or has been summarily convicted or discharged, or has been tried and acquitted, or if such person has been tried and found guilty, but the property so in custody has not been included in any indictment or information on which he has been found guilty, it shall be lawful for a Magistrate to make an order for the delivery of such goods or money to the person who may appear to be the rightful owner thereof, or, in case the owner cannot be ascertained, then to make such order with respect to the same as to the Magistrate may seem meet: Provided always that no such order shall be any bar to the right of any person to sue the party to whom such goods or money may be delivered, and to recover the same from him by an action, provided that such action is commenced within 6 months next after such order has been made.

Removal of filth, etc., and recovery of expenses. *

46.—(1) It shall be lawful for the Captain Superintendent or other officer of police to require any person whose duty it may be to remove any filth or obstruction, or to do any other matter or thing required to be done by this Ordinance, to do so within a certain time to be then fixed by the said officer, and, in default of such requisition being complied with, the officer shall cause to be removed such filth or obstruction or do or cause to be done such other matter or thing as aforesaid.

(2) It shall be lawful for the Magistrate before whom the offender has been convicted to order such offender, in addition to the penalties hereinbefore imposed, to pay such sum of money for defraying the expenses of such removal, or of doing such other matter or thing, as to the Magistrate may seem just and reasonable; and the sum so ordered shall be recoverable in the manner hereinafter provided for the recovery of penalties imposed by this Ordinance.

Acts done by lawful authority. †

47. Nothing in this Ordinance shall operate to the restraint or punishment of any act or thing done under or sanctioned by lawful authority, yet so as that in every case the proof of such lawful authority shall lie on the person alleging the same.

Summary proceedings.

48. All summary proceedings under this Ordinance may be had on the information of any complainant.

* As amended by No. 50 of 1911 and No. 51 of 1911.
† As amended by No. 51 of 1911.

Compensation for hurt or damage. *

49. Every person who, by committing any offence herein forbidden has caused any hurt or damage to any person or property may be apprehended, with or without warrant, by any constable, and if he does not, on demand, make amends for such hurt or damage to the satisfaction of the person aggrieved, he shall be detained by such constable in order to be taken before a Magistrate, and on conviction shall pay such sum, not exceeding 100 dollars, as may appear to the Magistrate to be reasonable amends to the person aggrieved, besides any penalty to which he may be liable for the offence.

Saving of liability of offender to indictment or action.

50. Nothing in this Ordinance shall be construed to prevent any person from being indicted or being proceeded against by indictment or information for any indictable offence made punishable on summary conviction by this Ordinance, or to prevent any person from being liable to be proceeded against by action for any hurt or damage caused by him: Provided, nevertheless, that no person be punished twice for the same offence, and provided that no compensation has been awarded for such hurt or damage.

Recovery of penalties. †

51. The penalties imposed by this Ordinance shall be recovered in a summary manner according to the provisions of any Ordinance regulating the summary jurisdiction of Magistrates.

— 1851. —

No. 1 of 1851.

To regulate the jurisdiction of the Civil Courts in certain cases.

[5th April, 1851.]

WHEREAS, from the vicinity of this Colony to the dominions of China, it is of frequent occurrence that Chinese persons visiting the Colony for a limited time and for the purposes of trade implead and cause each other to be arrested for causes of action arising within the said dominions: AND WHEREAS such proceedings are not only inconvenient from the difficulty of procuring proper evidence and for other reasons, but are frequently resorted to for the purpose of extortion, and likewise tend to the injury of traffic within the Colony:— **

* As amended by No. 50 of 1911.

† As amended by No. 50 of 1911 and No. 51 of 1911; *see* No. 3 of 1890 ss. 57 and 91.

** As amended by the Final Revision Ordinance 1912.