

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 9 of 1930.

AN ORDINANCE

Relating to Police Offences.

BE it ordained by the Deputy of the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910-1930*, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Police Offences Ordinance* Short title. 1930.

2. This Ordinance shall be administered by the Attorney-General Administration and commencement. and shall commence on a date to be fixed by the Attorney-General by notice in the *Gazette*.

3.—(1.) The Acts of the State of New South Wales specified in the Schedule to this Ordinance, in their application to the Territory, in this section referred to as “the Acts”, are repealed. Repeal of State Acts.

(2.) The repeal of the Acts shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the Acts, or anything duly done or suffered under the Acts or any of them;
- (c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the Acts or any of them;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the Acts or any of them; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the Acts had not been repealed.

Parts

4. This Ordinance is divided into Parts, as follows :—

- PART I.—Preliminary.
- PART II.—Offences in relation to Stock.
- PART III.—Offences generally.
- PART IV.—Offences in specified localities.
- PART V.—Offences in relation to Animals.
- PART VI.—Miscellaneous.

Definitions.

5. In this Ordinance, unless the contrary intention appears—

“ Chief Officer ” means the Chief Officer of Police appointed under the *Police Ordinance 1927* ;

“ Court ” means the Court of Petty Sessions established under the *Court of Petty Sessions Ordinance 1930* ;

“ Misdemeanour ” means a misdemeanour within the meaning of the *Crimes Act, 1900* of the State of New South Wales ;

“ Public place ” or “ place of public resort ” includes—

- (a) every place to which free access is permitted to the public with the express or tacit consent of the owner or occupier ;
- (b) every place to which the public are admitted on payment of money, the test of the admission being the payment of the money only ; and
- (c) every road, street, footway, court, alley or thoroughfare which the public is allowed to use, notwithstanding that the road, street, footway, court, alley or thoroughfare may be formed on private property :

Provided that nothing in this definition shall be held to divest the owners of the property of their rights or property therein, or of their power to resume the property for use, occupation or sale.

PART II.—OFFENCES IN RELATION TO STOCK.

Definition of “ Stock ”.

6. In this Part, unless the contrary intention appears—

“ Stock ” means cattle, horses, sheep, goats, swine, poultry and domestic pets, and any other animal which the Attorney-General declares by notice in the *Gazette* to be stock for the purposes of this Part.

Offences in connexion with driving away stock.

7.—(1.) A person shall not drive any stock from the land or out of the herds of any other person unless he has been authorized by that person so to do or has given not less than fourteen nor more than twenty-one days’ notice in writing to that person or to his overseer or bailiff.

(2.) Any person who drives away or attempts to drive away stock in contravention of the last preceding sub-section or who enters upon the land of any other person for that purpose shall be guilty of an offence.

Penalty : Fifty pounds or imprisonment for six months.

(3.) Any person who drives away any stock, other than his own or his master's or employer's, from the land or out of the herds of any other person shall be guilty of an offence, unless he proves to the satisfaction of the Court that he had reasonable ground for believing the stock were his own or his master's or employer's.

Penalty : Fifty pounds or imprisonment for six months.

8. Any person in whose possession is found any stock reasonably suspected to have been stolen shall be guilty of an offence, unless he proves that he acquired the stock in a lawful manner.

Possession of stock suspected to have been stolen.

Penalty : Fifty pounds or imprisonment for six months.

9. Any person who unlawfully uses stock without the consent of the owner or person in lawful possession thereof shall be guilty of an offence.

Unlawful use of stock.

Penalty : Imprisonment for six months, or a fine of Twenty pounds for every head of stock used.

PART III.—OFFENCES GENERALLY.

10. Any person found drunk in any public place may be arrested by any member of the police force and lodged in safe custody, and shall for the first offence be liable to a penalty not exceeding One pound, or to imprisonment for any period not exceeding three days, and for any subsequent offence to a penalty not exceeding Two pounds, or to imprisonment for any period not exceeding seven days.

Drunkenness in public place.

11. Any person found drunk and disorderly in or on any public place shall for the first offence be liable to a penalty not exceeding Two pounds or imprisonment for three days, and for any subsequent offence to a penalty not exceeding Five pounds or imprisonment for fourteen days.

Being found drunk and disorderly.

12. Every person who is guilty—

(a) of any riotous or indecent behaviour, or of fighting, in any public place ;

(b) of disturbing the public peace ; or

(c) of any riotous or indecent behaviour in any police station,

shall be guilty of an offence.

Fighting or riotous or indecent conduct.

Penalty : Five pounds or imprisonment for two months.

13. Any person who rides or drives negligently, carelessly or furiously through any public place shall be guilty of an offence.

Furious driving.

Penalty : Two pounds.

Penalty for indecent exposure of the person.

14. Any person who offends against decency by the exposure of his person in any public place, or in the view thereof, shall be guilty of an offence.

Penalty : Fifty pounds or imprisonment for six months.

Unlawfully ringing house bells.

15. Any person who wilfully and wantonly disturbs the occupant of, or any other person in, any house, by pulling or ringing any door bell, or knocking at any house, without lawful excuse, shall be guilty of an offence.

Penalty : Two pounds.

Injuring or extinguishing street lamps.

16. Any person who wantonly or maliciously breaks or injures any pane of glass, lamp, or lamp post, or extinguishes any lamps set up for public convenience, shall be liable to a penalty not exceeding Five pounds, and in addition shall defray the necessary expense of repairing the damage done, to be estimated by the Court.

Obscenity.

17.—(a) (i) Any person who sings any obscene song or ballad, or writes or draws any indecent or obscene word, figure, or representation, or uses any profane, indecent, or obscene language, in any public place, or within the view or hearing of any person passing therein ; or

(ii) any common prostitute who solicits, importunes, or accosts any person for the purposes of prostitution or loiters about for the purposes of prostitution, in any public place, or within the view or hearing of any person passing therein ; or

(b) any person who uses any threatening, abusive, or insulting words, or behaves in a threatening, abusive, or insulting manner, in any public place,

shall be guilty of an offence.

Penalty : Five pounds or imprisonment for two months.

Keeping brothel.

18. Any person who keeps or manages or acts or assists in the management of a brothel shall be guilty of an offence.

Penalty : Imprisonment for twelve months.

Letting house for use as disorderly house.

19. Any person who—

(a) lets any house or part thereof to a tenant knowing that the house or part thereof is intended to be kept and used by the tenant as a disorderly house or house of ill-fame and repute ; or

(b) being the tenant or occupier of any house or part thereof is wilfully a party to the use of the house or part thereof as a disorderly house or house of ill-fame and repute,

shall be guilty of an offence.

Penalty : Twenty pounds.

20. Any person who steals any dog, or any bird or animal ordinarily kept in a state of confinement and not being the subject of larceny, shall be liable to a penalty not exceeding Twenty pounds, in addition to the value of the dog, bird or animal stolen. Stealing domestic animals.

21.—(1.) Any person who sends or accepts, either by word or letter, any challenge to fight for money, or engages in any prize fight, shall be guilty of an offence. Challenge to fight.

Penalty : Twenty pounds or imprisonment for three months.

(2.) The Court may, if it thinks fit, in addition to imposing a penalty, also require that person to find sureties for keeping the peace.

22.—(1.) Any person who—

- (a) having no visible lawful means of support or insufficient lawful means of support, and having been duly summoned for that purpose or brought before the Court, does not give a good account of his means of support to the satisfaction of the Court ; Idle and disorderly persons.
- (b) wanders abroad, or from house to house, or places himself in any public place to beg or gather alms, or causes or procures or encourages any child so to do ;
- (c) being found by night armed with any gun, pistol, sword, bludgeon, or any offensive weapon or instrument, being thereunto required does not give a good account of his means of support and assign a valid and satisfactory reason for his being so armed ;
- (d) has on or about his person, without lawful excuse (proof whereof shall lie upon the person charged), any deleterious drug, or any article of disguise ;
- (e) being an habitual drunkard, has been thrice convicted of drunkenness within the preceding twelve months ;
- (f) is the occupier of any house which is frequented by reputed thieves, prostitutes, or persons who have no visible means of support ; or
- (g) being a common prostitute, wanders in or is in any place of public resort and behaves in a riotous or indecent manner.

shall be deemed an idle and disorderly person within the meaning of this Ordinance, and shall be guilty of an offence.

Penalty : Imprisonment for six months.

(2.) Where any person is accused of having no visible lawful means of support, or of having insufficient lawful means of support, proof that he possesses money or other property shall be no defence unless it is also proved that the money or property was honestly obtained.

(3.) When any person is convicted under paragraph (c) of subsection (1.) of this section, any gun, pistol, sword, bludgeon, or other offensive weapon or instrument with which the person was armed contrary to the provisions of this section shall be forfeited to His Majesty.

23.—(1.) Any person who—

- (a) being an idle or disorderly person, commits any of the offences mentioned in the last preceding section ;
- (b) solicits, gathers, or collects alms, subscriptions, or contributions under any false pretence, or wanders abroad and endeavours by the exposure of wounds or deformities to obtain or gather alms ;
- (c) imposes, or endeavours to impose, upon any charitable institution or private individual, by any false or fraudulent representation, either verbally or in writing, with a view to obtaining money or any other benefit or advantage ;
- (d) pretends to tell fortunes, or uses any subtle craft, means, or device, by palmistry or otherwise, to deceive and impose upon any person ;
- (e) has in his custody or possession, without lawful excuse (proof whereof shall be upon the person charged), any picklock, key, crow, jack, bit, or other implement of housebreaking ;
- (f) is armed with any gun, pistol, sword, bludgeon or other offensive weapon or instrument with a felonious intent ;
- (g) is found with his face blackened or wearing felt or other slippers or being dressed or otherwise disguised with an unlawful intent ;
- (h) (i) wilfully exposes to view in any public place ; or
(ii) exposes, or causes to be exposed, in any window or other part of any shop or other building situated in any public place ; or
(iii) offers for sale, or attempts to dispose of,
any obscene book, print, picture, drawing, or representation ;
- (i) wilfully, openly, lewdly, and obscenely exposes his person in any place of public resort or in view thereof ;
- (j) being a male person—
 - (i) knowingly lives wholly or in part on the earnings of prostitution ; or
 - (ii) in any public place persistently solicits or importunes for immoral purposes ;
- (k) plays or bets at thimble-rig or any unlawful game ;
- (l) plays or bets at or with any table or instrument of gaming at any game or pretended game of chance, in any public place, or in any railway carriage, or at, on, or near any race-course, fair, exhibition, or show building or grounds ;
- (m) (i) in or near any public place or place of public resort, engages in betting, or solicits or encourages any other person to bet, upon—
 - (1) any confidence game or trick of sleight of hand ;
or
 - (2) any game or trick played with any instrument, which, in the opinion of the Court, is constructed or used as a means of cheating ;
or

(ii) being a known or reputed cheat, loiters in or near any public place or place of public resort, and has in his possession any instrument of gaming, or any instrument which, in the opinion of the Court, is constructed or used as a means of cheating, unless that person accounts, to the satisfaction of the Court, for his having the instrument in his possession ;

(n) being a suspected person or reputed thief, frequents, with intent to commit a felony, any river, or any place of public resort, or place adjacent thereto ;

(o) being apprehended as an idle and disorderly person, violently resists any member of the police force or other officer so apprehending him, and is subsequently convicted of the offence for which he was so apprehended ;

(p) is found in or upon any dwelling, lands, warehouse, coach-house, stable, garage or outhouse, or in any enclosed yard, garden or area, for any unlawful purpose ;

(q) wanders about and lodges in any outhouse or deserted or unoccupied building, or in the open air, or in any cart or waggon, and who has no visible means of support, and does not give a good account of himself ; or

(r) leaves his wife or child—

(i) chargeable, or whereby either of them becomes chargeable, to the public ; or

(ii) without means of support other than public charity,

shall be deemed a rogue and vagabond within the meaning of this Ordinance, and shall be guilty of an offence.

Penalty : Imprisonment for three months.

(2.) When any person is convicted under paragraph (e) of the last preceding sub-section, any picklock, key, crow, jack, bit, or other implement of housebreaking in the custody or possession of that person shall be forfeited.

(3.) Where a male person is proved to live with, or to be habitually in the company of, a prostitute, and has no visible means of support, he shall, for the purposes of paragraph (j) of sub-section (1.) of this section, unless he satisfies the Court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

(4.) Where any person is convicted under paragraph (l) of sub-section (1.) of this section, any table or instrument of gaming at or with which he has played or betted contrary to the provisions hereof shall be forfeited to His Majesty.

24.—(1.) Any person who—

(a) breaks or escapes out of any place of legal confinement before the expiration of the period for which he was committed or ordered to be confined ;

Incorrigible
rogue.

- (b) commits any offence which subjects him to be dealt with under the last preceding section as a rogue and vagabond, he having been previously convicted thereunder ; or
- (c) being apprehended as a rogue and vagabond, violently resists any member of the Police Force so apprehending him, and is subsequently convicted of the offence for which he has been so apprehended,

shall be deemed an incorrigible rogue, and shall be guilty of an offence.

Penalty : Imprisonment for one year.

(2.) Nothing shall prevent any person guilty of any such offence as mentioned in this section from being committed to the nearest gaol, there to remain until the next criminal sittings of the High Court.

(3.) Every offender who is committed to a gaol as aforesaid shall be there kept to hard labour during the period of his commitment.

Arrest of persons without lawful means of support.

25. Where any member of the Police Force has reasonable cause to believe that any person has no lawful means of support or has insufficient lawful means of support, he may arrest that person either with or without warrant, and bring him before the Court, or may summon him to appear before the Court.

Lodging houses, &c., may be searched.

26. Any magistrate, upon information on oath—

- (a) that any person described in this Ordinance to be an idle and disorderly person or a rogue and vagabond or an incorrigible rogue is or is suspected to be in any house, building, tent or place kept or purporting to be kept for the reception, lodging or entertainment of travellers or others ; or
- (b) that any house, building, tent or place is a brothel or disorderly house or house of ill-fame and repute,

may enter the house, building, tent or place at any time by day or night, or may issue his warrant authorizing any member of the Police Force or other person in like manner to enter the house, building, tent or place and to arrest and bring before him or any other magistrate or the Court every such idle and disorderly person, rogue and vagabond or incorrigible rogue as is found therein to be dealt with in the manner directed by this Ordinance.

Seizure of property in possession of idle and disorderly persons, &c.

27.—(1.) Any member of the Police Force or other person apprehending any person charged with being an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, may seize any horse or cattle, or any goods or vehicle, in the possession or use of the person so apprehended and charged.

(2.) Any Court which adjudges a person to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, shall order—

- (a) that that person be searched ;
- (b) that his trunks, boxes, bundles, parcels, or packages, and any cart or other vehicle found in his possession or use, be searched ; and

(c) that any money, which may then be found with or upon that person, be paid and applied for or towards the expenses of apprehending and conveying him to gaol, and maintaining him during the period for which he is committed, and towards the expense of the keep of any horse or cattle seized under this section, during the time the horse or cattle is detained.

(3.) If, upon that search, money sufficient for those purposes is not found, the Court may order—

- (a) that the horse or cattle, and so much as is necessary of any other property seized under this section, be sold ;
- (b) that the produce of the sale be paid and applied as provided in the last preceding sub-section ; and
- (c) that the balance of the money or effects, after deducting the charges for the sale, be returned to the offender.

28. Any person who obtains any chattel, money, or valuable security by passing any cheque which is not paid on presentation shall, notwithstanding that there may have been some funds to the credit of the account on which the cheque was drawn at the time it was passed, be guilty of an offence, unless he proves—

Valueless cheques.

- (a) that he had reasonable grounds for believing that the cheque would be paid in full on presentation ; and
- (b) that he did not have an intent to defraud.

Penalty : Imprisonment for one year.

29.—(1.) Any person brought before the Court, charged with having in his possession, or conveying in any manner, anything which may be reasonably suspected of having been stolen or unlawfully obtained (including money or any other thing which may be reasonably suspected of having been stolen or unlawfully obtained, proved to be or to have been in the possession of the person so charged, whether in a building or otherwise, and whether the possession had been parted with by him before being brought before the Court or not), who does not give an account, to the satisfaction of the Court, as to how he came by the thing, shall be guilty of an offence.

Persons suspected of having stolen goods.

Penalty : Twenty-five pounds or imprisonment for twelve months.

(2.) If the true owner of any goods suspected of having been stolen or unlawfully obtained is not discovered within one month from the conviction under this section of any person for an offence with respect to the goods, the goods may be sold by public auction, and the proceeds of the sale, if not claimed by the true owner within twelve months, shall be paid into the Consolidated Revenue Fund.

30.—(1.) Whenever any credible witness proves upon oath before any magistrate that there is reasonable cause to suspect that any such property as mentioned in this section has been taken or stolen, and is to

Where property improperly taken or stolen is found and not satisfactorily accounted for.

be found in any house or other place, it shall be lawful for the magistrate to issue a warrant to search the house or place for the property, and any person in whose possession, or on whose premises, any of the property is found by virtue of any such warrant, or by any member of the Police Force when executing any general search warrant or any other warrant, or otherwise acting in the discharge of his duty, who does not satisfy the Court that he came lawfully by the property, or that the property was on his premises without his knowledge or consent, shall—

- (a) if the property so found consists of the carcase, or the head, skin, hide, fleece, feet, or other part of any cattle, be liable to a penalty not exceeding Twenty-five pounds, or to imprisonment for any period not exceeding twelve months ; and
- (b) if the property so found consists of the whole or any part of any tree, sapling, or shrub, or any underwood, or any part of any live or dead fence, or any post, picket, rail, stile, or gate, or any part thereof (being of the value of not less than One shilling), be liable to a penalty not exceeding Ten pounds, or to imprisonment for any period not exceeding six months, and in addition shall pay to the party aggrieved the value of the property so found.

(2.) In every case to which this section applies, any person to whom any such property as is therein mentioned is offered for sale, or any member of the Police Force, may lawfully seize the property and shall with all convenient speed cause it to be removed to the Court, and in every such case it shall be lawful for the Court to direct that the property be delivered over to the rightful owner, if known, or, if the rightful owner is not known, that it be sold, and the proceeds thereof applied in the same manner as any penalties under this Ordinance.

(3.) If any person charged with any offence against this section is not convicted thereof, it shall be lawful for the Court, at its discretion, to compel the attendance before it of any person through whose hands any such property as mentioned in this section, or any part thereof, appears to have passed, and if the person from whom the property was first received, or any person who has had possession thereof, does not satisfy the Court that he came lawfully by the property, he shall be liable to the appropriate punishment provided by this section.

Malicious injury
to property.

31.—(1.) Any person who wilfully and maliciously commits any damage, injury, or spoil to or upon any real or personal property whatsoever, whether public or private, shall be liable to a penalty not exceeding Five pounds, or to imprisonment for any period not exceeding two months, and shall also pay to the party aggrieved such further sum of money (not exceeding Ten pounds) as appears to the Court to be a reasonable compensation for the damage, injury, or spoil so committed.

(2.) Nothing herein contained shall extend to—

- (a) any act done in the course of a trespass, where the party trespassing acted under a fair and reasonable supposition that he had a right to do the act; or
- (b) any trespass, not being unlawful or malicious, committed in hunting or fishing, or in the pursuit of game.

32.—(1.) Any person who—

- (a) steals, or damages with intent to steal any part of any live or dead fence, or any post, picket, wire, or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, or receives it, knowing it to have been stolen or unlawfully come by, shall pay to the party aggrieved the value of the property stolen or the amount of the damage done, and shall also be liable for the first offence to a penalty not exceeding Five pounds, or to imprisonment for any period not exceeding one month, and for any subsequent offence to double the amount of that punishment;
- (b) steals, or cuts, breaks, roots up, or otherwise destroys or damages, with intent to steal, the whole or any part of any growing tree, sapling, shrub, or underwood, or any growing fruit or vegetable production or any growing cultivated root or plant, or receives it, knowing it to have been stolen or unlawfully come by, shall, if the value of the property stolen or the amount of the damage done does not exceed Five pounds, pay to the party aggrieved that value or amount, and shall also be liable for the first offence to a penalty not exceeding Five pounds, or to imprisonment for any period not exceeding one month, and for any subsequent offence to double the amount of that punishment; or
- (c) being an artificer, workman, journeymen, apprentice, or other person, unlawfully disposes of, or retains in his possession, without the consent of the person by whom he is hired, retained, or employed, any goods, wares, work, or materials (not exceeding Ten pounds in value) committed to his care or charge, shall pay to the party aggrieved such compensation as the Court thinks reasonable, and shall also be liable for the first offence to a penalty not exceeding Ten pounds, or to imprisonment for any period not exceeding three months, and for any subsequent offence to double the amount of that punishment.

Destroying property with intent to steal, or unlawfully retaining or disposing of property.

(2.) Any person to whom any such property as mentioned in this section is offered to be sold, pawned, or delivered, who has reasonable cause to suspect that any such offence as mentioned in this section has been committed with respect to that property, is hereby authorized to arrest without a warrant, and with all convenient speed to carry before the Court, the person offering the property, together with the property, to be dealt with according to law.

(3.) In every such case the property shall, by order of the Court, be delivered over to the rightful owner, if known, or, if the rightful owner is not known, it shall be sold, and the proceeds thereof applied in the same manner as penalties under this Ordinance.

Penalty on persons selling adulterated or unwholesome articles of food.

33.—(1.) Any person who—

- (a) sells, or offers for sale, as food for human consumption, any grain, flour, meat, or vegetable which in whole or in part is spoiled or in any manner adulterated ; or
- (b) exhibits for sale any unwholesome or fraudulently prepared provisions, meat, or other food of any kind for man or beast, or practises any deceit or fraud in respect of the quality of any such provisions, meat, or food,

shall be guilty of an offence.

Penalty : Ten pounds, or imprisonment for two months.

(2.) Any Court may seize, or cause to be seized, any such provisions, meat, or food as mentioned in paragraph (b) of the last preceding sub-section as to which any such offence as therein mentioned has been committed.

(3.) Upon the conviction of any person for an offence against this section, any grain, flour, meat or vegetable, or any provisions, meat or food, with respect to which the offence was committed, shall be forfeited by the offender, and shall be disposed of in such manner as the Court directs.

Regulation of places of public resort.

34. Every person who has or keeps any house, shop, room, or place of public resort wherein provisions, liquor, or refreshments of any kind are sold or consumed (whether they are kept or retained therein or procured elsewhere), who—

- (a) wilfully and knowingly permits drunkenness or other disorderly conduct in the house, shop, room or place ;
- (b) knowingly suffers any unlawful games or any gaming whatsoever therein ; or
- (c) knowingly permits or suffers prostitutes or persons of notoriously bad character to meet together and remain therein,

shall be guilty of an offence.

Penalty : Five pounds.

Playing unlawful game.

35. If any person, in any public place or place of public resort, plays at any unlawful game, or at either of the games commonly known as "pitch and toss" and "two-up" respectively or any other game which may be prescribed, he shall be guilty of an offence.

Penalty : Two pounds.

36. Any person who, by any fraud or unlawful device or ill practice— **Cheating at play.**

- (a) in playing at or with cards, dice or tables, or at any other game ;
- (b) in bearing a part in the stakes wagers or adventures ;
- (c) in betting on the sides or hands of the players ; or
- (d) in wagering on the event of any game, sport, pastime, or exercise,

wins from any other person for himself or any other or others any sum of money or valuable thing, shall be deemed guilty of obtaining the money or valuable thing from that other person by a false pretence, with intent to defraud or cheat that person of the money or valuable thing, and shall be punishable accordingly.

37.—(1.) Any person who takes or in any manner uses any motor vehicle as defined in section four of the *Motor Traffic Ordinance 1926-1927* the property of any other person without the consent of the owner or person in lawful possession thereof shall be guilty of an offence. **Taking or using vehicle without consent of owner.**

Penalty: One hundred pounds, or imprisonment for twelve months.

(2.) Nothing in this section shall affect any other liability civil or criminal of any person guilty of an offence against this section.

PART IV.—OFFENCES IN SPECIFIED LOCALITIES.

38. The provisions of this Part shall apply only in such parts of the Territory as are specified by the Attorney-General by notice published in the *Gazette* and in any such part shall apply only to the extent specified in the notice. **Application of this Part.**

39.—(1.) The Attorney-General may, as occasion requires, make regulations— **Regulations for preventing obstructions in streets during public processions, &c.**

- (a) prescribing the route to be observed by all carts, carriages, vehicles, horses, and persons, and for preventing any obstruction of the streets and thoroughfares, in all times of public processions, public rejoicings, or illuminations ; and
- (b) giving directions for keeping order, and for preventing any obstruction of the thoroughfares, in the immediate neighbourhood of all public buildings and offices, theatres, and other places of public resort, and in any case where the streets or thoroughfares are thronged or are liable to be obstructed.

(2.) Every such regulation shall be published in the *Gazette* and in at least one newspaper circulating in the Territory.

40.—(1.) Any person who, in any public place—

- (a) to the annoyance of the inhabitants or passengers, exposes for show or sale (except in a market lawfully appointed for that purpose) any horse or other animal or feeds or fodders any horse or other animal (horses attached to vehicles

Prohibition of nuisances in thoroughfares.

standing for hire on any public stand excepted), or shows any caravan containing any animal, or any other show or public entertainment, or shoes, bleeds, or farries any horse or other animal (except in case of accident), or cleans, dresses, exercises, trains, or breaks any horse or animal, or cleans, makes, or repairs any part of any carriage or cart (except in cases of accident where repair on the spot is necessary);

(b) to the obstruction, annoyance, or danger of the residents or passengers—

- (i) sells gun-powder, squibs, rockets, or other combustible matter by gas, candle or other artificial light;
 - (ii) hoists or lowers, or causes to be hoisted or lowered, goods of any description from any house without sufficient and proper ropes and tackling;
 - (iii) conveys, or causes to be conveyed, the carcase or any part of the carcase of any newly-slaughtered animal, without a cloth covering it sufficient for the concealment thereof;
 - (iv) places any line or pole across any street or passage, or hangs or places clothes thereon;
 - (v) places, hangs up, or affixes any sign-post, board, house-ticket, notice, or other similar thing, otherwise than close and parallel to, or flat upon, the wall of the building to which it belongs;
 - (vi) places any flower pot in any upper window without sufficiently guarding it from being thrown down;
 - (vii) casts from the roof, or any part of any building, any slate, brick, wood, rubbish, or other thing unless within a hoard when any building is being erected or repaired;
 - (viii) within the distance of one hundred yards from any dwelling house burns any rags, bones, cork, or other offensive substance;
 - (ix) races any horse or other animal;
 - (x) baits any bull or other beast; or
 - (xi) by fighting or otherwise collects or causes to be collected together any mob or tumultuous meeting;
- (c) turns loose any horse or any cattle, or suffers to be at large any unmuzzled ferocious dog, or sets on or urges any dog or other animal to attack, worry, or put in fear any person, horse, or other animal;

- (d) by negligence or ill usage in driving cattle causes any mischief to be done by those cattle, or in any way misbehaves himself in the driving, care, or management of those cattle ; or, not being hired or employed to drive those cattle, wantonly and unlawfully pelts, hurts, or drives any such cattle ;
- (e) (i) being the driver of any waggon, cart, or dray of any kind not drawn by horses properly driven with reins, rides upon any such waggon, cart, or dray, not having some person on foot to guide it ;
- (ii) being the driver of any carriage whatsoever, is at such a distance from the carriage, or in such a situation while it is passing along any street, road, thoroughfare, or public place, that he cannot guide and control the horses or cattle drawing the carriage ;
- (iii) rides upon the shafts of any waggon, cart, dray, or other vehicle whatsoever ;
- (iv) riding a bicycle or on horseback, or driving or propelling any waggon, cart, dray, or coach, or any other carriage or vehicle whatsoever—
- (1) meeting any other person riding a bicycle or on horseback, or driving or propelling any waggon, cart, dray, or coach, or any other carriage or vehicle whatsoever, does not keep his bicycle, horse, waggon, cart, dray, coach, carriage, or vehicle on the left or near side of the road ;
 - (2) when passing any other such person does not go on the right or off side of the road ; and
 - (3) when being passed by any other such person going in the same direction does not permit that person to pass on the right or off side ; or
- (v) in any manner prevents any other person from passing him or any vehicle under his care, or prevents, hinders, or interrupts the free passage of any vehicle or person ;
- (f) (i) causes any cart or vehicle (except a vehicle standing for hire in any place not forbidden by law), or any truck or barrow, with or without horses, to stand longer than is necessary for loading or unloading or for taking up or setting down passengers ; or
- (ii) by means of any cart or carriage, or any truck or barrow, or any horse or other animal, wilfully interrupts any public crossing, or wilfully causes any obstruction in any thoroughfare ;
- (g) after notice of any regulations made under the last preceding section, wilfully disregards any such regulation, or does not conform thereto ;

- (h) without the consent of the owner or occupier, affixes any posting bill or other paper against or upon any building, wall, or fence, or writes upon, soils, defaces, or marks any building, wall, or fence with chalk or paint, or in any other manner whatsoever ;
- (i) wantonly discharges any firearm, or burns any shavings or other thing, or throws or discharges any stone or other missile, to the damage or danger of any person ;
- (j) wilfully and unlawfully extinguishes the light of any lamp ;
- (k) flies any kite, or plays any game, to the annoyance of the inhabitants or passengers in any public place, or to the common danger of the passengers therein ;
- (l) turns loose, or suffers any kind of swine or goats belonging to him or under his charge to stray or go about or to be tethered or depastured, in any public place ; or
- (m) wilfully injures or destroys, or attempts to injure or destroy, any native or acclimatized birds on any park lands or public road or reserve, without the authority of the person having the care and management of the park lands, or public road or reserve, as the case may be.

shall be guilty of an offence.

Penalty : Two pounds

(2.) It shall be lawful for any member of the Police Force to take into custody, without warrant, any person who commits any such offence as mentioned in this section within view of that member.

Penalty for offences relating to the good order of public places, &c.

Police Offences Act 1928 (Vic.) s. 5.

41. Any person who, without lawful authority (proof whereof shall lie upon the person accused)—

- (a) throws or places or leaves any glass, filth, dirt, rubbish or other matter of a similar nature in or on any public place ;
- (b) drives, rides or leads any carriage or wheels or pushes any barrow upon or along any footpath ;
- (c) places any timber, bricks or other building materials in or on any footpath, channel, surface, drain or road ;
- (d) leaves any inflammable materials or matter in or on any public shed or place or in or on any open space near any building ;
- (e) allows the drippings of the eaves of any house to fall upon any public place ;
- (f) opens any drain or sewer in or removing the surface of any public place ;
- (g) has any awning on or over any footpath in any public place not being seven feet clear above the footpath, or hangs any goods on or under any awning over the footpath ; or
- (h) blasts in or near any public place or does not attend to all directions in regard thereto given by the lawful authority,

shall be guilty of an offence.

Penalty : Twenty pounds.

42. Any person who exposes for sale any article whatsoever on any footpath, or outside of any shop, window or doorway abutting on any public place so as to obstruct the public place shall be liable to a penalty of not more than Ten pounds ; and if any article so exposed is not removed within six hours after notice oral or written given by any member of the Police Force, then any such member may, without warrant, seize and remove and detain any such article ; and if within five days of that seizure the article is not claimed and the penalties, if ascertained, and the charges of removing and keeping the article are not paid, the article shall be forfeited.

Penalty on exposing articles for sale in public streets.
Ib. s. 9.

43. Any person who—

- (a) places any obstruction upon any road, footpath, canal or river whereby life or limb is likely to be endangered ;
- (b) leaves any hole, excavation or dangerous formation in or near any public place without fencing or enclosing it or keeping a light burning upon the enclosure from sunset to sunrise ;
- (c) does not keep in good repair any rail, gate, fence or cover over or about any area or entrance to any cellar or other place, or keeps open for more than a reasonable time for taking in or out any articles any entrance to any area, cellar or other place where the area or entrance opens into or upon or near any public place ; or
- (d) throws any offensive matter or thing, or, with the intention of drowning it, any live animal into any river, watercourse, canal or other place whence a supply of water for human use is obtained,

Penalty on offence tending to personal injury.
Ib. s. 16.

shall be guilty of an offence.

Penalty : One hundred pounds or imprisonment for six months, or both.

44. Any person who—

- (a) in or on any road, being the driver of a vehicle, is away from his horse or cattle so as to be unable to have full control thereof, unless one of the wheels is securely fastened by a chain or strap so as to effectually prevent the rotation thereof ;
- (b) in or through any public place drives any dog or goat harnessed or attached to any vehicle ;
- (c) in or on any public road acts as driver or has the sole charge of more than one vehicle ; but this paragraph shall not apply to the case of two vehicles and no more drawn each by one horse where the horse of the hinder of the vehicles is guided by a rein attached to its bit and the rein is held by the driver ;
- (d) obstructs or prevents the driving of any cattle along over or across any public road or thoroughfare ;

Penalty on persons committing offences with horses and vehicles.
Ib. s. 17.

(e) upon any public road or thoroughfare leaves any plough, harrow, cart or other vehicle without any horse or animal being harnessed thereto unless in consequence of some accident having occurred ; or

(f) upon any public road or thoroughfare slaughters or skins any beast or permitting any slaughtered beast or skin to remain there, or leaves any dead beast on the road or thoroughfare,

shall be guilty of an offence.

Penalty : Ten pounds.

Misbehaviour
at public
meetings an
offence.
*Police Offences
Act, 1928 (Vic.)
s. 32.*

45. Any person who in or near any hall, room or building in which a public meeting is being held—

(a) behaves in a riotous, indecent, offensive, threatening or insulting manner ; or

(b) uses any threatening, abusive, obscene, indecent or insulting words,

shall be guilty of an offence.

Penalty : Five pounds or imprisonment for one month.

Power of
chairman to
deal with
misbehaviour at
public meetings.
Ib. s. 32.

46. Where, in the opinion of the chairman presiding at any public meeting, any person in or near the hall, room or building in which the meeting is being held—

(a) behaves in a riotous, indecent, offensive, threatening or insulting manner ; or

(b) uses any threatening, abusive, obscene, indecent or insulting words,

the chairman may verbally direct any member of the Police Force who is present to remove the person from the hall, room or building or the neighbourhood thereof, and the member of the Police Force shall remove the person accordingly.

Common
assault.
Ib. s. 36.

47. Any person who unlawfully assaults or beats any other person shall be liable on conviction to a penalty of not more than Ten pounds or to imprisonment for a term of not more than three months, and the Court may order that if any penalty so awarded is not paid immediately after the conviction or within such period as the Court at the time of the conviction appoints, the offender be committed to gaol to be imprisoned for a term of not more than three months unless the penalty is sooner paid.

Aggravated
assaults on
women and
children.
Ib. s. 37.

48. Where any person is convicted before the Court of an assault or battery upon any male child whose age in the opinion of the Court does not exceed fourteen years, or upon any female if, in the opinion of the Court, the assault or battery is of such an aggravated nature that it cannot sufficiently be punished under the last preceding section, the person so offending shall be liable on conviction to imprisonment for a term of not more than six months or to a penalty not exceeding together with costs the sum of Twenty pounds, and, in default of

payment, to be imprisoned for a term of not more than six months, unless the penalty and costs are sooner paid ; and the Court may (if it thinks fit in any of those cases), without any further or other complaint or information, adjudge the person to enter into a recognizance and find sureties to keep the peace and be of good behaviour for a term of not more than six months from the expiration of the sentence.

The Court may order a defendant, in default of compliance with any such order to enter into a recognizance and find sureties, to be imprisoned until he complies with the order :

Provided that any such person shall not be imprisoned for non-compliance with any such order for a longer period than twelve months.

49. In case the Court finds the assault or battery complained of to have been accompanied by any attempt to commit a felony, or is of opinion that the assault or battery is from any other circumstance a fit subject for a prosecution as an indictable offence, it shall abstain from any adjudication thereupon, and the person charged with the offence shall be committed for trial in the usual way.

Exception.
Police Offences Act 1915 (Vic.) s. 39.

50.—(1.) Every householder personally, or by his servant, or by any member of the Police Force, may require any street musician to depart from the neighbourhood of his house, on account of the illness of any inmate of the house or for any reasonable cause.

Playing musical instruments so as to annoy.

(2.) Every person who sounds or plays upon any musical instrument in any thoroughfare near to and so as to be heard at the house, after being so required to depart, shall be guilty of an offence.

Penalty : Two pounds.

(3.) Every person who sounds or plays upon any musical instrument, and against whom an information has been laid by any inhabitant who is annoyed by the sounding or playing of the musical instrument, or by any member of the Police Force upon the written complaint of the inhabitant, shall be guilty of an offence.

Penalty : Two pounds.

51.—(1.) If any privy, pig sty, or any other matter or thing in any place is or becomes a nuisance to any of the inhabitants of that place, any magistrate, upon complaint on oath thereof made to him by any such inhabitant and after due investigation of the complaint, may, by notice in writing, order that every or any such privy, pig sty, or other matter or thing, being a nuisance, shall be remedied or removed within seven days after the notice has been given to the owner or occupier of the premises wherein the nuisance exists, or has been left for the owner or occupier at his last or usual place of abode, or on the premises.

Removal of nuisances.

(2.) Every such owner or occupier who neglects to remedy or remove the nuisance pursuant to the notice, and to the satisfaction of the magistrate, shall be guilty of an offence.

Penalty : Ten pounds.

(3.) Upon the conviction of any person under this section, the nuisance in question shall be taken down, removed, or abated, in accordance with the order of the Court.

Keeping clean yards, &c.

52. Any owner or occupier of any premises or place who neglects to keep clean all private avenues, passages, yards, and ways within the premises or place, so as by that neglect to cause a nuisance by offensive smell or otherwise, shall be guilty of an offence.

Penalty : Two pounds.

Damaging public property.

53. Any person who damages any public building, wall, parapet, sluice, bridge, road, street, sewer, watercourse, or other public property shall pay the cost of repairing it, and, if the damage is done wilfully shall, in addition to paying the cost, be guilty of an offence.

Penalty : Ten pounds.

Polluting or obstructing watercourses.

54. Any person who casts any filth or rubbish into any watercourse or canal, or obstructs or diverts from its channel any public sewer or watercourse, shall be guilty of an offence.

Penalty : Ten pounds and in addition the cost of removing the filth, rubbish, or obstruction, or of restoring the sewer or watercourse to its proper channel.

Offences relating to public fountains.

55.—(1.) Any person who damages any public fountain, pump, cock, or waterpipe, or any part thereof, shall pay the cost of repairing it, and, if the damage is done wilfully, shall, in addition to paying the cost, be liable to a penalty of not more than Ten pounds.

(2.) Any person who has in his possession any private key for the purpose of opening any cock, or who in any manner clandestinely or unlawfully appropriates to his use any water from any public fountain or pipe, shall be guilty of an offence.

Penalty : Ten pounds.

(3.) Any person who opens, or leaves open, any cock on any public fountain or pump, so that the water runs or may run to waste, shall be guilty of an offence.

Penalty : Two pounds.

Leaving dead animals in public place.

56. Any person who—

(a) throws or leaves, or causes to be thrown or left, any dead animal, or any part thereof, upon any public place, or into any river, creek, or other stream which flows through, by, or along any such public place ;

(b) leaves, or causes to be left, any dead animal, or any part thereof, upon the shores of any such river, creek, or other stream ; or

(c) leaves, or causes to be left, any dead animal, or any part thereof, on or upon any private property abutting upon any public place,

to the annoyance of the inhabitants or of persons passing along or resorting to the public place, or of the occupiers of any dwelling house, shall be guilty of an offence.

Penalty : One pound.

57. Any person who—

- (a) forms, digs, or opens any drain or sewer in, or removes, or causes to be removed, any turf, clay, sand, soil, gravel, stone, or other material used in the formation of public places from any part of any road or footpath without the written permission of the Secretary, Department of Works and Railways; or
- (b) wantonly breaks up or otherwise damages any such road or footpath,

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

shall be guilty of an offence.

Penalty : Five pounds.

58. Any person who—

- (a) hauls or draws, or causes to be hauled or drawn, upon any public place, any timber, stone, or other thing, otherwise than upon wheeled carriages; or
- (b) suffers any timber, stone, or other thing which is carried principally or in part upon wheeled carriages, to drag or trail upon any public place, to the injury thereof, or to hang over or project beyond any part of the carriage bearing it so as to occupy or obstruct any public place beyond the breadth of the carriage,

Drawing or trailing timber or stone in streets.

shall be liable to a penalty not exceeding Two pounds over and above the amount of the damage occasioned thereby.

PART V.—OFFENCES IN RELATION TO ANIMALS.

59. For the purposes of this Part, "cruelty" means the intentional infliction upon any animal of pain that in its kind or its degree or its object or its circumstances is unreasonable.

Definition of "cruelty."
Police Offences Act 1928 (Vic.) s. 55.

60. A person shall not do any act or observe any forbearance towards any animal which act or forbearance involves cruelty.

Prohibition of cruelty.
Ib. s. 56.

61. A person shall not use any animal at any time or in any place or in any manner or to any extent or for any purpose or in any circumstances which involves or involve cruelty.

Cruel use of animal forbidden.
Ib. s. 57.

62. A person shall not drive or carry or kill any animal in any manner or in any position or in any circumstances which involves or involve cruelty.

Cruel transport or death forbidden.
Ib. s. 58.

63. A person who has the possession or the custody of any animal which is confined or otherwise unable to provide for itself shall not omit to provide the animal, so long as it remains so confined in his possession or custody, with proper and sufficient food, drink and shelter.

Captive animal to be cared for.
Ib. s. 59.

64. A person shall not keep or use any place for the purpose of causing to fight or baiting or otherwise maltreating any animal nor shall act or assist in the management of any such place.

Places for baiting animals forbidden.
Ib. s. 60.

Cruel acts.
Ib. s. 61.
 Police Offences
 Act 1928 (Vic.).

65.—(1.) The following acts when done to any animal shall be deemed to involve cruelty (that is to say) :—

- (a) Overriding or overdriving or overworking ;
- (b) Overloading or driving when overloaded ;
- (c) Riding or driving or employing or transporting any animal that is unfit for any such use ;
- (d) Ill-treating or injuring or tormenting or torturing ;
- (e) Doing in circumstances that amount to cruelty any of the following acts (that is to say) :—Beating, wounding, mutilating, killing or causing unnecessary pain ; or
- (f) Causing or procuring to be done any of the acts aforesaid or permitting any such act to be done to any animal of which the offender has the custody or control.

(2.) The acts specified in this section shall be deemed to be mentioned by way of example only and shall not be construed to restrict in any way the generality of any prohibition in this Part contained, or to limit that prohibition to cases resembling all or any of the cases specially mentioned.

Penalty for offences.
Ib. s. 62.

66.—(1.) If any person offends against any preceding provision of this Part, he shall be liable to a penalty for the first offence of not more than Ten pounds or to imprisonment for a term of not more than one month, and for the second offence to a penalty of not more than Twenty pounds or to imprisonment for a term of not more than two months, and for the third and every subsequent offence to a penalty of not more than Fifty pounds or to imprisonment for a term of not more than six months.

(2.) Where any such offender by such offence causes any damage to any animal or to any person or property, he shall in addition to any punishment imposed, make compensation to the owner of the animal or to the party damaged, and the Court by which the offender is convicted may, on the complaint of the owner or party, determine the amount of compensation.

Parties to offences.
Ib. s. 63.

67. Every person shall be deemed to be guilty of an offence under this Part—

- (a) who actually commits the offence ;
- (b) who aids or abets any person in the commission thereof ;
- (c) who directly or indirectly counsels or procures any person to commit the offence ; or
- (d) who knowingly permits the offence to be committed in the case of any animal or any place under his control.

Exceptions.
Ib. s. 64.

68. Except as provided in any succeeding provision of this Part, nothing in this Part contained shall apply to any act done in any of the following cases :—

- (a) In the extermination of rabbits, foxes, wild dogs or vermin ;
- (b) In the hunting, snaring, trapping, shooting or taking of any animal not in a domestic state ; or

(c) In any experiment or vivisection performed for the purposes of scientific investigation upon any animal by any legally qualified medical or veterinary practitioner authorized for that purpose by the Minister for Health and acting in accordance with the conditions imposed by the Minister for Health.

69. In case any animal is at any time impounded or confined in any slaughter yard, pen, cage, hutch, pound or receptacle of the like nature, and continues confined without fit and sufficient food and water for more than twenty-four consecutive hours or in the case of ruminants for more than thirty-six hours, it shall be lawful for any person whomsoever to enter into and upon any slaughter yard or premises or any pound or other receptacle of the like nature in which any such animal is so confined, and to supply the animal with fit and sufficient food and water during so long a time as the animal remains and continues so confined without being liable to any action of trespass or other proceeding by any person whomsoever for or by reason of the entry for those purposes, and the reasonable cost of the food and water shall be paid by the owner of the animal to the person who has supplied the food and water, and the cost may be recovered in a summary way before the Court.

Power to private persons to provide food for animals in confinement.
ib. s. 66.

70. Any animal found abandoned or diseased injured or disabled to such an extent that its existence involves continued suffering, may be destroyed upon an authority in writing signed by a magistrate or the Chief Officer whether the animal has been the cause of a prosecution or not.

Destruction of suffering animals
Police Offences Act 1923 (Vic.)
ib. s. 67.

71.—(1.) Whenever any person having charge of any vehicle or animal and being also the owner thereof is taken into custody for any cruelty to the animal, the member of the Police Force making the arrest may take charge of the vehicle or animal and deposit it in some place of safe custody as a security for the payment of any penalty to which the person may become liable and of any expenses which may have been or may be necessarily incurred for taking charge of and keeping it.

Power to detain animal or vehicle as security for penalty, &c.
ib. s. 68.

(2.) The Court may order that, in default of payment of the penalty and reasonable expenses, the vehicle or animal be sold for the purpose of satisfying the penalty and reasonable expenses in like manner as if the same had been subject to be and had been distrained for the payment of the penalty and expenses.

PART VI.—MISCELLANEOUS.

72. Any person who disturbs or hinders any member of the Police Force or other person in the execution of this Ordinance shall for every such offence be liable to a penalty of not more than Twenty pounds, and in default of payment forthwith shall be liable to imprisonment for a term of not more than three months.

Obstructions to officers.
ib. s. 85.

Assaulting or
resisting
constables, &c.
16. s. 185.

73. Any person who assaults, resists, obstructs, hinders or delays, or incites or encourages any other person to assault, resist, obstruct, hinder or delay any member of the Police Force in the execution of his duty under this Ordinance or otherwise, or any person lawfully assisting any such member in the execution of his duty under this Ordinance, shall, unless otherwise specially provided, be liable to a penalty of not more than Twenty pounds or to imprisonment for a term of not more than three months; and the Court may order and award besides any such penalty a sum sufficient to cover any damage which any such member of the Police Force, person or officer has sustained by the assault, resistance, obstruction, hindrance or delay, which sum shall be recoverable in the same manner as the penalty.

Warrants to
apprehend
offenders.

74. Any magistrate, upon oath being made before him that any person has committed, or is suspected of having committed, any offence against this Ordinance, may issue his warrant to apprehend and bring before him or some other magistrate the person in question, to be dealt with as directed by this Ordinance.

Power to
deliver stolen
goods, &c.,
from brokers.

75.—(1.) If any goods are stolen or unlawfully obtained from any person, or being lawfully obtained are unlawfully deposited, pawned, pledged, sold, or exchanged, and complaint is made to a magistrate that the goods are in the possession of any broker, marine store dealer, or other dealer in second-hand property, or of any person who has advanced money upon the security of the goods, it shall be lawful for the magistrate—

- (a) to issue a summons or warrant for the appearance of the broker or dealer, and for the production of the goods; and
- (b) to order the goods to be delivered up to the owner thereof, either without any payment, or upon payment of such sum, and at such time, as the magistrate thinks fit.

(2.) Every broker or dealer who, being so ordered, refuses or neglects to deliver up the goods, or who disposes of or makes away with them, after notice that the goods were stolen or unlawfully obtained, shall pay to the owner of the goods the full value thereof, to be determined by the magistrate:

Provided that any such order shall not bar any such broker or dealer from recovering possession of the goods from the person into whose possession they come by virtue of the order, by proceedings in any Court of competent jurisdiction commenced within six months after the order is made.

Power to
dispose of goods
stolen or
fraudulently
obtained.

76.—(1.) If—

- (a) any goods or money which any person is charged with having stolen or fraudulently obtained is in the custody of any member of the Police Force by virtue of any warrant of a magistrate, or in prosecution of any charge of felony or misdemeanour with regard to the obtaining thereof; and

(b) the person charged with stealing or fraudulently obtaining the goods or money is not found, or has been summarily convicted or discharged, or has been tried and acquitted, or has been tried and found guilty, but the property so in custody has not been included in any indictment upon which he has been found guilty,

any magistrate may make an order for the delivery of the goods or money to the person who appears to be the rightful owner thereof, or, in case the rightful owner thereof cannot be ascertained, may make such order with respect to the goods or money as to the magistrate seems just.

(2.) The order shall not be a bar to the right of any person to sue the person to whom the goods or money is delivered and recover the goods or money from him by action, provided the action is commenced within six months after the order is made.

77. Nothing in this Ordinance contained shall save any person from an information for any indictable offence made punishable on summary conviction, or prevent any person from being liable to any higher or other penalty or punishment than is provided for the offence by this Ordinance :

This Ordinance not to prevent the indictment of offenders, or liability for higher penalties

Provided that no person shall be punished twice for the same offence.

78. Where any person is charged before any Court with an offence cognizable by the High Court, and in the opinion of the Court the case is proper to be disposed of by the High Court, the Court may commit the person for trial by the High Court.

Certain offenders may be committed for trial by High Court.

79. The Court which hears and determines any charge or complaint, whether a warrant or summons has been issued in consequence of the charge or complaint or not, may award such costs as to it seem just, to be paid to or by either of the parties to the charge or complaint.

Power to award costs.

80.—(1.) If any person lays any information before any 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 that magistrate, any sum of money or other reward for compounding, delaying, or withdrawing the information, any magistrate may issue his warrant or summons, as he thinks best, for bringing that person before him.

Penalty for compounding informations.

(2.) If the facts mentioned in the last preceding sub-section are proved by the confession of the person charged, or by the oath of any credible witness, that person shall be guilty of an offence.

Penalty : Ten pounds.

81. In every case of the adjudication of a pecuniary penalty or amends under this Ordinance or of the forfeiture of a sum of money payable under a recognizance taken under this Ordinance or before any magistrate, and of the non-payment of the pecuniary penalty or

On non-payment of penalties, &c., magistrate may imprison.

amends, or money payable under any such recognizance, any magistrate may commit the offender or person making default in payment to prison for any period not exceeding three months, the imprisonment to cease on payment of the sum due and the costs of such proceedings as may have been taken for the recovery thereof.

Amends for
frivolous
informations

82. In every case where—

- (a) any information or complaint of any offence is laid or made before any magistrate, and is not further prosecuted; or
- (b) if such information or complaint is further prosecuted, it appears to the Court hearing the information or complaint that there is not sufficient ground for making the charge,

the Court shall have power to award such amends, not being more than the sum of Five pounds, to be paid by the informer to the party informed or complained against, for his loss of time and expenses in the matter, as to the Court seems just.

Recovery of
fines.

83. All fines imposed, and all sums of money ordered to be paid under this Ordinance, may be recovered before the Court.

Court not bound
to convict
where offence
trivial.

84. A Court shall not be bound to convict if the offence proved is, in its opinion, of so trivial a nature as not to merit punishment.

Certain
proceedings not
challengeable
for irregularity.

85.—(1.) No conviction, order, warrant, or other matter made, or purporting to be made by virtue of this Ordinance shall be quashed for want of form, or removed by *certiorari* or otherwise into the High Court.

(2.) No warrant of commitment shall be held void by reason of any defect therein, if it is therein alleged that the party has been convicted, and there is a good or valid conviction to sustain the warrant.

(3.) Where any distress is made for levying any money by virtue of this Ordinance, the distress itself shall not be deemed unlawful, nor the party making the distress be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall the person distraining be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but the person aggrieved by the irregularity may recover full satisfaction for the special damage, if any, in an action upon the case.

Proceedings
against persons
acting under
the Ordinance.

86.—(1.) All actions and prosecutions against any person for anything done in pursuance of this Ordinance shall be commenced within six months after the act complained of was committed, and not otherwise.

(2.) Notice in writing of every such action, and of the cause thereof, shall be given to the defendant ten days at least before the commencement of the action.

(3.) In any such action the defendant may plead the general issue, and give this Ordinance and the special matter in evidence, at any trial to be had thereon.

(4.) A plaintiff shall not succeed in any such action if tender of sufficient amends has been made before action brought, or if a sufficient sum of money has been paid into Court after action brought by or on behalf of the defendant, together with the costs incurred up to that time.

(5.) If a verdict is given for the defendant, or the plaintiff becomes non-suited or discontinues any such action after issue joined, or if judgment is given against the plaintiff, the defendant shall recover his full costs as between solicitor and client, and have the like remedy therefor as any defendant has by law in other cases.

(6.) Notwithstanding that a verdict has been given for the plaintiff in any such action, the plaintiff shall not have costs against the defendant unless the Court certifies its approbation of the action and the verdict obtained thereon.

87. Any person who commits an offence against this Ordinance for which no other penalty is provided shall be liable to a penalty not exceeding Five pounds, or imprisonment for one month.

Penalty for offences where no special penalty is appointed.

88.—(1.) Any member of the Police Force may, without warrant, seize any articles which are forfeited or which he has reasonable ground to believe are forfeited under any law in force in the Territory and take them before the Court.

Seizure and condemnation of forfeitable goods.

(2.) The Court may, after such notice (if any) and to such person (if any) as it thinks fit to direct, order that any articles so brought before it be condemned or be returned to the person from whom they were taken.

(3.) Where any prosecution is pending, an order for the condemnation or return of any articles relating thereto shall not be made until the prosecution is determined.

(4.) All articles which are condemned as forfeited shall be dealt with as directed by the Attorney-General, and pending his direction may be detained in such custody as the Court directs.

89. The Attorney-General may make regulations, not inconsistent with this Ordinance, prescribing all matters which, by this Ordinance, are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance.

Regulations.

THE SCHEDULE.

Reference to Act.	Short title of Act.
1901, No. 5	<i>Police Offences Act, 1901</i>
1902, No. 74	<i>Vagrancy Act, 1902</i>
1905, No. 35	<i>Vagrancy (Amendment) Act, 1905</i>
1908, No. 12	<i>Police Offences (Amendment) Act, 1908</i>

Dated this eighth day of July, One thousand nine hundred and thirty.

SOMERS

Deputy of the Governor-General.

By His Excellency's Command,

FRANK BRENNAN

for Minister of State for Home Affairs.

By Authority: H. J. GREEN, Government Printer, Canberra.