

No. IX.

AN ORDINANCE to increase the efficiency of the Constabulary Force. [23rd August, 1849.]

CONSTABULARY
FORCE.
—

WHEREAS an Ordinance (No. 2, Session VII.,) to provide for the establishment of a Constabulary Force was passed on the ninth October, one thousand eight hundred and forty-six: And whereas it is expedient to increase the efficiency of the said force:

1. Be it enacted by His Excellency the Lieutenant-Governor of New Munster, with the advice and consent of the Legislative Council thereof, as follows:—That any Inspector, Sub-Inspector, or any officer of the Constabulary Force above the rank of a private constable may, with such constables as he may think proper, enter into any ship boat or other vessel (not being then actually employed in Her Majesty's service) for the purpose of inspecting and directing the conduct of any constable who may be stationed on board of any such vessel, and the conduct of all other parties who shall be employed on board of any such vessel, and for preventing fire, preserving peace and good order, and for the prevention or detection of any felonies or misdemeanours on board of such vessel.

Power to any one in
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above the rank of a
private constable to
board ships boats or
other vessels.

2. Be it enacted, That any constable may demand admittance, for the purpose of preventing or repressing disorderly conduct, into any house shop or place of public resort wherever provisions liquors or refreshments of any kind shall be sold or consumed (whether the

Provision for punishing
disorderly conduct in the houses of
licensed victuallers
extended to other
houses.
same

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same shall be kept or retailed therein or procured elsewhere), and any unnecessary delay in giving admission to the said constable shall subject the party to a penalty not exceeding five pounds.

Penalty for drunkenness.

3. Be it enacted, That if any person shall be convicted of drunkenness before any Justice of the Peace he shall forfeit and pay a sum of not less than five shillings nor more than twenty shillings, and in default thereof shall be imprisoned for any period not exceeding forty-eight hours. If any person shall have been so convicted three times within the space of six calendar months, he shall upon such third conviction forfeit and pay such sum as aforesaid, and be imprisoned for the term of seven days, with hard labour, at the discretion of the Magistrates.

Powers to any two Justices of the Peace to imprison persons having certain implements with felonious intent.

4. Be it enacted, That every person armed with any gun pistol sword bludgeon, or having in his possession any picklock crow-bar jack bit or other implement with intent feloniously to break into or having broken into any building for an unlawful purpose, or frequenting any street highway quay wharf or thoroughfare with intent to commit felony, may be imprisoned by any two Justices of the Peace for the term of three calendar months.

Power to constables to arrest persons with stolen property upon them.

5. Be it enacted, That it shall be lawful for any constable, finding any person with property in his possession which may reasonably be suspected of having been stolen or unlawfully obtained, to take such person before a Justice of the Peace, to be dealt with according to law.

Penalty for damaging public buildings.

6. Be it enacted, That any person who shall damage any public building wall parapet sluice bridge road street sewer culvert water-course or other public property, shall pay the cost of repairing the same, and if the same be wilfully done shall forfeit and pay a further sum not exceeding twenty pounds nor less than five pounds.

Penalty on persons committing certain acts in the nature of nuisances specified in Schedule A.

7. Be it enacted, That any person doing or causing to be done or permitting any of the acts specified in Schedule A to this Ordinance annexed, upon the carriage or footway shall, on conviction before any Justice of the Peace, be liable to a penalty not exceeding forty and not less than five shillings.

Power to constables to seize certain articles enumerated in Schedule A.

8. Be it enacted, That any constable may require any person being the owner of any of the articles enumerated in the Schedule A to remove the same from the carriage or footway, and that any person not removing the same shall be liable to a penalty not exceeding forty and not less than five shillings for each time that he shall fail to remove any of the said articles, within reasonable time, after having been required so to do; and any constable may seize the same where the owner after having been once required to remove any article, or, where the owner of any article cannot be found, may proceed, after giving notice (in all cases where the value of the article seized shall be more than ten shillings) of the seizure by an advertisement in the Government *Gazette*, to sell the same—when the value of the article is under ten shillings, without notice—the proceeds of the sale to go to pay the penalties incurred for the breach of any provision of this Ordinance, and the surplus, if any, to such charitable purpose as the Lieutenant-Governor may direct: Provided that nothing in this Ordinance shall be taken to prevent any person from placing an awning or verandah in front of his shop or house, but such awning or verandah must be at least seven feet above the height of the footway in front of such house or shop, and the posts must be placed close up to the curb-stone or outer edge of such footway.

Penalty for discharging firearms and fireworks.

9. Be it enacted, That any person who shall discharge any firearms without lawful cause, or let off any fireworks in any street or public place, shall be liable to a fine not exceeding five pounds nor less than five shillings.

10. Be

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10. Be it enacted, That any person burning any shavings or other things in any street or public place, or setting fire to the bush scrub or flax within the limits of any town, shall be liable to a fine of not more than forty nor less than five shillings, and shall compensate any person damaged thereby, the amount of compensation to be assessed by any two Justices of the Peace.

Penalty for burning shavings or other things in the street or setting fire to the bush.

11. Be it enacted, That any person bathing near to or within view of any public wharf quay bridge street or other place of public resort, so as to offend against decency, between the hours of eight in the morning and eight in the evening, shall be liable to a fine of twenty shillings.

Penalty for bathing in public.

12. Be it enacted, That any person who shall offend against decency by the exposure of his person shall be liable to a fine of not more than ten pounds, or may at the discretion of any two Justices of the Peace be committed to gaol and hard labour for any term not exceeding two months.

Penalty for exposing the person.

13. Be it enacted, That upon complaint made to any two Justices of the Peace of the existence of any nuisance in the form of any noisome or unwholesome trade, or of any privy stye or receptacle for filth of any kind, the said Justices of the Peace shall inspect or order an inspection of the same, and shall give seven days' notice to abate such nuisance; and in default of the same being abated, the owner or occupier of the premises on which such nuisance exists shall be liable to a fine not exceeding ten pounds.

Penalty for nuisances.

14. Be it enacted, that if any person shall haul or draw, by himself or his servant, upon any part of a street or public place, any timber stone or other weights otherwise than upon a wheeled carriage, or shall suffer the same to drag or trail or hang over such carriage to the obstruction or injury of the said streets or ways, he shall be liable to a fine of forty shillings over and above the damage occasioned thereby.

Penalty for injuring the streets by hauling timber and other things thereon.

15. Be it enacted, That if any owner or occupier of premises having iron or wooden rails bars or trap-doors over the areas or openings to any kitchen cellar or other part of a building beneath the surface of the footway, shall neglect to keep the same in repair or shall leave the same open (save at such reasonable times at which coals wood or other things shall be in process of putting down or taking up), so as to endanger persons passing and repassing, shall be liable to a fine of not more than five pounds nor less than forty shillings.

Penalty on uncovered openings in the foot-way.

16. Be it enacted, That it shall not be lawful for any person to make any cellar or any opening of a like nature beneath the surface of the footway without the approval of the Commissioners for the Repairs of Streets, or of the Resident Magistrate where there are no such Commissioners, and that any person offending against this provision shall be liable to a fine of five pounds, as well as to the expense of removing or closing up the same; such expense to be assessed by any two Justices of the Peace.

Penalty for making any openings in the footway.

17. Be it enacted, That if any person shall drive or cause to be driven any carriage with any night soil or ammoniacal liquor through the streets or public places between the hours of five o'clock in the morning and ten o'clock at night, or shall shoot from a carriage or cast any night soil filth or ammoniacal liquor upon the streets, it shall be lawful for any person whomsoever to seize and apprehend the person so offending, without any other warrant than this Ordinance, and to convey such person before any two Justices of the Peace, who are hereby empowered to fine the same offender, or the owner if the driver cannot be found, as well as the employers of the person so offending, in the sum of not more than five pounds.

Penalty for removing night-soil in the day-time.

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Penalty for throwing dead animals into the streets, or into streams.

Penalty for damaging the footpath or carriage-ways or for removing ballast, or for injuring buoys or survey marks.

Penalty for riding upon carriages without reins.

Penalty for furious riding or driving.

Penalty for committing nuisances in the thoroughfares.

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18. Be it enacted, That if any person shall throw or cause to be thrown any dead animals or part thereof into any street lane road or other public place, or into any river creek or stream or other water, or leave or cause the same to be left on the bank thereof, he shall be liable to a fine of not more than twenty and not less than five shillings.

19. Be it enacted, That if any person shall open any drain or sewer in any street, or remove or cause to be removed any turf or clay sand soil gravel stone or other material used in the formation of the streets or carriage-ways therefrom, without leave from the Commissioners for Repairs of Streets, or from the Resident Magistrate where there are no such Commissioners, or shall wantonly damage the said streets or carriage-ways, or who shall remove any ballast sea or tide embankment without written authority of the Harbour Master, or if there is no Harbour Master, of the Resident Magistrate, or who shall remove or damage or otherwise interfere with any buoys beacons or other surveying marks put up by competent authority either on shore or afloat, he shall be liable to a fine of not more than five pounds and not less than one pound.

20. Be it enacted, That if the driver of any waggon wain cart dray or other carriage shall ride thereupon (not having some person on foot to guide the same), such as are drawn by horses and properly driven with reins only excepted, or shall wilfully remain at such a distance from his carriage whilst passing through the street as not to have the command of his horse horses or cattle, or, meeting any other carriage, shall not keep his own carriage on the left or near side of the road, or in passing shall not keep on the right or off side of the road, or shall in any manner wilfully prevent any other person from passing him, or by negligence or misbehaviour interrupt the free passage of any person or carriage along the said road, he shall be liable to a fine of not more than forty nor less than ten shillings.

21. Be it enacted, That any person who shall ride or drive through any street or public place so as to endanger the limbs or lives of other persons, shall be liable to a fine of not more than ten and not less than two pounds.

22. Be it enacted, That any person shall be liable to a penalty of not more than forty shillings who shall in any thoroughfare or public place commit any of the following offences, that is to say,—

- (1.) Every person who shall suffer to be at large any unmuzzled ferocious dog, or set on or urge any dog to attack worry or put in fear any person horse or other animal.
- (2.) Every person who by negligence or ill usage in driving cattle shall cause any mischief to be done by such cattle, or shall in any wise misbehave himself in the driving or management of such cattle, and also every person not being hired or employed to drive such cattle who shall wantonly pelt drive or hurt such cattle.
- (3.) Every person who shall wilfully damage any building wall fence paling fixture or appendage thereunto, or who shall steal or wilfully damage any tree shrub or other plant, or any seat in any walk park or garden.
- (4.) Every person who shall distribute or offer for sale, or exhibit any profane indecent or obscene book paper print drawing painting or representation, or sing any profane indecent or obscene song or ballad, or write or draw any indecent or obscene word figure or representation, or use any profane indecent or obscene language, to the annoyance of the inhabitants or passengers.

5. Every

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- (5.) Every person who shall use any threatening abusive or insulting words in the presence or hearing of any constable, or behave himself so as to provoke a breach of the peace, or whereby the passage along the street may be obstructed by causing a crowd to collect or otherwise.
- (6.) Every person who shall wilfully disturb any inhabitant by ringing any door-bell knocking at any door or who shall deface injure or remove any door-plate bell knocker lamp or sign board.

23. Be it enacted, That in case any person shall lodge any information before any Justice of the Peace for any offence by which he was not personally aggrieved, and shall afterwards directly or indirectly receive any sum of money or other reward for compounding delaying or withdrawing the information, he shall be liable to a penalty of not more than ten pounds.

Penalty for com-pounding informa-tions.

24. Be it enacted, That the Commissioners for the Repairs of Streets, the Resident Magistrate, where there are no such Commissioners, or any person deputed by them or him, may set out and mark the length and breadth of the footways and carriage-ways, as well as the limits of any town within or to be brought within the operation of this Ordinance, and such Commissioners for the repairs of streets, or Resident Magistrate where there are no such Commissioners, or any person deputed by them or him, shall not be deemed a trespasser by entering upon the property of any person for the purpose of setting out or measuring the limits of the footways carriage-ways or towns within or to be brought within the operation of this Ordinance.

Limits of the town to be set out.

25. Be it enacted, That so soon as the limits of any town or of the foot and carriage-ways shall have been ascertained as aforesaid, and the said limits published by competent authority, any person erecting any building or part of a building so as to encroach on the said limits without license first obtained from the Commissioners for the Repairs of Streets, or from the Resident Magistrate where there are no such Commissioners, shall be liable to a penalty of not more than twenty pounds.

Regulating the build-ing of houses &c.

26. Be it enacted, That the Commissioners for the Repairs of Streets, or the Resident Magistrate where there are no such Commissioners, may make regulations for the length breadth height steps or inclination, and for the general maintenance of the footways, and for that purpose may remove flagging steps posts or other impediments.

Commissioners may regulate the manage-ment of footpaths.

27. Be it enacted, That the provisions of this Ordinance shall immediately be in force within such limits of the Town of Wellington as marked on the map of the Surveyor-General of the New Zealand Company, as the Lieutenant-Governor, with the advice of the Executive Council, may proclaim; and it shall be lawful for the Lieutenant-Governor, with the advice of the Executive Council, from time to time, by Proclamation in the Government *Gazette*, to specify any further or other limits of towns within which any of the provisions of this Ordinance shall be enforced, upon a requisition to that effect from a majority of the Magistrates of the district in which such town is situate.

Declaring the limits of the Ordinance.

28. Be it enacted, That nothing in this Ordinance shall be construed to repeal any penalties imposed by any other Ordinance in force in the Province of New Munster.

Respecting penalties imposed by other Ordinances.

29. Be it enacted, That any person assaulting or resisting any constable in the execution of his duty shall be liable to a fine of not more than ten pounds.

Penalty for resisting constable.

30. Be it enacted, That any person refusing or neglecting to repair the chimney of any house in his occupation after having been called

Penalty for neglec-ting to repair and keep clean chimneys.

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**Mode of procedure.
That this Ordinance
shall be construed
with No. 2, Session
VII.**

**Commencement of
Ordinance.**

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called upon so to do by the Resident Magistrate, and any person neglecting to keep clean the chimney of any house occupied by him, so that from the foulness thereof the same shall take fire, shall be liable to a fine of not more than two pounds.

31. Be it enacted, That all proceedings under this Ordinance shall be regulated and carried on according to the Ordinance, No. 5, Session II., for the regulation of summary proceedings before Justices of the Peace; and that this Ordinance shall be read and construed together with Ordinance No. 2, Session VII.

32. Be it enacted, That this Ordinance shall take effect from the day of the passing of the same.

SCHEDULE A.

BEAT carpets, fly kites, drive a carriage for the purpose of breaking horses, ride a horse for the purpose of breaking, throw or permit to be thrown rubbish or anything annoying or offensive; slaughter or cut up any animal so near to the carriage or footway that the blood or offal shall cause a nuisance to passengers; place or cause to be placed any carriage for either persons or things; any wheelbarrow cask or barrel, except for necessary and temporary purposes; ride any horse mule or ass upon the footways; place any stall board chopping-block show-board (on hinges or otherwise); basketwares goods or merchandise of any kind whatsoever; wash or hoop any cask or vessel; place any timber stones bricks lime or other materials for buildings (except the same be enclosed); expose any meat or offal, so as to overhang the street.