

A BILL INTITULED

AN ACT for the Suppression of Various Title.
Offences.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

1. The Short Title of this Act shall be “The Police Offences Act Short Title. 1867” It is divided into parts as follows—

5 PART I.—Police Provisions applicable to special localities ss.

PART II.—General Police Provisions ss.

PART III.—Gaming ss.

PART IV.—Miscellaneous ss.

10 It shall not come into force in any Province until the Governor shall have declared by a proclamation published in the *New Zealand Gazette* that this Act shall on a day fixed and appointed in such proclamation come into operation in such Province and upon the day so fixed this Act shall come into operation in the Province named in such proclamation provided that the provisions contained in the first
15 Part of this Act excepting the third section of this Act shall extend only to any cities towns districts and places to which the same shall be extended under the provisions contained in the said third section.

2. In the construction of this Act the following expressions shall have Interpretation. the meanings hereby assigned to them that is to say—

20 In Parts I. and II. the word “cattle” shall mean and include horses mares geldings colts fillies asses mules bulls cows oxen heifers steers calves sheep rams ewes lambs goats and swine.

The word “animal” shall mean and include every species of quadruped and every species of bird whether in a natural or
25 domestic state.

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The words “public place” so far as they relate to Part I. of this Act shall include and apply to every road street footway court alley and thoroughfare within any city town district or place proclaimed as hereinafter mentioned notwithstanding that such roads streets footways courts alleys and thoroughfares may be formed on private property Provided that nothing herein contained shall be held to divest the owners of such property of their rights or property therein and their power to resume the sole use and occupation thereof anything in this Act to the contrary notwithstanding

The “local authority” hereinafter referred to shall be in any borough incorporated under “The Municipal Corporations Act 1867” or in any city or town incorporated under any Act of the General Assembly or any Act of or Ordinance of any Provincial Legislature the corporation of such borough city or town and in places not within any such city town or borough the local authority shall be represented by the nearest Resident Magistrate’s Court or Court of Petty Sessions of the Peace.

PART I.

POLICE PROVISIONS APPLICABLE TO SPECIAL LOCALITIES.

Superintendent may extend provisions of Part I. to various towns.

3. The Superintendent of any Province within which this Act shall have been brought into operation may by proclamation in the Government *Gazette* of such Province extend all or any of the provisions contained in this Part to any borough district or place within such Province and may define the limits of any such city town district or place and vary and alter such limits and may revoke any such proclamation and upon any such proclamation the provisions so proclaimed shall extend to and be in force in such city town district or place.

Penalty on offences relating to the good order of towns &c.

4. Any person guilty of any of the following offences omissions or neglects shall on conviction pay a penalty not exceeding twenty pounds—

- (1.) Throwing or placing any glass filth dirt rubbish or other matter of a similar nature or without the permission of the local authority any earth stones or other material upon any road footway or public place
- (2.) Riding driving or wheeling any barrow or carriage upon or along any footpath
- (3.) Placing any hoarding scaffolding timber bricks or other building materials upon any footway channel surface drain or carriage road without the permission of the local authority having been first obtained
- (4.) Burning any shavings or other materials upon any footway carriage road or open or public place
- (5.) Leaving any inflammable materials or matter in any public shed or place or on any open space near any building without having first obtained the permission of the local authority
- (6.) Drawing or trailing any sledge timber or any other heavy material upon any footway or carriage road to the injury of such footway or carriage road
- (7.) Emptying any privy or cesspool or carting away any night soil or other offensive matter without a license from and without having given such security as is required by the local authority
- (8.) Allowing any night soil or other offensive matter to be spilt or otherwise cast into or upon any road street footway or public place
- (9.) Allowing the drippings of the eaves of any house to fall upon any public footway
- (10.) Placing any placard or other document writing or painting on

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or otherwise defacing any house or building or any wall fence lamp post or gate without the consent of the occupier or owner thereof

- 5 (11.) Opening any drain or sewer or removing the surface of any footway or carriage road without the permission of the local authority having been first obtained
- (12.) Neglecting to clean all private yards ways passages or avenues by which neglect a nuisance by offensive smell or otherwise is caused
- 10 (13.) Rolling any cask beating any carpet breaking-in any horse flying any kite using any bows and arrows or playing at any game to the annoyance of any person in any public place or obstructing any footpath or carriage road whether by allowing any cart or animal to remain across such footpath or carriage road or by placing goods thereon or otherwise
- 15 (14.) Throwing or discharging any stone or other missile to the damage or danger of any person
- (15.) Having any awning on any footway in any public street or thoroughfare not being seven feet clear above the footway or hanging any goods on or under such awning over the
- 20 footway
- (16.) Blasting any rock stone or timber in or near any public place without permission of the local authority and not attending to any directions in regard thereto given by
- 25 such local authority
- (17.) Furiously or negligently riding or driving through any public place
- (18.) Exposing in any public street or thoroughfare (except in any fair or market lawfully appointed for that purpose) any horse or other animal for show hire or sale or training or
- 30 breaking any horse in any public thoroughfare
- (19.) Permitting any stallion or bull to cover within public view of any street or public place
- (20.) Making any cellar door or other opening from the footway of any street or public thoroughfare without the consent
- 35 of the local authority
- (21.) Any carter plying for hire without a license.
- (22.) Any carter waiting for hire allowing his cart or dray to stand in any other place than those appointed by the local
- 40 authority or demanding higher rates than authorized by such local authority
- (23.) Plying for hire with any boat not being a steamboat at any ferry or on any river without a license from the local
- 45 authority or demanding higher rates than sanctioned by such local authority
- (24.) Discharging any firearms or setting off any fireworks or carrying any firearms sword dirk dagger or other offensive weapon within any town or public place without permission from the local authority

50 Provided that the provision last aforesaid shall not apply to any justice or any person in Her Majesty's military or naval service or any member of the police or other peace officer or any member of a recognized volunteer corps or any special constable or any person actually in pursuit of any felon or offender.

55 5. Any local authority may make such rules and regulations with reference to the licensing of carters and boatmen the places where they shall stand the rates they shall receive the distance they shall be compellable to go and such other matters as may tend to the public convenience in regard to them as such local authority may

60 see fit.

Local authority to
make rules for
boatmen and carters.

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Builders not to erect scaffolding or enclosures for building materials in the streets without permission of local authority.

6. No person without a license first had and obtained from the local authority shall erect place or set up or build in any public place any hoarding or scaffolding or place or erect any posts bars rails boards or other thing by way of enclosure for the purpose of making mortar or of depositing sifting screening or slacking any brick stone lime sand or any other materials for building or repairing any house or other tenement or erection or for any other purpose and such license as aforesaid shall specify therein the length of time for which any such hoarding scaffolding posts bars rails boards or other thing when so erected or set up may be continued and shall contain such other directions respecting the same as are necessary And if any person place set up erect or build or cause or permit to be erected placed set up or built any such hoarding or scaffolding or any enclosed posts bars or rails or any other matter or thing for the purposes aforesaid or for any other purpose without such license or contrary to the provisions and conditions of such license or to be continued for any longer time than is allowed or expressed in such license then and in any of the said cases such person shall forfeit and pay a penalty not exceeding twenty pounds and also the sum of one pound for every day that the same has been and is set up and continued contrary to the provisions hereof and the said local authority may four days after notice cause the same to be pulled down and removed and the same and all the materials thereof to be kept and detained until such person pays to such local authority all the penalties incurred by such person together with the charges of pulling down removing and keeping the same and if the same be not claimed and the said penalties and charges as aforesaid paid within the space of five days next after the pulling down and removing thereof such local authority may order or cause the same to be sold by public auction and the proceeds thereof applied according to the provisions hereinafter mentioned respecting the appropriation of moneys arising from forfeitures.

Penalty on exposing articles for sale in public streets articles may be seized.

7. If any person expose for sale any article whatsoever on any footway or outside of any shop window or doorway abutting on any public thoroughfare or street so as to obstruct the public thoroughfare he shall on conviction forfeit and pay a penalty not exceeding ten pounds and if any article so exposed be not removed within six hours after notice any local authority or any officer of police or any constable without warrant may seize any such article and every such article shall be forfeited and sold and the proceeds thereof applied according to the provisions hereinafter contained respecting the appropriation of moneys arising from forfeitures.

Local authority or justice may depute constable to inspect slaughter-houses &c. and remove filth at occupier's expense if he neglect to do so himself.

8. The local authority or any justice may authorize and depute any peace officer or constable from time to time to visit and inspect any butcher's shambles slaughter-house or yard or any house outbuilding lane alley or other place for the purpose of ascertaining if the same be kept cleansed and such person so authorized shall if it appear that any accumulation of manure dung offal soil filth coal ashes or other unwholesome or noxious matter whatsoever ought to be removed give notice to the person to whom the same belongs or to the occupier of the premises whereon it exists to remove the same and if at the expiration of four days after such notice the same be not complied with the manure dung offal soil filth coal ashes or other matter referred to shall be removed by such constable or other peace officer at the expense of the person to whom such notice was given and such expense may be recovered in the same manner as any penalty inflicted hereunder.

Penalty on building chimney of inflammable materials.

9. If any person after the coming into operation of this Act in any Province erect or cause to be erected within such Province in any city town district or place to which this provision may be extended any chimney or fireplace of timber or other matter liable to ignition or do not place for a sufficient distance some matter or material not liable to

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ignition between such chimney or fireplace and any material of an inflammable nature or liable to ignition the occupier of such house shall on notice from the local authority being served upon him or left at such premises requiring such fireplace or chimney to be so altered
 5 as not to come within the meaning of this provision and neglecting after the expiration of seven days to comply with the conditions of such notice forfeit and pay a penalty of not more than ten pounds.

10 10. Upon the extension of any of the provisions of this Part of this Act to any city town or borough in any Province in New Zealand the council of such city town or borough or if there be no such council the Superintendent of such Province shall cause to be set out the breadth of the carriage and footways in the streets and public places of every such city town or borough and shall cause the said footways to be marked by posts at the corners and intersections of the streets
 15 and the carriage and footways when so set out shall be deemed to be the carriage and footways respectively of such city town or borough.

Carriage and footways to be set out.

PART II.

GENERAL POLICE PROVISIONS.

20 11. If any person commit any of the next following offences he shall on conviction forfeit and pay a penalty not exceeding fifty pounds or be imprisoned for any period not exceeding six months or both in the discretion of the justice before whom the case is heard—

Penalty on offence tending to personal injury.

- (1.) Placing any obstruction upon any road canal or river whereby life or limb is likely to be endangered.
 25 (2.) Leaving any hole excavation or dangerous formation in or near any public place or thoroughfare without fencing or enclosing the same or keeping a light burning upon such enclosure from sunset to sunrise.
 30 (3.) Not keeping in good repair any rail gate fence or cover over or about any area or entrance to any cellar or other place or keeping open for more than a reasonable time for taking in or out any articles any entrance to any area cellar or other place such area or entrance opening into or upon or near any public street road thoroughfare or other public place.
 35 (4.) Throwing any offensive matter or any live animal with the intention of drowning it into any river watercourse canal or other place whence the supply of water for the use of the inhabitants is obtained.

40 12. Any person wilfully guilty of any of the following offences and being duly convicted thereof shall forfeit a penalty not exceeding ten pounds for the first offence and for any second or subsequent offence not less than forty shillings nor more than twenty pounds—

Penalty on persons committing offences with horses and vehicles.

- (1.) Any driver of any vehicle injuring any person or property whatever by negligence or driving on the wrong side of the road or being away from his horse or cattle so as to be unable to have the full control of them.
 45 (2.) Driving any cart waggon or dray without the name and residence of the owner thereof being painted in a legible and permanent manner on the right or off side in letters of at least one inch in length.
 50 (3.) Driving any dog or goat harnessed or attached to any vehicle through any public place.
 55 (4.) Any carter riding on any cart dray or waggon not being a light or spring cart usually driven with reins and no competent person having charge of the animal drawing the same.

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- (5.) Any person who acts as driver or has the sole charge of more than one vehicle on any public road or street unless in cases where two of such vehicles and no more are drawn each by one horse only and the horse of the hinder of such vehicles shall be attached by a sufficient rein to the back of the foremost of such vehicles. 5
- (6.) Driving any vehicle whatever or riding any animal and when meeting any other vehicle or animal not keeping on the left or near side of the road or street or when passing any other vehicle or animal going in the same direction not going or passing or not allowing any person desirous so to do to pass when practicable on the right or off side of such other vehicle or animal. 10
- (7.) Turning loose or allowing to wander any cattle or other beast upon any public road or thoroughfare or in the streets or thoroughfares of any town. 15
- (8.) Setting on urging or permitting any dog or other animal to attack or worry any person horse or other animal or by ill-usage or negligence in driving any cattle causing any mischief to be done by such cattle. 20
- (9.) Obstructing or preventing the driving of any cattle along over or across any public road bridge or thoroughfare.
- (10.) Leaving upon any public road or thoroughfare any plough harrow cart or other vehicle without any horse or animal being harnessed thereto unless in consequence of some accident having occurred. 25
- (11.) Slaughtering or skinning any beast upon any public road or thoroughfare or permitting any slaughtered beast or skin to remain there or leaving any dead beast on such road or thoroughfare. 30
- (12.) Having any timber iron or boards laid across any vehicle going along any public road or thoroughfare so that either end projects more than one foot beyond the wheels or sides of such vehicle.
- (13.) Any driver or guard of a public vehicle for the conveyance of passengers wilfully delaying on the road using any abusive or insulting language to any passenger or by reason of intoxication negligence or other misconduct endangering the safety or property of any passenger or other person or demanding or exacting more than the proper fare due from any passenger. 35 40

Penalty on persons guilty of wilful destruction of property whether public or private.

13. Any person who shall commit any of the next following offences shall on conviction pay to the person aggrieved compensation for or the value of the injury done to be assessed by the adjudicating justice to an amount not exceeding in any case fifty pounds and shall also be liable to the penalty and punishment hereinafter specified for the cases respectively— 45

- (1.) Any person destroying damaging polluting or obstructing any aqueduct dam sluice pipe pump watercourse or fountain
- (2.) Or destroying or damaging any toll-bar toll-gate or other public work used as a means for collecting any toll or due shall for a first offence be liable to a penalty not exceeding twenty pounds or to imprisonment for a period not exceeding six months and for a second or subsequent offence to a penalty not exceeding fifty pounds or to imprisonment for a period not exceeding twelve months 55
- (3.) And any artificer workman or journeyman or apprentice wilfully damaging spoiling or destroying any goods wares 55

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work or material committed to his care or charge

- (4.) And any person wilfully breaking any pane of glass in the window of any building
- 5 (5.) Or wilfully breaking or extinguishing or injuring any lamp or wilfully breaking or injuring any lamp-post
- (6.) Or wilfully trespassing in any place and neglecting or refusing to leave such place after being warned to do so by the owner or any person authorized by or on behalf of the owner
- 10 (7.) Wantonly or maliciously defacing injuring or removing any door-plate bell knocker sign-board or gate or wantonly or maliciously disturbing any inhabitant by ringing any door-bell knocking at any door blowing any horn beating any drum using any other noisy instrument in any street or ringing any fire-bell
- 15 (8.) Or committing any injury or damage to any property (whether private or public) not hereinbefore provided for the injury done being under the value of twenty pounds

shall be liable to a penalty not exceeding twenty pounds or to imprisonment for a period not exceeding three months Provided that nothing hereinbefore contained shall extend to any case where the person offending acted under a fair and reasonable supposition that he had a right to do the act complained of.

14. Any person who commits any of the next following offences shall on conviction thereof be liable to the punishment hereinafter specified for the cases respectively that is to say—

- (1.) Any person who cruelly beats illtreats overdrives overloads abuses or tortures or omits to supply with sufficient food or water any animal
- 30 (2.) Any person who keeps or uses or acts in the management of any place for the purpose of fighting or baiting any kind of animal or permits or suffers any place to be so used
- (3.) Any person who in any manner encourages aids or assists at the fighting or baiting of any animal
- 35 (4.) And any person who conveys or carries or causes to be conveyed or carried any animal in such a manner or position as to subject such animal to unnecessary pain or suffering

shall for every such offence be liable to a penalty not exceeding twenty pounds or to imprisonment with or without hard labour for any period

40 not exceeding two months

- (5.) Any person who by cruelly beating illtreating overdriving overloading abusing inciting to fight not supplying with sufficient food or water or torturing any animal does any damage or injury to such animal or thereby causes any damage or injury to be done to any person or to any property shall in addition to such penalty or imprisonment as aforesaid pay to the owner of such animal if the offender be not the owner thereof or to the person who shall sustain damage or injury as aforesaid such sum of money by way of compensation not exceeding the sum of twenty pounds as shall be ascertained and determined by the justice by or before whom such person shall be convicted
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And whenever any person having charge of any vehicle or any animal is taken into custody by any constable for any offence against the

55 provisions of this section such constable may take charge of such vehicle or animal and deposit the same in some place of safe custody

Penalty on cruelty to animals.

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as a security for payment of any penalty to which the person having had charge thereof or the owner thereof may become liable and for payment of any expenses which may have been or may be necessarily incurred for taking charge of and keeping the same and any justice before whom the case is heard may order such vehicle or such animal 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 and had been distrained for the payment of such penalty and expenses. 5

Penalty on drunkards 15. Any person found drunk and disorderly in or upon any road street thoroughfare or public place may be apprehended and lodged in safe custody until he can be brought before some justice and upon conviction of any such offence shall for the first offence be liable to a penalty not exceeding two pounds or to imprisonment with or without hard labour for any term not exceeding three days and for any second or subsequent offence to a penalty not exceeding five pounds or to imprisonment with or without hard labour for any term not exceeding fourteen days. 10 15

Obscene threatening or abusive language &c. in public. 16. 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 street thoroughfare or place or within the view or hearing of any person passing therein and any person who uses any threatening abusive or insulting words or behaviour in any public street thoroughfare or place with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned shall forfeit and pay on conviction any sum not exceeding ten pounds and in default of immediate payment shall be committed to the common gaol for any term not exceeding three calendar months. 20 25

Keepers of skittle grounds &c. to register their premises with local authority. 17. Any person who keeps or conducts any bowling alley skittle ground or place for wrestling or permits or suffers any game or pastime to be had or conducted in such alley ground or place shall register the house dwelling tent or other premises wherein or connected with which it is intended to keep conduct permit or suffer any such game or pastime at the office of the local authority in or for the place where such house dwelling tent or other premises are situate and if there be not any local authority within the distance of ten miles from such house tent dwelling or other premises then with the justice resident (if any there be) within ten miles nearest to such house dwelling tent or other premises and any person offending against this provision shall forfeit and pay a penalty not exceeding ten pounds. 30 35 40

Penalty on such persons refusing admittance to justice or constable. 18. Any person who refuses or needlessly delays to admit any justice or constable whether by day or night into any such bowling alley skittle ground place for wrestling house dwelling tent or premises as aforesaid or into any public hall or assembly room where payment is received for admission or does not close the same respectively at the hours and times appointed by any local authority shall forfeit a penalty not exceeding twenty pounds and for any second offence besides such penalty be struck off the register and every person struck off the register as hereinbefore provided shall be and be considered as an unregistered person. 45 50

Penalty on keepers of refreshment-houses not properly conducting them. 19. If any person allow in any tent dwelling-house or other premises wherein liquors provisions or refreshments are sold or disposed of any drunkenness or other disorderly conduct or suffer any gaming whatsoever therein or suffer prostitutes or persons of notoriously bad character to be assembled therein such person shall forfeit a penalty not exceeding twenty pounds for the first offence and if registered shall have his house premises tent or dwelling struck off such register and 55

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for any second offence besides the penalties herein provided for the first offence shall be imprisoned for any term not exceeding three months.

20. The local authorities shall cause Sunday to be duly observed
 5 by all persons within their jurisdiction and shall not permit or suffer any house shop store or other place to be open on that day for the purpose of trade or dealing and any person who trades or deals or keeps open any house shop store or other place (except as hereinafter provided) for the purpose of trading or dealing on Sunday shall on
 10 conviction forfeit a penalty of not less than five pounds nor more than ten pounds Provided that nothing herein contained shall extend to apothecaries and chemists at any time of the day nor to butchers bakers pastrycooks or confectioners until the hour of nine in the forenoon and between the hours of one and six in the afternoon nor to any other
 15 trade or occupation that may by any Act or Ordinance passed or hereafter to be passed have any special provision made therein upon the subject of trading on Sunday and so long as the persons affected thereby adhere to the provisions of such Act or Ordinance Any person who is found engaged at shooting at any pigeon match or for pleasure
 20 sport or profit of any kind whatever on Sunday or who is found carrying firearms on that day (except as hereinafter provided) and against whom proceedings for such offence shall be taken within ten days next after the time when the offence was committed shall on conviction before any justice forfeit and pay a penalty of not more
 25 than five pounds nor less than forty shillings but this provision shall not extend to travellers *bond fide* carrying firearms for the protection of their lives and property or the property of their employers on the public roads or to constables or other persons carrying firearms for lawful purposes.
21. If any person establish commence or be a partner or otherwise
 30 beneficially interested in any lottery or any scheme by which prizes whether of money or of any other matter or thing are gained drawn for thrown or competed for by lot dice or any other mode of chance or sell or dispose of any tickets or other means by which permission or authority
 35 is gained or given to any person to throw for compete or have any interest in any such lottery or scheme or if any person under any pretence or by means of any device sell or dispose of or endeavour to sell or dispose of any lands goods wares or merchandise by means of any game either of skill or chance every such person being duly convicted
 40 thereof shall forfeit and pay a penalty not exceeding one hundred pounds and for any second offence besides such penalty shall be liable to imprisonment for any term not exceeding six months Neither this provision nor the provisions of any other Act or Ordinance for the prevention of lotteries littlegoes and unlawful games shall apply to the
 45 distribution of any property amongst the owners thereof nor any raffle for any work purely of art of which a notice having the name and address of the person intending to hold the same subscribed thereto has been given to the Superintendent of the Province in which such distribution or raffle is to be held if such Superintendent do not within
 50 one week after such notice prohibit such raffle by notice sent by post or in any other manner according to the address so subscribed by such person nor to any raffle of a private nature upon which point the justice before whom any case may be brought shall decide.
22. Upon complaint made to any justice of the peace by any person
 55 claiming to be entitled to the property or possession of any goods which are detained by any other person within the jurisdiction of such justice the value of which shall not be greater than fifty pounds such justice may summon the person complained of and inquire into the title

Sunday to be duly observed and trade on that day prevented

Lotteries disallowed.

Summary jurisdiction given to justices in cases of property being illegally detained.

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thereto or to the possession thereof and if it appear to the justice that such goods have been detained without just cause after due notice of the claim made by the person complaining or that the person detaining such goods has a lien or right to detain the same by way of security for payment of money on the performance of any act by the owner thereof such justice may order the goods to be delivered to the owner thereof either absolutely or upon tender of the amount appearing to be due by such owner which amount the justice is hereby authorized to determine or upon performance or upon tender and refusal of the performance of the act for the performance whereof such goods are detained as security or if such act cannot be performed then upon tender of amends for the non-performance thereof (the nature or amount of which amends the justice is hereby authorized to determine) and every person who neglects or refuses to deliver up the goods according to such order shall forfeit to the party aggrieved the full value of such goods not greater than the sum of fifty pounds such value to be determined by the justice And such justice may order and adjudge any reasonable costs to either party as such justice shall see fit such costs to be recovered as is provided by law in reference to any costs awarded upon any decision given under the summary jurisdiction of justices provided that no such order shall bar any person from recovering possession of the goods or money so delivered or forfeited by suit or action at law from the person to whose possession such goods or money may come by virtue of such order so that such action be commenced within six months next after such order shall be made.

Breach of any provisions of Parts I. and II. of this Act deemed an offence.

23. Any person committing any act against the provisions contained in this or the preceding Part of this Act or refusing or neglecting to comply with any directions contained therein respectively or any rule or regulation made under the said provisions by any local authority shall be deemed to have committed an offence against this or the preceding Part of this Act as the case may be and when no specific penalty is provided for any such act neglect or refusal such person shall on conviction pay a penalty not exceeding twenty pounds.

Masters made liable where servants have acted under their orders.

24. In any case where under this or the preceding Part of this Act any offence is created and it appears to the justice before whom the complaint or information against any person for the commission of any such offence may be heard that the person committing the same has acted only under the orders or by the sanction of any master or employer of any such person and that such master or employer is in fact the offending party either solely or as well as such person so rendered liable such justice may summon and proceed against such master or employer as if the information or complaint had originally been laid or made against any such master or employer and may either discharge such person so first informed or complained against or may otherwise proceed against both as such justice may see fit.

PART III.

GAMING.

Warrant to enter search and seize on premises.

8 and 9 Vict. c. 109 s. 3.

Schedule.

25. Any justice upon complaint made before him on oath that there is reason to suspect any house room premises or place to be kept or used as a common gaming house and that it is commonly reported and believed by the deponent so to be may give authority by special warrant under his hand and seal in the form contained in the Schedule hereto when in his discretion he shall think fit to any constable or peace officer to enter with such assistance as may be found necessary into such house room premises or place and if necessary to use force for making such entry whether by breaking open doors or otherwise and to arrest search and bring before any two justices all such persons found

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therein and to seize all tables and instruments of gaming found in such house room premises or place and also to seize all moneys and securities for money found therein and the constable or peace officer making such entry as aforesaid in obedience to any such warrant may search
 5 all parts of the house room premises or place which he shall have so entered where he shall suspect that tables or instruments of gaming are concealed and all persons whom he shall find therein and may seize all tables and instruments of gaming found in such house room premises or place and also may seize all moneys found therein.

10 26. The owner or keeper of the said gaming house or other person having the care or management thereof and also every banker croupier and other person who acts in any manner in conducting the said gaming house room premises or place shall be liable on conviction to a penalty of not more than one hundred pounds to be recovered in a summary
 15 way before any two justices or in the discretion of the justices before whom he shall be convicted of the offence to be committed to the nearest gaol with or without hard labour for any term not exceeding six months and upon conviction of any such offender all the moneys and securities for money which shall have been seized as aforesaid shall be
 20 forfeited to Her Majesty and every person found in such house room premises or place without lawful excuse shall be liable to a penalty of not more than five pounds.

Penalty on owner or keeper of a gaming house.

8 and 9 Vic. c. 109 s. 4.

25 27. Nothing herein contained shall prevent any proceeding by indictment against the owner or keeper or other person having the care or management of any gaming house or any room premises or place for gaming but no person shall be so proceeded against by indictment and also under this Part for the same offence.

Proceeding by information.

Ib. s. 4.

30 28. In default of other evidence proving any house room premises or place to be a common gaming house or place for gaming it shall be sufficient in support of the allegation in any indictment or information that any house room premises or place is a common gaming house or place for gaming to prove that such house room premises or place is kept or used for playing therein at any unlawful game and that a bank
 35 is kept there by one or more of the players exclusively of the others or that the chances of any game played therein are not alike favourable to all the players including among the players the banker or other person by whom the game is managed or against whom the other players stake play or bet and every such house room premises or place shall be deemed a common gaming house or place for gaming such as
 40 is contrary to law and forbidden to be kept by all Acts and Ordinances containing any provision against unlawful games or gaming houses.

Evidence of being a common gaming house.

Ib. s. 2.

45 29. It shall not be necessary in support of any information for gaming in or suffering any games or gaming in or for keeping or using or being concerned in the management or conduct of a common gaming house or place for gaming to prove that any person found playing at any game was playing for any money wager or stake.

Proof of gaming for money.

Ib. s. 5.

50 30. Where any cards dice balls counters tables or other instruments of gaming used in playing any unlawful game are found in any house room premises or place suspected to be used as a common gaming house or place for gaming and entered under a warrant under the provisions of this Part of this Act or about the person of any of those who shall be found therein it shall be evidence until the contrary be made to appear that such house room premises or place is used as a common
 55 gaming house and that the persons found in the room or place where such tables or instruments of gaming shall have been found were playing therein although no play was actually going on in the presence of the constable or peace officer entering the same under such warrant or in the presence of those persons by whom he shall be accompanied as

Evidence of gaming.

Ib. s. 8.

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aforesaid and the justices before whom any person is taken by virtue of the said warrant may direct all such tables and instruments of gaming to be forthwith destroyed.

- Indemnity of witnesses.**
8 and 9 Vict. c. 109 s. 9. 31. Every person concerned in any unlawful gaming and who is examined as a witness by or before any justices or on the trial of any indictment or information against the owner or keeper or other person having the care or management of any common gaming house or place for gaming touching such unlawful gaming and who upon such examination shall make true and faithful discovery to the best of his knowledge of all things as to which he shall be so examined and shall thereupon receive from the justices or judge of the court by or before whom he shall be so examined a certificate in writing to that effect shall be freed from all criminal prosecutions and from all forfeitures punishments and disabilities to which he may have become liable for anything done before that time in respect of such unlawful gaming. 5 10 15
- Empowering constables to visit houses.**
Ib. s. 14. 32. All constables and officers of police may enter into any house room premises or place where any public table or board is kept for playing at billiards bagatelle bowls fives racket quoits skittles or nine pins or any game of the like kind when and so often as such constables and officers think proper. 20
- Cheating at play.**
Ib. s. 17. 33. Every person who shall by any fraud or unlawful device or ill practice in playing at or with cards dice tables or other game or in hearing a part in the stakes wagers or adventures or in betting on the sides or hands of them that do play or in wagering on the event of any game sport pastime or exercise win from any other person to himself or any other any sum of money or valuable thing shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence with intent to cheat or defraud such person of the same and being convicted thereof shall be punished accordingly. 25
- Wagers not recoverable at law.**
Ib. s. 18. 34. All contracts or agreements whether by parole or in writing by way of gaming or wagering shall be null and void and no suit shall be brought or maintained in any court of law or equity for recovering any sum of money or valuable thing alleged to be won upon any wager or which shall have been deposited in the hands of any person to abide the event on which any wager shall have been made. Provided always that this provision shall not be deemed to apply to any subscription or contribution or agreement to subscribe or contribute for or toward any plate prize or sum of money to be awarded to the winner of any lawful game sport pastime or exercise. 30 35
- Cases not specially provided for and recovery of penalties.** 35. In every case in which any person in any respect offends against this Part of this Act or any provision therein where no other penalty in that behalf is by this Part specifically imposed such person shall for every such offence forfeit and pay on conviction a penalty or sum not exceeding twenty pounds. 40
- Distress not unlawful for want of form.**
Ib. s. 21. 36. When any distress shall be made for any money to be levied by virtue of the warrant of any justice under this Part of this Act the distress shall not be deemed unlawful nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the information summons warrant of apprehension conviction warrant of distress or other proceeding relating thereto nor shall such party be deemed a trespasser from the beginning on account of any irregularity which shall be afterwards committed by him but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage by an action on the case in any court of record. 45 50
- Tender of amends.**
Ib. s. 22. 37. No plaintiff shall recover in any action for any irregularity trespass or other wrongful proceeding made or committed in the execution of the provisions of this part of this Act or in or under or by virtue of any authority thereby given if tender of sufficient amends be made by or 55

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on behalf of the party who has committed such irregularity trespass or other wrongful proceeding before such action brought and in case no tender be made the defendant in any such action may by leave of the court where such action depends at any time before issue joined pay
5 into court such sum of money as he thinks fit whereupon such proceeding order and adjudication shall be had and made in and by such court as in other actions where defendants are allowed to pay money into court.

38. No action suit or information or any other proceeding of what
10 nature soever shall be brought against any person for anything done or omitted to be done in pursuance of the provisions of this Part of this Act or in the execution of the authorities thereunder unless notice in writing be given by the party intending to prosecute such suit information
15 before prosecuting the same nor unless such action suit or information or other proceeding be brought or commenced within three months next after the act or omission complained of or in case there be a continuation of damage then within three months next after the doing such damage shall have ceased.

Limitation of actions.
8 and 9 Vict. c. 109
s. 23.

20

PART IV.

MISCELLANEOUS.

39. Any constable or other person may drive or lead and with or without a halter or tether-rope to the nearest public pound any cattle or other beast found wandering upon any public road or thoroughfare
25 or in the streets or thoroughfares of any town or trespassing upon any enclosed land within the limits of any town.

Cattle may be driven or led to public pound.

40. Any person whatsoever with or without warrant may apprehend any person found offending against the provisions of Parts I. or II. of this Act and forthwith take and convey him before some justice to be
30 dealt with in such manner as herein directed or may deliver him to any constable or other peace officer to be so taken and conveyed as aforesaid and any constable or other peace officer who refuses or wilfully neglects to take such offender into custody or to take and convey him before some justice or who does not use his best endeavours to apprehend and
35 convey before some justice any person that he shall find offending against any of the said Parts I. and II. of this Act shall be deemed guilty of a neglect of duty and on conviction if such person have been found offending against the said Parts I. or II. of this Act shall be liable to a penalty not exceeding five pounds.

Apprehension of offenders.

41. If the offence with which any person so apprehended is charged under Parts I. or II. of this Act be not a serious one and the inspector or person in charge of the watch-house lock-up or police station in which such person is detained see fit so to do he may liberate such person on his making deposit of ten pounds or on his own recognizance
45 in the like sum conditioned to appear before some justice and such deposit if such person shall fail to appear at the place and time notified by the person taking the same shall be absolutely forfeited and such recognizance shall be made or be in such form and recoverable in the same manner as any recognizance now or hereafter may be if taken and
50 acknowledged before some justice.

Offenders may be admitted to bail by inspector.

42. Under Parts I. and II. of this Act in every complaint or information for any penalty or forfeiture and in every conviction or warrant of commitment for any penalty and under Part III. of this Act in every information in writing and in every conviction it shall be
55 sufficient to set forth the offence or cause of forfeiture as the case may be in the words of this Act.

Offence may be set forth in words of this Act.

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Offences of a more serious nature not to be tried under this Act.

43. If any justice before whom any information or complaint is brought under Parts I. or II. of this Act be of opinion that the offence so charged does not properly come within the meaning and intention of the said Parts of this Act but that an offence of a higher or more heinous class has been committed such justice may refuse to entertain any such information and complaint as under either of the said Parts and deal with such information and complaint as if such higher or more heinous offence had been directly charged in any such information or complaint whether the person charged has pleaded or not to such information or complaint.

Want of form not to invalidate proceedings.

44. No warrant of commitment for any offence under Parts I. or II. of this Act shall be held void by reason of any defect in such warrant nor shall any party be entitled to be discharged out of custody on account of such defect provided it be alleged in such warrant that the said party has been convicted of such offence and provided it shall appear to the court or judge before whom such warrant is returned that such conviction proceeded upon good grounds.

Procedure.

45. All offences and all penalties under this Act where not otherwise provided for may be heard and determined and recovered in a summary way in the manner provided by "The Justices of the Peace Act 1866" so far as the same relates to summary convictions and orders as follows—

- (1.) Under Parts I. and II. before any one justice.
- (2.) Under Part III. with or without information in writing before two justices or (where the said Part so directs) before one justice.

Appeal.

46. If any person feel aggrieved by any summary judgment or conviction under Part III. he may appeal to the District Court of the district in which the convicting justice or justices shall have been sitting at the time of the adjudication or to the Supreme Court if at the time of adjudication such justices shall not have been sitting within any such district and the proceedings on such appeal shall be in accordance with the provisions of "The Appeals from Justices Act 1867" or of any other Act in force for the time being regulating appeals from justices.

Penalties appropriated.

47. All moneys arising from fines penalties and forfeitures under this Act shall be appropriated as follows unless otherwise specially directed—

- (1.) Under Parts I. and II. if incurred in any borough incorporated under "The Municipal Corporations Act 1867" one moiety to the treasurer of such borough for the public uses thereof and if not within such borough one moiety to the informer or person prosecuting and in both cases the other moiety to the ordinary revenue of the Colony.
- (2.) Under Part III. one moiety to the informer or the person prosecuting and the other moiety to the ordinary revenue Provided that whenever in any of the above cases the informer or person prosecuting is a member of the police force the moiety to which he would be entitled as such informer or person prosecuting shall be paid to any reward fund established for rewarding the police force of which such person is a member.

Want of form.

48. No information conviction warrant order or other proceeding before or by any justice or on appeal therefrom for any offence under Part III. of this Act shall be quashed for want of form.

Proceedings under Part IV.

49. The several provisions contained in this Part as to procedure appeal quashing for want of form and appropriation of moneys

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arising from fines penalties and forfeitures under the previous Parts respectively of this Act shall be applied in the prosecution of offences mentioned in this Part and to the proceedings relating thereto.

5 50. If any person resist or assault or incite or encourage any person to resist or assault any constable or the officer of the local authority in the execution of his duty such person shall forfeit a penalty not exceeding twenty pounds or be liable to imprisonment for any period not exceeding three months and the justice before whom any such case is heard may order and award besides any such penalty a sum sufficient 10 to cover any damage which any such constable or officer has sustained by such assault or resistance such sum to be recoverable in the same manner as the penalty.

Assaulting or resisting constables &c.

15 51. Nothing contained in Parts I. and II. of this Act shall take from lessen or alter any powers or privileges now possessed by or which may hereafter be given to any corporate body but the same may be exercised and enjoyed to the same extent as if this Act had not been passed.

This Act not to interfere with corporations.

20 52. Nothing in this Act contained shall be deemed to repeal wholly or in part any of the provisions of "The Malicious Injuries to Property Act 1867" but no person shall be punished for the same offence under the said Act and this Act.

Provisions of "Malicious Injuries to Property Act 1867" not repealed.

53. In every case under Part III. of this Act the informer or person prosecuting shall be entitled to his costs and charges to be ascertained and assessed by the justices before whom the case is heard.

Informer's costs.

SCHEDULE.

FORM OF WARRANT.

Section 33.

To wit. } To constable

WHEREAS it appears to me J.P. a justice of the peace in and for the Colony of New Zealand [or for here describe the local jurisdiction of the justice as the case may be] by the information on oath of A.B. of in the of that the house [room premises or place] known as [here insert a description of the house room premises or place by which it may be readily known and found] is kept and used as a common gaming house or place for gaming within the meaning of "The Police Offences Act 1867" this is therefore in the name of our Lady the Queen to require you with such assistants as you may find necessary to enter into the said house [room premises or place] and if necessary to use force for making such entry whether by breaking open doors or otherwise and there diligently to search for all instruments of unlawful gaming which may be therein and to arrest search and bring before me or some other of the justices of the peace as well the keepers of the same as also the persons there haunting resorting and playing to be dealt with according to law and for so doing this shall be your warrant.

(L.S.) Given under my hand and seal at this day of J. P. 186 .