

VICTORIA



ANNO QUINTO DECIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 7405.

An Act to re-enact with Amendments the Law relating to
certain Police Offences.

[17th May, 1966.]

BE it enacted by the Queen's Most Excellent Majesty by and
with the advice and consent of the Legislative Council and
the Legislative Assembly of Victoria in this present Parliament
assembled and by the authority of the same as follows (that is
to say):—

1. This Act may be cited as the *Summary Offences Act 1966*
and shall come into operation on a day to be fixed by proclamation
of the Governor in Council published in the *Government Gazette*
and is divided into Parts and Divisions as follows :—

Short title
commencement
and division.

Part I.—Provisions Applicable Throughout Victoria ss. 4–49.

Division 1.—Public Order ss. 4–6.

Division 2.—General ss. 7–37.

Division 3.—Illegal taking or Using of Vehicles s. 38.

Division 4.—Contraceptives ss. 39–41.

Division 5.—Tattooing of Juveniles s. 42.

Division 6.—Juvenile Smoking ss. 43–44.

Division 7.—Homing Pigeons ss. 45–49.

Part II.—Provisions Applicable to Special Localities s. 50.

Part III.—Supplementary ss. 51–63.

2. (1) Part

Repeal.

2. (1) Part I., Division 1 of Part II. and Parts VI. and VII. of the *Police Offences Act* 1958 are hereby repealed.

Savings.

(2) Except as in this Act expressly or by necessary implication provided—

- (a) all persons things and circumstances appointed or created by or under the repealed provisions or existing or continuing under the repealed provisions immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if the said provisions had not been so repealed ;
- (b) in particular and without affecting the generality of the foregoing paragraph, such repeal shall not disturb the continuity of status operation or effect of any proclamation regulation rule by-law order application determination decision licence authority direction registration complaint information warrant commitment recognizance appointment condition notice fee liability limitation saving or right made effected issued granted given presented passed fixed accrued incurred or acquired or existing or continuing by or under the repealed provisions before the commencement of this Act.

Interpretation.
No. 6337 s. 3.

3. In this Act unless inconsistent with the context or subject-matter—

"Animal."

"Animal" includes every species of quadruped and every species of bird whether in a natural or domestic state.

"Cattle."

"Cattle" includes any horse mare gelding ass bull cow ox ram ewe wether pig goat and every hybrid or cross thereof and the young of any such animals.

"Information."

"Information" includes a complaint for an offence and "Informant" includes a complainant on such a complaint.

"Local
authority."

"Local authority" means—

- (a) the council of any municipality (including the city of Melbourne and the city of Geelong) ;
- (b) any officer of any such council authorized in writing by the council to exercise any of the powers and discretions conferred on a local authority by this Act ; or
- (c) in the case of any portion of Victoria that is an outlying district within the meaning of paragraph (b) of sub-section (2) of section 3 of the *Local Government Act* 1958—the nearest court of petty sessions.

"Public

“Public place” includes and applies to—

“Public place.”

- (a) any public highway road street bridge footway footpath court alley passage or thoroughfare notwithstanding that it may be formed on private property ;
- (b) any park garden reserve or other place of public recreation or resort ;
- (c) any railway station platform or carriage ;
- (d) any wharf pier or jetty ;
- (e) any passenger ship or boat plying for hire ;
- (f) any public vehicle plying for hire ;
- (g) any church or chapel open to the public or any other building where divine service is being publicly held ;
- (h) any State school or the land or premises in connexion therewith ;
- (i) any public hall theatre or room while members of the public are in attendance at, or are assembling for or departing from, a public entertainment or meeting therein ;
- (j) any market ;
- (k) any auction room or mart or place while a sale by auction is there proceeding ;
- (l) any billiard room or open bar in any premises licensed under the *Licensing Act* 1958 or any licensed billiard room ;
- (m) any race-course cricket ground football ground or other such place while members of the public are present or are permitted to have access thereto whether with or without payment for admission ;
- (n) any place of public resort ;
- (o) any open place to which the public whether upon or without payment for admittance have or are permitted to have access ; or
- (p) any public place within the meaning of the words “public place” whether by virtue of this Act or otherwise.

“Road” includes and applies to every road street or bridge.

“Section.”

“Section” means section of this Act.

“Town” means a populous area or place.

“Town.”

PART I.—PROVISIONS APPLICABLE THROUGHOUT VICTORIA.

DIVISION 1.—PUBLIC ORDER.

Offences Relating to the Good Order.

Offences
relating to
the good order
of towns, &c.
No. 6337 s. 5.

4. Any person who—

- (a) burns rubbish shavings or other materials in a public place ;
- (b) leaves inflammable materials or matter in or on a public shed or place or in an open space near a building without first obtaining the permission of the local authority ;
- (c) opens a drain or sewer in or removes the surface of a footpath or road without first obtaining the permission of the local authority ;
- (d) in a public place—
 - (i) flies a kite ; or
 - (ii) plays at a game—
 to the annoyance of any person ;
- (e) obstructs a footpath or road whether by allowing a vehicle to remain across such footpath or road or by placing goods thereon or otherwise ;
- (f) has an awning on or over a footpath in a public street or thoroughfare not being seven feet clear above the footpath or hangs goods on or under an awning over the footpath ;
- (g) carries out a blasting operation in or near a public place without first obtaining the permission of the local authority or does not attend to all directions in regard thereto given by the local authority ;
- (h) exposes in a public street or thoroughfare (except in a fair or market lawfully appointed for that purpose) a vehicle or a horse or other animal for show hire or sale ;
- (i) makes a cellar, door or other opening from the footpath of a public street or thoroughfare without the consent of the local authority ;
- (j) sets off fireworks in a public place without first obtaining the permission of the local authority ;
- (k) carries an offensive weapon or instrument (not being a firearm) within a town without first obtaining the permission of the local authority—

shall be guilty of an offence.

Penalty : \$50.

5. Where

5. Where in a prosecution for obstructing a footpath street or road under—

(a) paragraph (f) of section 4 ; or

(b) any by-law made pursuant to sub-section (1) of section 197 of the *Local Government Act* 1958 or any corresponding previous enactment—

Court to be satisfied obstruction of footpath, &c., was an undue obstruction.
No. 6337 s. 7.

the obstruction alleged is by assemblage of persons (not being a procession) or by any person or persons forming part of or connected with such assemblage the court shall not convict the defendant unless it is satisfied that, having regard to all the circumstances of the case and to the amount of traffic which actually was at the time on the footpath street or road, there was undue obstruction thereof.

Exposing Articles for Sale in Streets, &c.

6. (1) Any person who without the permission of the local authority exposes any article for sale on a footpath or outside of a shop window or doorway abutting on a public street or thoroughfare so as to obstruct the street or thoroughfare shall be guilty of an offence.

Exposing articles for sale in public streets.
No. 6337 s. 10.

Penalty : \$25.

(2) If any article so exposed is not removed within six hours after notice oral or written given by a member of the police force or by a person either specially or generally authorized by the local authority then such member or person may without warrant seize, remove and detain the article.

Articles may be seized.

(3) If within five days of seizure the article is not claimed and the penalties (if ascertained) and the charges of removing and keeping the article are not paid such member of the police force or such local authority or a person specially or generally authorized by such local authority may order or cause the article to be sold by auction and the proceeds thereof shall be paid to and form part of the Consolidated Revenue.

DIVISION 2.—GENERAL.

Offences tending to Personal Injury, or Damage to Property, &c.

7. Any person who—

(a) places upon any road footpath canal or river an obstruction likely to cause death or injury to any person passing thereon ;

Offences tending to personal injury or damage to property.
No. 6337 s. 17.

(b) leaves

- (b) leaves a hole excavation or dangerous formation in or near a public place unguarded or without having a warning light burning nearby between sunset and sunrise ;
 - (c) fails to keep in good repair any protective cover rail gate or fence over or about a cellar or lower area opening into or upon or near a public place or keeps any such cover rail gate or fence open for an unreasonable time in the circumstances ;
 - (d) throws any offensive matter or thing or any animal into a river water-course canal or other place whence a supply of water for human use is obtained ;
 - (e) draws or trails a sledge or timber or other heavy material upon a public footpath or road so as to damage the surface thereof ;
 - (f) in a public place rolls a drum, barrel or cask or breaks in a horse to the injury of or danger to any person or damage to any property ; or
 - (g) throws or discharges a stone arrow or other missile to the injury of or danger to any person or damage to any property—
- shall be guilty of an offence.

Penalty : \$500 or imprisonment for six months or both.

Offences relating to Horse-drawn Vehicles, Public Vehicles, Animals, &c.

Offences
relating to
horse-drawn
vehicles,
public vehicles,
animals, &c.
No. 6337 s. 18.

8. Any person who—

- (a) being the driver of a horse-drawn vehicle on a road goes away from the animal so as not to have control over it without securely fastening one of the wheels of the vehicle by a brake chain or strap so as to effectually prevent the wheel rotating ;
- (b) drives a cart wagon or dray in or through a public place 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 ;
- (c) drives a dog or goat harnessed or attached to a vehicle in or through a public place ;
- (d) turns loose or allows to wander any cattle or other beast upon a public road or thoroughfare ;

(e) sets

- (e) sets on urges or permits a dog or other animal to attack or worry any person horse or other animal or by ill-usage or negligence in driving cattle causes any mischief to be done by such cattle ;
- (f) obstructs or prevents the driving of cattle along over or across a public road or thoroughfare ;
- (g) slaughters or skins a beast on a public road or thoroughfare ;
- (h) leaves a dead beast or its skin on a public road or thoroughfare ;
- (i) being the driver guard or conductor of a public vehicle for the conveyance of passengers wilfully delays on the road or uses any abusive or insulting language to any passenger, or by reason of intoxication or other misconduct endangers the safety or property of any passenger or other person—

shall be guilty of an offence.

Penalty : \$50.

Destroying Damaging or Injuring Property—Trespass.

9. (1) Any person who—

- (a) destroys damages pollutes or obstructs any aqueduct dam sluice pipe pump water-course pond pool or fountain ;
- (b) being an artificer workman journeyman or apprentice wilfully damages spoils or destroys any goods wares work or material committed to his care or charge ;
- (c) wilfully injures or damages any property (whether private or public) the injury done being under the value of \$500 ; or
- (d) wilfully trespasses in any place and neglects or refuses to leave that place after being warned to do so by the owner or a person authorized by or on behalf of the owner—

Wilful
destruction
damage, &c.,
of property.
No. 6337 s. 20.

shall be guilty of an offence.

Penalty : \$500 or imprisonment for six months.

(2) For the purposes of section 546 of the *Crimes Act* 1958 the cost of repairing or making good anything spoiled or damaged in contravention of this section shall be deemed to be loss or damage suffered in relation thereto.

Compensation.

(3) Nothing contained in this section 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 or to any trespass (not being wilful and malicious) committed in hunting or the pursuit of game.

Bill

Bill Posting, &c.

Posting bills,
&c., and
defacing
property.

10. (1) Any person who posts any placard bill sticker or other document on or writes or paints on or otherwise defaces any road bridge or footpath or any house building hoarding wall fence gate tree tree-guard post pillar hydrant fire-alarm petrol pump or other structure whatsoever without the consent of the occupier or owner of the premises concerned or of any person or body having authority to give such consent shall be guilty of an offence.

Penalty : \$250 or imprisonment for three months.

Compensation.

(2) For the purposes of section 546 of the *Crimes Act* 1958 the cost of removing or obliterating anything posted written or painted in contravention of this section and of making good any damage done thereby shall be deemed to be loss or damage suffered in relation to the offence.

Fire.

Setting fire to
property or
leaving fire
burning.
No. 6337 s. 21.

11. (1) Any person (except as hereafter in this section mentioned) who ignites or uses or carries when ignited any inflammable material and thereby damages destroys or endangers the property of any other person and any person who leaves a fire which he has lighted or used in the open air before the fire is thoroughly extinguished shall be guilty of an offence.

Penalty : \$500 or imprisonment for six months.

Exceptions.

(2) The provisions of the last preceding sub-section shall not apply—

(a) to the occupier of land who burns straw stubble grass or herbage or ignites wood or other inflammable material on the land after he has cleared of inflammable substance a space of land around the straw stubble grass or herbage intended to be burnt or wood or other inflammable material intended to be ignited not less than ten feet in breadth and after he has given to the occupiers of all land contiguous to the land from or on which the straw stubble grass or herbage is intended to be burnt or inflammable material to be ignited notice in writing at least twenty-four hours before burning or igniting as aforesaid of the time at which it is his intention so to burn or ignite ; or

(b) to the occupier of any grass lands who, between the hours of two o'clock in the afternoon and nine o'clock in the evening, burns off any grass or herbage from land in his occupation after giving the like notice in writing as hereinbefore directed of his intention so to do to the occupiers of all land

contiguous

contiguous to the land from which the grass or herbage is intended to be burnt and after having drawn plough furrows for a width of not less than ten feet on either side of such grass or herbage.

(3) Nothing in this section—

(a) shall have any force or effect in the country area of Victoria within the meaning of the *Country Fire Authority Act 1958* during the relevant summer period within the meaning of that Act ; or

(b) shall take away or interfere with or be construed to take away or interfere with the right of any person to sue for and recover at common law or otherwise compensation for or in respect of any damage occasioned by the reckless or negligent use of fire.

(4) A person who gives notice in accordance with sub-section (2) of this section and who otherwise complies with the requirements thereof before doing any of the acts recited therein shall not in respect of any such act be liable to any penalty under section 56 of the Act intituled "*An Act for regulating Buildings and Party Walls, and for preventing mischiefs by fire in the City of Melbourne*" passed in the thirteenth year of the reign of Queen Victoria.

False Alarms of Fire.

12. (1) Any person who wilfully gives or causes to be given to any brigade within the meaning of the *Metropolitan Fire Brigades Act 1958* or the *Country Fire Authority Act 1958* a false alarm of fire shall be guilty of an offence.

Wilfully giving false alarm of fire.
No. 6337 s. 22.

Penalty :

For a first offence—\$100 or imprisonment for two months ;

For a second or subsequent offence—imprisonment for three months.

(2) In addition to any penalty or punishment imposed under this section, the court may order any person convicted of an offence under this section to pay to the Metropolitan Fire Brigades Board or the Country Fire Authority (as the case may be), as compensation for the expenses and charges incurred by any brigade under the control of the Board or the Authority (as the case may be) by reason of the false alarm having been given, such amount as is provided for by the regulations referred to in sub-section (3) of this section or in section 110 of the *Country Fire Authority Act 1958* or such lesser amount as the court thinks fit.

Power to order payment of compensation.

(3) The

Regulations as to compensation payable.

(3) The provisions of sections 34 and 35 of the *Metropolitan Fire Brigades Act 1958* shall extend and apply—

- (a) to the making of regulations for or with respect to compensation payable under this section ; and
- (b) to such regulations when made.

Offences relating to Drunkenness.

Persons found drunk.
No. 6337 s. 23.

13. Any person found drunk in a public place shall be guilty of an offence and may be arrested by a member of the police force and lodged in safe custody.

Penalty : \$1 ;

For a second offence within a period of twelve months—\$2 ;

For a third offence within a period of twelve months—\$10.

Persons found drunk and disorderly.
No. 6337 s. 24.

14. Any person found drunk and disorderly in a public place shall be guilty of an offence.

Penalty :

For a first offence—\$5 or imprisonment for three days ;

For a second or subsequent offence—\$50 or imprisonment for one month.

Habitual drunkard.
No. 6337 s. 69.

15. Any person having been thrice convicted of drunkenness within the preceding twelve months who is again convicted of drunkenness shall be liable to imprisonment for twelve months.

Drunkards behaving in riotous or disorderly manner, &c.
No. 6337 s. 25.

16. Any person who, while drunk—

(a) behaves in a riotous or disorderly manner in a public place ;

(b) is in charge, in a public place, of a carriage (not including a motor car within the meaning of the *Motor Car Act 1958*) or a horse or cattle or a steam engine—

shall be guilty of an offence.

Penalty : \$100 or imprisonment for two months.

Obscene, Threatening, Insulting, Abusive, &c., Words and Behaviour.

Obscene indecent threatening language and behaviour, &c., in public.
No. 6337 s. 26.

17. (1) Any person who in or near a public place or within the view or hearing of any person being or passing therein or thereon—

(a) sings an obscene song or ballad ;

(b) writes

- (b) writes or draws an indecent or obscene word figure or representation ;
- (c) uses profane indecent or obscene language or threatening abusive or insulting words ; or
- (d) behaves in a riotous indecent offensive or insulting manner—

shall be guilty of an offence.

Penalty : \$100 or imprisonment for two months.

(2) Where in the opinion of the chairman presiding at a public meeting any person in or near the hall room or building in which the meeting is being held—

Misbehaviour
at public
meetings.

- (a) behaves in a riotous indecent offensive threatening or insulting manner ; or
- (b) uses threatening abusive obscene indecent or insulting words—

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

Common Prostitutes and Homosexuals.

18. Any person who for the purposes of prostitution or for homosexual purposes solicits or accosts any person in a public place or loiters in a public place shall be guilty of an offence.

Soliciting,
loitering, &c.,
for prostitution
or homosexual
purposes.

Penalty :

No. 6337 s. 28.

\$50 or imprisonment for one month ;

For a second offence within a period of twelve months—\$250 or imprisonment for three months ;

For a third or subsequent offence within a period of twelve months—\$500 or imprisonment for six months.

Procedure.

19. (1) Notwithstanding anything contained in any Act an offence against any of the provisions of sections 13, 14, 16 and 17 may be heard and determined by one justice in open court at any time and place either with or without information in writing if the person charged consents that such justice shall hear and determine the charge.

Person charged
may consent
to one justice
dealing with
offences against
sections 13, 14,
16 and 17.

No. 6337 s. 30.

(2) Where a person is apprehended for an offence against any of the provisions of sections 13, 14, 16 and 17 a member of the police force of or above the rank of senior constable or for the time being in charge of a police station shall in addition to any power he may have to release such person on a recognizance

Release of
persons
apprehended
on making
cash deposit
as security
for penalty.

have

have power to release him on his making a deposit of such sum not exceeding \$50 as such member of the police force thinks reasonable as security for the payment of any penalty that may be imposed as punishment for his offence.

(3) Upon so releasing any person the member of the police force shall notify him that he is required to appear before a justice or court of petty sessions at a certain time and place and that if he fails to appear accordingly the charge against him may be heard in his absence and that such deposit will be appropriated to the payment or part payment of any fine that may be imposed by the justice or court of petty sessions and that any surplus thereof will be paid into the Consolidated Revenue but that if he appears to answer the charge any surplus will be refunded to him.

(4) Notwithstanding anything in any Act or law, where any person who is released in accordance with the provisions of this section fails to appear at the time and place notified to him the charge against him may be heard and determined in his absence and the deposit lodged by him shall be appropriated to the payment or part payment of any fine that may be imposed by the justice or court of petty sessions and any surplus thereof shall be paid into Consolidated Revenue. If the person appears any surplus shall be refunded to him.

(5) A statement in the form contained in the Schedule to this Act purporting to be signed by the member of the police force who released the person shall be *prima facie* evidence that the defendant was released and notified in accordance with sub-sections (2) and (3) of this section.

Conduct of Refreshment Houses.

20. (1) Any person who allows in any house building tent or other premises wherein liquors provisions or refreshments are sold or disposed of any drunkenness or other disorderly conduct or suffers any gaming whatsoever therein or suffers prostitutes or persons of notoriously bad character to frequent his premises shall be guilty of an offence.

Penalty :

For a first offence—\$100 ;

For a second or subsequent offence—imprisonment for three months.

(2) Where a person convicted of an offence against this section is registered in respect of the premises concerned the registration shall be deemed to be cancelled and the premises to be unregistered and the court may, if it thinks fit, order that the premises be not again registered for any period not exceeding six months.

Disturbing

Improperly
conducting
refreshment
house.
No. 6337 s. 32.

Cancellation of
registration.

Disturbing Religious Worship.

21. (1) Any person who wilfully and without lawful justification or excuse, the proof of which lies on him, disquiets or disturbs any meeting of persons lawfully assembled for religious worship or assaults any person lawfully officiating at any such meeting or any of the persons there assembled shall be guilty of an offence.

Disturbing
religious
worship.
No. 6337 s. 33.

Penalty : \$250 or imprisonment for three months.

(2) A prosecution for an offence against this section shall be commenced within three months after the offence is committed.

Entry of Police into Houses, Buildings, &c.

22. (1) A member of the police force may at any time enter into any house building room premises or place which is a public place within the meaning of that interpretation in section 3, notwithstanding that the place be upon private premises, when and so often as he thinks proper for securing the observance of this Act and no such entry shall in any way be deemed a trespass.

Entry of
police.

(2) Any person who needlessly delays to admit a member of the police force, whether by day or night, into any house building room premises or place which is a public place as aforesaid shall be guilty of an offence.

Refusing or
delaying entry
of police.

Penalty : \$50.

Assaults.

23. Any person who unlawfully assaults or beats another person shall be guilty of an offence.

Common
assault.
No. 6337 s. 38.

Penalty : \$250 or imprisonment for three months.

24. (1) (a) Where a person is convicted before a court of petty sessions 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 offending shall be liable on conviction to a penalty of \$500 or to imprisonment for six months and the court may (if it thinks fit in any of the said cases) without any further or other complaint or information adjudge any person convicted 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 such sentence.

Aggravated
assaults.
No. 6337 s. 39.

(b) In

(b) In default of compliance with any such order to enter into a recognizance and find sureties the court may order a defendant to be imprisoned until he complies with the order :

Provided that no person shall be imprisoned for non-compliance with any such order for a longer period than twelve months.

(2) Any person who by kicking or with any weapon or instrument whatsoever assaults another person shall be liable to imprisonment for two years.

Conviction or
dismissal a
bar to
criminal
proceedings.
No. 6337 s. 40.

25. If any person against whom an information for an offence against section 23 or section 24 has been preferred has been convicted and has paid the whole amount adjudged to be paid or has suffered the imprisonment awarded in lieu thereof or for non-payment thereof or if the information against that person has been dismissed in every such case he shall be released from all further or other criminal proceedings for the same cause ; but any person so convicted shall remain liable to all civil proceedings in like manner as if he had not been so convicted.

Property Suspected to be Stolen, &c.

Unexplained
possession
of personal
property
reasonably
suspected to
be stolen.
No. 6337 s. 42.

26. (1) Any person having in his actual possession or conveying in any manner any personal property whatsoever reasonably suspected of being stolen or unlawfully obtained may be arrested either with or without warrant and brought before a court of petty sessions, or may be summoned to appear before a court of petty sessions.

(2) If such person does not in the opinion of the court give a satisfactory account as to how he came by such property he shall be guilty of an offence.

Penalty : Imprisonment for one year.

(3) Upon proof that any property was or had been in the actual possession of such person or under his control and whether or not such person still has possession or control thereof when brought before the court the property shall for the purposes of this section be deemed to be in his actual possession.

Search warrant
for skins of
cattle, goods
from wreck,
&c.
No. 6337 s. 43.

27. (1) Whenever a credible witness makes oath before a justice that there is reasonable cause to suspect that any of the following articles, namely—

(a) the skin or carcass or any part of the skin or carcass of any cattle ;

(b) any

- (b) any goods merchandise or article reasonably believed to have been taken or to have come from a ship or vessel in distress or wrecked stranded or cast on shore—

has been stolen or unlawfully taken or obtained and is to be found in a house or other place the justice may issue his warrant to search the house or place for the articles and to bring before a court of petty sessions all such articles found therein and to bring or summon before a court of petty sessions any person in whose possession or on whose premises those articles are so found.

- (2) Whenever a member of the police force finds any such articles on the premises or in the possession of any person or persons and has reasonable cause to suspect that any of such articles has been stolen or unlawfully taken or obtained he may bring all such articles before a court of petty sessions and also may summon or arrest and bring before such court any such person.

As to articles found by police in course of duty.

- (3) Any person on whose premises or in whose possession any such article is so found who, after proof of the matters referred to in sub-section (1) or sub-section (2) of this section, does not satisfy the court before which he is brought or appears that he came lawfully by the article or that the article was on his premises without his knowledge or assent shall be guilty of an offence.

Penalty : \$500 or imprisonment for six months.

28. (1) Upon complaint or information on oath that cattle suspected to have been stolen are in the possession of any person a justice may—

Stolen cattle.
No. 6337 s. 44.

- (a) issue a summons to such person to appear before a court of petty sessions ; or

(b) issue a warrant for the apprehension of such person—
and may in either case, if he thinks fit, issue his warrant to a member of the police force commanding such member to seize and detain the cattle suspected to have been stolen and detain them until the information or complaint is disposed of.

- (2) If on the appearance of such person or on proof of the due service of such summons it seems to the court after hearing evidence on oath that such cattle were stolen within the period of one year preceding, the court may—

Determination of ownership of cattle.

- (a) determine to what person the cattle belong ;
(b) adjudge the last-mentioned person to be the owner thereof ;

(c) order

- (c) order possession to be given to the person adjudged to be the owner thereof ;
- (d) issue a warrant to a member of the police force commanding him forthwith to seize the cattle wheresoever they may be found and to restore and give peaceable possession thereof to the person adjudged to be the owner ;
- (e) make such order as to costs as the court thinks fit.

(3) Nothing in this section shall be taken to discharge any person from any criminal prosecution for felony to be afterwards brought against him, or to prevent a court of petty sessions or justice committing him for trial or to deprive any person of any right whatsoever.

Recovery of
price paid
for stolen
cattle.
No. 6337 s. 45.

29. (1) Any person from whom or from whose possession cattle are taken or detained under an order or warrant under the last preceding section may recover from his vendor the amount paid by him as the purchase money of the cattle.

(2) Any vendor of such cattle who may repay or is compelled to repay the purchase money he has received for such cattle may in like manner recover back from his vendor the amount he has paid such last-mentioned vendor as the purchase money of the cattle.

Complaint
and summons.

(3) Upon complaint on oath made by any person or vendor as aforesaid or any person on his behalf—

- (a) that such person or vendor has paid for the cattle and that the cattle have been taken from him ; or
- (b) that he has paid or been compelled to repay the amount he received—

any justice may summon the party who sold the cattle to such last-mentioned person or vendor to appear before a court of petty sessions or may issue a warrant for the apprehension of such party.

Order for
repayment.

(4) Upon the appearance of such party or upon proof of the due service of a summons the court of petty sessions—

- (a) may examine the parties or either of them and their respective witnesses (if any) upon oath touching the purchase and payment of the amount of the purchase money for such cattle and the restitution of the cattle purchased or the repayment of the sum received ; and

(b) may

- (b) may make such order for the repayment of that amount with the costs incurred in the recovery thereof as to the court appears reasonable :

Provided that the execution of the order shall be stayed for such time as the court may order if the person from whom or from whose possession the cattle have been taken or on whom such order for payment is made forthwith enters into a bond to the complainant with two sufficient sureties in such amount as the court thinks reasonable conditioned to prosecute to conviction within the time aforesaid the person guilty of having stolen the cattle ; and a conviction within the time aforesaid shall supersede the order so made by the court as aforesaid, and no subsequent proceedings shall be had thereon :

Provided further that the court on the application of such party and on notice to the complainant may extend the time aforesaid.

- (5) Subject to the provisions of the *Auction Sales Act* 1958 the term "vendor" in this section includes the auctioneer or other agent of the vendor as well as the vendor himself. "Vendor."

30. (1) If the skin or carcass or any part of the skin or carcass of any cattle stolen from any person is found in the possession of any other person or on the premises of any other person with his knowledge and that other person being taken or summoned before a court of petty sessions does not satisfy the court that he came lawfully by such skin carcass or part thereof respectively shall be guilty of an offence.

Possession of skin or carcass of stolen cattle.
No. 6337 s. 46.

Penalty : \$1,000 or imprisonment for one year.

(2) If the skin or carcass or any part of the skin or carcass of any cattle is found in the possession of any person or on the premises of any person with his knowledge and such person being summoned before a court of petty sessions does not satisfy the court that he came lawfully by that skin or carcass or part thereof he shall be guilty of an offence.

Possession of skins, &c., not accounted for.

Penalty : \$500 or imprisonment for six months.

(3) An inspector or a justice may demand the skins of any cattle whatsoever that have been or that appear from the record book required to be kept by or under the *Health Act* 1958 at an abattoir and meat inspection depot to have been slaughtered within one month previously to the date of such demand or a full and satisfactory account showing to whom any such skin has been sold or in what manner disposed of, and every person who upon such demand refuses or neglects to produce such skin

Powers of inspector or justice.

or in case the skin cannot be produced to give a full and satisfactory account of how and in what manner the skin has been disposed of shall be guilty of an offence.

Penalty : \$100.

Destruction of
brands on
skins.

(4) Any person who destroys the skin of any cattle or cuts out burns or otherwise destroys or defaces a brand which has been upon such skin and any person who is in possession of any skin from which a brand has been cut or burnt or otherwise destroyed or defaced without being able to give a satisfactory account thereof shall be guilty of an offence.

Penalty : \$250.

Purchasing
hides from
which brands
cut, &c.

(5) Any person purchasing a raw hide or skin from which a brand has been cut or burnt out or destroyed or otherwise defaced shall be guilty of an offence.

Penalty : \$250.

Entry of
abattoirs.

(6) Any justice inspector or member of the police force may at any time of the day or night enter any abattoir or slaughter-house or any other place or premises whatsoever at which there is good cause to suspect that stolen cattle have been slaughtered or are intended to be slaughtered and may make such search and inquiry therein as is necessary for the discovery of the offence and of the offender.

Obstruction.

(7) Any person who obstructs or hinders any justice, inspector or member of the police force so as to prevent him from or delay him in entering an abattoir or slaughter-house or any other house place or premises for the purpose of examining any cattle or skins of cattle shall be guilty of an offence.

Penalty : \$100.

Persons
convicted to
forfeit licence
or registration.

(8) If any person convicted under this section holds a licence or registration under any Act or any by-law or regulation the licence or registration may, if the justices think fit, be cancelled or suspended and thereupon such person or premises shall be deemed to be unlicensed or unregistered (as the case may be).

Appropriation
of fines.

(9) Every fine penalty or forfeiture accruing under this section within the municipal district of a municipality shall be paid to the treasurer of the municipality for the public uses thereof:

Provided that all moneys arising from fines penalties and forfeitures imposed under this section and recovered by an officer or inspector of the Department of Health shall form part of the Consolidated Revenue.

(10) In

(10) In this section "inspector" includes any inspector or acting or assistant inspector of the Commission of Public Health or of a council of any municipality (including the city of Melbourne and city of Geelong). "Inspector."

31. If any goods merchandise or articles belonging to a ship or vessel in distress or wrecked stranded or cast on shore are found in the possession of any person or on the premises of any person with his knowledge and such person being taken or summoned before a court of petty sessions does not satisfy the court that he came lawfully by the same such person shall be liable to a penalty over and above the value of the goods merchandise or articles of not more than \$500 or to imprisonment for a term of not more than six months. Possession of property from wrecks. No. 6337 s. 47.

32. (1) Any person who offers or exposes for sale any goods merchandise or articles which have been unlawfully taken or obtained or are reasonably suspected to have been unlawfully taken or obtained from a ship or vessel in distress or wrecked stranded or cast on shore, and who being summoned to appear before a court of petty sessions does not appear and satisfy the court that he came lawfully by the same shall pay such sum as the court fixes as a reasonable reward to the person (if any) who has seized the same, and shall also be liable to a penalty over and above the value of the goods merchandise or articles of not more than \$500 or to be imprisoned for a term of not more than six months. Offering property from wrecks for sale. No. 6337 s. 48.

(2) In every such case any person to whom any such goods merchandise or articles are offered for sale or any member of the police force may seize the same and shall with all convenient speed cause the same to be removed to, or notice of such seizure to be given to, some justice.

33. (1) In any proceedings under any of the provisions of sections 26 to 32 (both inclusive) in which any person is required— Examination of persons through whose hands property has passed. No. 6337 s. 49.

(a) to give a satisfactory account as to how he came by any property ;

(b) to satisfy the court that he lawfully came by any property ; or

(c) to satisfy the court that any property was on his premises without his knowledge or assent—

if on the hearing of the charge—

(i) the defendant declares that he received the property from any other person ; or

(ii) it

- (ii) it appears to the court that the property has passed through the hands or possession of any other person or has been in the possession of any other person or on his premises with his knowledge or assent—

the court may in its discretion by warrant or summons cause every such other person to be brought before it or some other court of petty sessions to give an account of the property.

Failure to give satisfactory account of property.

(2) If it appears by the admission of any person so brought before any court of petty sessions or by proof on oath—

(a) that such last-mentioned person had possession of the property ; or

(b) that the property was on his premises—

and if such person—

(i) does not give a satisfactory account as to how he came by the property ; or

(ii) does not satisfy the court that he lawfully came by the property or that the property was on his premises without his knowledge or assent—

he shall be liable to the punishment specified in the sections respectively under which the proceedings are taken.

Order for restitution of property.

(3) If satisfactory proof of the ownership of any such property is given to the court before which the offender is convicted the court may thereupon order the restitution of the property forthwith to the rightful owner or his representative.

Sale of unclaimed property.

(4) If the rightful owner of any such property is not discovered within six months from the conviction of the offender the property may by order of the court be sold and the proceeds of the sale or, in the case of money, the money shall be paid into and form part of the Consolidated Revenue.

Retaining or disposing of property as workmen, &c.
No. 6337 s. 50.

34. (1) Any artificer workman journeyman apprentice or other person who 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 committed to his care or charge (the value of such goods wares work or materials being not more than \$100) or any person who receives any of the same knowing them to have been stolen or unlawfully obtained shall be guilty of an offence.

Penalty :

For a first offence—\$250 or imprisonment for three months ;

For a second or subsequent offence—\$500 or imprisonment for six months.

(2) If

(2) If any person to whom any property is offered to be sold pawned or delivered has reasonable cause to suspect that an offence referred to in the last preceding sub-section has been committed in respect of the property, he may arrest without a warrant and with all convenient speed take before a justice the person offering the property together with the property to be dealt with according to law ; and in every such case the stolen property shall by order of the court by which the case is heard and determined be delivered over to the rightful owner, if known, or if the rightful owner is not known shall be sold and the proceeds of the sale shall be paid into and form part of the Consolidated Revenue.

Sunday Observance.

35. (1) Any person who publishes a newspaper on Sunday shall be guilty of an offence.

Publishing
newspaper
on Sunday.
No. 6337 s. 53.

Penalty :

For a first offence—\$100 ;

For a second offence—\$250 ;

For a third or subsequent offence—\$500.

(2) In the case of a third or subsequent offence all plant and machinery connected with the printing and publishing of the newspaper may by order of the court convicting such person be seized forfeited and sold and the proceeds thereof shall be paid into and form part of the Consolidated Revenue.

Order for sale
of plant and
machinery on
third or
subsequent
conviction.

(3) Sub-section (1) of this section shall not apply to an edition of a registered newspaper issued on Sunday for the purpose solely of giving immediate information of news of great national or public importance.

Extraordinary
editions.

(4) The provisions of the last preceding sub-section shall not apply with respect to more than three Sundays in any calendar year.

Limit.

(5) For the purposes of this section "newspaper" includes any newspaper or supplement within the meaning of any Act or law for the time being in force relating to the printing publishing or registration of newspapers or relating to the post office, or any document containing any matter wholly of a commercial nature, or any printed document whatever.

" Newspaper."

(6) Penalties

Proceedings
for offences.
No. 6337 s. 55.

(6) Penalties and forfeitures for an offence against any of the provisions of this section may be imposed upon the information of any person whomsoever notwithstanding that that person has no interest in the penalty or forfeiture ; but the consent of a law officer of the Crown shall be necessary to a prosecution under this section.

False Advertisements.

False
advertisements.
No. 6337 s. 57.

36. (1) Any person who publishes or causes to be published any statement—

(a) which is intended or likely—

- (i) to promote the sale or disposal of any real property or any personal property (including chattels real or stocks shares bonds or other securities) or any services ; or
- (ii) to increase the purchase consumption or use of any such personal property ; or
- (iii) to induce any person or persons to enter into any obligations relating to any such real property or personal property or services or any interest in any such real or personal property ; and

(b) which—

- (i) is to his knowledge false in any material particular ; or
- (ii) contains any matter which is to the effect or likely to lead to the inference that the statement or any material particular in the statement is approved or commended in any way by the Government of the Commonwealth or of any State or Territory of the Commonwealth or by any municipal or other statutory authority constituted under any law of the Commonwealth or of any State or Territory of the Commonwealth—

shall be guilty of an offence.

Penalty : \$500 or imprisonment for three months or both.

(2) It

(2) It shall be a defence to a prosecution under sub-paragraph (ii) of paragraph (b) of the last preceding sub-section if it is proved that the matter contained in the statement has been inserted with the consent of the Government or authority in question. Defence.

(3) A statement shall be deemed to be published within the meaning of this section if it is— As to publication.

(a) inserted in a newspaper or other publication printed and published in Victoria ;

(b) disseminated in Victoria by broadcasting television or cinematograph ;

(c) publicly exhibited—

(i) in on over or under any building vehicle or place (whether or not a public place and whether on land or water) ; or

(ii) in the air—

in view of persons being or passing in a public place ; or

(d) contained in any document gratuitously sent or delivered to any person or thrown or left upon premises in the occupation of any person.

(4) In any proceedings under this section for publishing a statement or causing a statement to be published, if it is proved that the statement was false in any material particular, the person publishing the statement or causing the statement to be published shall be deemed to have published the statement or to have caused the statement to be published with knowledge of its falsity unless he proves— Presumption of knowledge of falsity of statement.

(a) that he had reasonable grounds to believe and did believe that the statement was true ; or

(b) that he had no reason to suspect that the statement was false.

(5) Every body corporate shall be liable for an offence under this section as if it were a private person and shall be subject to the same penalties as if it were a private person. Liability of corporations.

(6) Any person who aids abets counsels or procures or by act or omission is in any way, directly or indirectly, knowingly Aiding or abetting offences.

concerned

concerned in the commission of an offence under this section shall be deemed to have committed that offence and shall be punishable accordingly.

Liability of
two or more
persons.

(7) Where two or more persons commit or knowingly authorize or permit the commission of an offence under this section each of those persons shall be liable therefor and the liability of each of them shall be independent of the liability of the other or others.

Prosecution of
printers,
publishers, &c.

(8) No prosecution shall be instituted against the printer publisher or proprietor of any newspaper printed and published in Victoria or against any person having the management or control of any broadcast telecast or cinematograph exhibition or against any person acting under the authority of any of them for the publication of a statement in contravention of this section unless—

- (a) such printer publisher proprietor or person has been warned by a law officer of the falsity of such statement or of any other statement substantially the same as such statement and that the publication thereof is an offence under this section ; and
- (b) such printer publisher proprietor or person has on any day after the receipt of the warning published or authorized or permitted the publication of such statement or any such other statement ; and
- (c) the consent of a law officer to the prosecution is first obtained.

(9) No prosecution shall be instituted against the seller or distributor of a newspaper for the publication in that newspaper of any statement in contravention of this section unless the consent of a law officer to the prosecution is first obtained.

(10) In this section “newspaper” includes any periodical publication.

Saving as to
civil
proceedings.

(11) Notwithstanding proceedings against a person for an offence under this section (whether resulting in a conviction or otherwise) that person shall remain liable to all civil proceedings in like manner as if the proceedings for an offence had not been taken.

Saving as to
law of
advertisements,
&c.

(12) This section shall be read and construed as in aid of and not in derogation from any enactment or law relating to false or misleading advertisements or other statements.

Passing Valueless Cheques.

37. (1) Any person who obtains any chattel money valuable security credit benefit or advantage by passing a cheque which is not paid on presentation shall be guilty of an offence.

Obtaining goods, &c., by valueless cheque.
No. 6337 s. 58.

Penalty : \$1,000 or imprisonment for one year.

(2) It shall be a defence to a charge for an offence against sub-section (1) of this section to prove that the defendant—

(a) had reasonable grounds for believing that the cheque would be paid in full on presentation ; and

(b) had no intent to defraud.

(3) The fact that at the time when the cheque was passed there were some funds to the credit of the account on which the cheque was drawn shall not of itself be a defence.

(4) No proceedings shall be brought against any person for an offence against this section except with the consent of the Attorney-General.

DIVISION 3.—ILLEGAL TAKING OR USING OF VEHICLES.

38. (1) Any person who takes or in any manner uses a vehicle (including a bicycle but not including a motor car within the meaning of section three of the *Motor Car Act* 1958) or a boat ship or other vessel 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, &c.

Penalty : \$250 or imprisonment for three months.

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

DIVISION 4.—CONTRACEPTIVES.

39. In this Division unless inconsistent with the context or subject-matter—

Interpretation.
No. 6337 s. 216.

“Contraceptive” means any contrivance or appliance for securing or reputed to secure by the use thereof before during or after sexual intercourse between human beings that such intercourse may take place without resulting in or with less likelihood of resulting in conception, and includes any substance which is or is reputed to be effective or of use for that purpose.

“Contraceptive.”

40. (1) Any person who—

(a) inserts or causes to be inserted in any newspaper magazine periodical handbill circular programme or other document printed or prepared in Victoria any

Advertising contraceptives.
No. 6337 s. 217.

statement

statement which is intended or apparently intended by such person or any other person to promote the sale or disposal of any contraceptive as such ;

(b) publicly exhibits or causes to be publicly exhibited any such statement in view of persons who are in a street or public place ; or

(c) gratuitously sends or delivers or causes to be gratuitously sent or delivered to any person or throws or leaves or causes to be thrown or left upon premises in the occupation of any person or upon a public place any handbill circular programme or other document containing any such statement—

shall be guilty of an offence.

Penalty : \$250.

Liability of proprietor, &c., of newspaper printed in Victoria.

(2) If in contravention of this section a statement is inserted in a newspaper printed and published in Victoria, the printer publisher and proprietor of that newspaper shall severally (and without excluding the liability of any other person) be guilty of an offence unless such printer publisher or proprietor (as the case may be) proves that such statement was so inserted without his knowledge and authority.

Penalty : \$250.

Liability of seller of newspaper, &c., not printed in Victoria.

(3) Any person who within Victoria sells or distributes or causes to be sold or distributed any newspaper magazine periodical handbill circular programme or other document printed or prepared outside of Victoria containing any statement which is intended or apparently intended to promote the sale or disposal of any contraceptive as such shall be guilty of an offence unless he proves that he was unaware and had no reason to believe that the newspaper or publication contained such statement.

Penalty : \$250.

Liability of officers of corporations.

(4) Where a person convicted of an offence under this section is a body corporate, every person being a chairman member of the governing body manager secretary or officer of the body corporate shall be deemed to have committed the like offence unless he proves that the act or omission which constituted the offence took place without his knowledge or consent.

Liability of partners, &c.

(5) Where a person acting for or on behalf of a firm or other body of persons unincorporate is convicted of an offence under this section, every member of the firm and every member of the governing body (if any) and every officer of such body of persons unincorporate who is concerned in the management thereof shall

be deemed to have committed the like offence unless he proves that the act or omission which constituted the offence took place without his knowledge or consent.

(6) Where two or more persons commit or knowingly authorize or permit the commission of an offence under this section each of those persons shall be liable therefor and the liability of each of them shall be independent of the liability of the other or others.

Liability of two or more persons.

(7) Nothing in this section shall apply or relate to—

Section not to apply to certain medical publications.

- (a) the insertion of a statement in a *bona fide* medical or pharmaceutical magazine periodical handbill circular or document ;
- (b) the sale or distribution on sale of any such magazine periodical handbill circular or document ;
- (c) the gratuitous sending or delivery of any such magazine periodical handbill circular or document to any legally qualified medical practitioner or registered pharmaceutical chemist ; or
- (d) the gratuitous sending or delivery of any such handbill circular or document to any adult person at his request—
 - (i) by a legally qualified medical practitioner ; or
 - (ii) by a registered pharmaceutical chemist carrying on in an open pharmacy the business of a chemist and druggist for the compounding or dispensing of drugs or medicines supplied on the order or prescription of a legally qualified medical practitioner—

but in a prosecution for an offence under this section the burden of proof that he is excused by reason of this sub-section shall be on the defendant.

(8) This section shall be read and construed as in aid of and not in derogation from any enactment or law relating to obscene or indecent publications.

41. Any person—

- (a) who exhibits or causes to be exhibited any contraceptive in view of persons who are in a street or public place ;
- (b) who goes from house to house hawking selling or offering or exposing for sale any contraceptive ;

Exhibiting hawking selling contraceptives in a public place.
No. 6337 s. 218.

(c) who

(c) who sells or offers or exposes for sale any contraceptive in a street or public place ; or

(d) who (being a shopkeeper within the meaning of the *Labour and Industry Act 1958* or an agent servant or employé of any such shopkeeper) gratuitously sends or delivers or causes to be gratuitously sent or delivered any contraceptive to any person—

shall be guilty of an offence.

Penalty : \$250.

DIVISION 5.—TATTOOING OF JUVENILES.

Tattooing of juveniles.
No. 6878 s. 5.

42. (1) Any person who performs any tattooing or like process on any person under the age of eighteen years shall be guilty of an offence.

Penalty : \$100.

(2) Nothing in this Division shall apply to any tattooing or other like process performed by or at the written request of a legally qualified medical practitioner.

DIVISION 6.—JUVENILE SMOKING.

Supplying tobacco to juvenile.
No. 6337 s. 220.

43. (1) Any person who sells gives or supplies tobacco cigars cigarettes or snuff or tobacco in any other form or cigarette paper to or for the use of any person under the age of sixteen years shall be guilty of an offence.

Penalty :

For a first offence—\$2 ;

For a second or subsequent offence—\$5.

(2) It shall be a defence under this section if the accused person had reasonable cause to believe that the person purchasing or to whom the tobacco was given or supplied was not under the age of sixteen years.

(3) Nothing in this section shall apply to a case where a person sells gives or supplies tobacco in any form in a sealed packet to or for the use of any person under the age of sixteen years on and in accordance with the specific written order of his parents.

Juveniles not to operate cigarette vending machines, &c.

44. (1) Any person under the age of sixteen years who purchases tobacco cigars or cigarettes by manipulating a vending machine or contrivance which does not require the personal attendance of the seller at the time of sale shall be guilty of an offence.

Penalty : \$5.

(2) (a) Every

(2) (a) Every vending machine or contrivance which is used or capable of being used for the sale of tobacco cigars or cigarettes to the public shall have affixed thereto or displayed thereon in a prominent position a notice which is clearly legible to any person manipulating the machine stating the effect of the provisions of the last preceding sub-section;

Notice to be affixed to vending machine.

(b) If any such vending machine or contrivance does not have affixed thereto or displayed thereon as aforesaid the notice referred to in the last preceding paragraph the seller of such tobacco cigars or cigarettes (as the case may be) shall be guilty of an offence.

Penalty : \$10.

DIVISION 7.—HOMING PIGEONS.

45. In this Division "homing pigeon" means a pigeon used as a bearer of messages or as a racing pigeon and which has affixed or attached to either or both legs a metal or other ring.

"Homing pigeon."
No. 6337 s. 224.

46. A person other than the owner shall not shoot kill wound or in any way injure destroy ensnare catch or take a homing pigeon.

Destruction of homing pigeons.
No. 6337 s. 225.

Penalty : \$10.

47. For the purposes of section 546 of the *Crimes Act* 1958 the court may, in assessing the value of a homing pigeon, take into account the racing record (if any) of the pigeon as well as the market value of pigeons of that type.

Compensation.

48. Any person entering upon enclosed land or premises for the purpose of killing wounding disabling ensnaring taking or in any way injuring or destroying a homing pigeon of which he is not the owner shall be guilty of an offence.

Entering in pursuit of homing pigeons.
No. 6337 s. 227.

Penalty : \$10.

49. Nothing in this Division shall in any way limit or abridge any other civil or criminal proceedings in respect of pigeons.

Existing remedies preserved.
No. 6337 s. 228.

PART II.—PROVISIONS APPLICABLE TO SPECIAL LOCALITIES.

Matches.

50. (1) The Governor in Council by Order published in the *Government Gazette* may prohibit in any locality specified in the Order during all or any of the months from November to April (both inclusive) the sale offering for sale distribution or use of any matches other than those so made as to strike only on a preparation affixed to the containing box or to a box containing the same description of matches.

Prohibition of use of certain kinds of matches in specified localities in certain months.
No. 6337 s. 223.

(2) The

(2) The Governor in Council may in like manner rescind revoke amend or vary any Order under this section.

Offence.

(3) Any person who sells offers for sale distributes or uses any matches in contravention of an Order under this section shall be guilty of an offence.

Penalty : \$20.

Exemption.

(4) Nothing in this section shall apply to matches used or for use in any mine within the meaning of the *Mines Act 1958* or the *Coal Mines Act 1958*.

PART III.—SUPPLEMENTARY.

Apprehension
of offenders.
No. 6337 s. 202.

51. (1) Unless otherwise expressly provided any person whomsoever may without warrant apprehend any person whom he finds offending against any of the provisions of this Act and forthwith take and convey him before a justice to be dealt with according to law or may deliver him to a member of the police force to be so taken and conveyed.

(2) No member of the police force shall be bound to apprehend or to accept or take into custody or to take and convey before a justice any person found offending as aforesaid if such member believes on reasonable grounds that the purposes of this Act can be fully and effectually accomplished by proceedings by way of summons.

(3) In this section the expression "found offending" extends to the case of a person found doing any act or so behaving or conducting himself or in such circumstances that the person finding him believes on reasonable grounds that the person so found is guilty of an offence against this Act; and "finds offending" has a corresponding meaning.

Assaulting or
resisting
constables, &c.
No. 6337 s. 189.

52. (1) 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 Act or otherwise, or any person lawfully assisting any such member in the execution of his duty under this Act, or any officer of the local authority in the execution of his duty under this Act shall be guilty of an offence.

Penalty : \$250 or imprisonment for three months.

(2) In addition to imposing a penalty the court may order and award a sum sufficient to cover any damage which any such member of the police force person or officer has sustained by such assault resistance obstruction hindrance or delay, such sum to be recoverable in the same manner as the penalty.

53. (1) Any

53. (1) Any person who falsely and with knowledge of the falsity of his report voluntarily reports or causes to be reported to any member of the police force that an act has been done or an event has occurred, which act or event as so reported is such as calls for an investigation by a member of the police force shall be guilty of an offence.

Making false reports to police, &c.
No. 6337
s. 189A.

Penalty : \$250 or imprisonment for three months.

(2) For the purposes of the last preceding sub-section "voluntarily", in respect of a report by any person, means—

(a) of that person's own motion and volition ; and

(b) otherwise than in the course of an interrogation made by a member of the police force.

(3) Where a person is charged before a court of summary jurisdiction with an offence against this section the court shall, as soon as the person is charged and before any evidence has been given in support of the charge, cause the person charged to be informed that he may object to being summarily dealt with and may elect to be tried by a jury.

Court to inform defendant he may object to being summarily dealt with.

(4) Where a person charged with an offence against this section is not present before the court upon the hearing the court may, if it thinks fit, adjourn the hearing of the charge with a view of securing the attendance of that person, if practicable, at the hearing of the charge, but nevertheless the court shall have jurisdiction to deal summarily with the case in the absence of the person charged.

Where defendant not present in court.

(5) If before any evidence is given in support of the charge the person charged objects to the charge being dealt with summarily by the court and elects that he be tried by a jury the court shall hear and inquire into the charge as if it had no jurisdiction finally to determine the matter and may direct the person charged to be tried by a jury as aforesaid or discharge him.

Procedure on objection.

(6) Any person directed to be tried as aforesaid shall notwithstanding any law usage or practice to the contrary be tried upon presentment made as for an indictable offence cognisable by the Supreme Court or a court of general sessions of the peace.

Trial upon presentment.

54. Where a body corporate is guilty of an offence against this Act the body corporate shall be liable to the penalties therefor so far as those penalties are capable of being imposed upon a body corporate, and any director manager or officer of the body corporate who knowingly directs authorizes or suffers the commission

Offence by body corporate.

of the offence by the body corporate shall, without affecting the liability of the body corporate therefor, be severally guilty of an offence and liable to the penalty or punishment applicable thereto.

Liability of
masters.
No. 6337 s. 14.

55. Where it appears to the court on the hearing of a complaint or an information for an offence against this Act that the person committing the offence has acted only under the orders or by the sanction of his master or employer and that the master or employer is in fact the offending party, either solely or as well as the person so offending, the court may by summons or warrant order the master or employer to appear to answer the complaint or information as if it had originally been laid or made against the master or employer and may either discharge the person first complained or informed against or may hear and determine the complaint or information against both as the court thinks fit.

Informations.
No. 6337 s. 190.

56. (1) Unless otherwise expressly provided any member of the police force or any inspector or other officer of the Department of Health or of the council of any city town borough or shire (as the case requires) may lay an information for a breach of or an offence against any of the provisions of this Act.

(2) No fee shall be payable on the issue of a summons upon an information for an offence against this Act.

Neglect to
prosecute.
No. 6337 s. 191.

57. If a person who has laid an information or complaint in respect of an alleged offence against this Act does not appear at the hearing or declines or neglects to proceed upon or prosecute the information or complaint the court or justices may authorize some other person to proceed upon or prosecute the information or complaint or may authorize any other person to take proceedings.

Accomplice.
No. 6337 s. 192.

58. No member of the police force or person if such member or person is acting under instructions given in writing in relation to a particular case by a member of the police force not below the rank of sergeant shall be deemed to be an offender or accomplice in the commission of an offence against this Act although such member or person might, but for this section, have been deemed to be such an offender or accomplice.

Procedure.
No. 6337 s. 195.

59. Unless otherwise expressly provided all informations for or in respect of offences against this Act shall be heard and determined by a court of petty sessions.

60. If

60. If a court of petty sessions before which an information is brought for an offence against this Act is of opinion that the offence charged does not properly come within the meaning and intention of this Act but that an offence of a more serious or heinous kind has been committed the court may refuse to entertain or to further entertain the information and may proceed as if the more serious or more heinous offence had been charged in the information before the court whether the person charged has or has not pleaded thereto.

Offences of more serious nature not to be dealt with under this Act.

No. 6337 s. 204.

61. The proceeds of the sale of any property forfeited to Her Majesty under the provisions of this Act shall be paid into and form part of the Consolidated Revenue.

Proceeds of sale of forfeited property to be paid to Consolidated Revenue.

62. Unless otherwise expressly provided all moneys recovered as penalties for offences against this Act shall be appropriated as follows:—

Appropriation of monetary penalties.

No. 6337 s. 197.

(a) Under Divisions 1 and 2 of Part I.—if incurred in the municipal district of a municipality one-half to the treasurer thereof for the public uses of such municipality but if not incurred within a municipality one-half to the informant; and in both cases the other half to the Consolidated Revenue;

(b) Under Divisions 3, 4, 5, 6 and 7 of Part I. and Parts II. and III.—to the Consolidated Revenue:

Provided that whenever the informant is a member of the police force the moneys to which he would be entitled as such informant shall be paid to the Consolidated Revenue.

63. Where a court convicts a person of an offence against this Act and adjudges him to pay a sum of money by way of penalty for or in respect of such offence and no provision is made for enforcing payment of the sum the court shall order that such sum be paid either immediately or within such time as the court allows and that in default of payment of the sum as aforesaid such person be imprisoned—

Imprisonment in default of payment of penalty.

No. 6337 s. 198.

(a) where the sum is not more than \$50—for a term of not more than one month;

(b) where the sum is more than \$50 but not more than \$100—for a term of not more than two months;

(c) where the sum is more than \$100 but not more than \$250—for a term of not more than three months;

(d) where

- (d) where the sum is more than \$250 but not more than \$500—for a term of not more than six months ;
and
(e) where the sum is more than \$500—for a term of not more than twelve months.

SCHEDULE.

| | | | |
|--|--|--|--------------------------|
| Section 19. | In the | Bailiwick. | Informant. Defendant. |
| Nature of Offence : (State shortly) | | | |
| BE IT REMEMBERED that the above-named defendant was released by me from custody on his making a deposit in the sum of dollars and at the time I released him— | | | |
| *State precisely where. | (a) I notified him that he was required to appear before a Justice of the Peace sitting in open Court at* [or at the Court of Petty Sessions at] at the hour of o'clock in the noon on the day of 19 to answer the said charge ; and | | |
| | (b) I explained to him that if he failed to appear at the said time and place the charge might be heard in his absence and that such deposit would be appropriated to the payment or part payment of any fine which might be imposed upon him by the Justice or Court and any surplus paid into Consolidated Revenue, but that if he appeared to answer the charge any surplus would be refunded to him. | | |
| Dated at this day of 19 . | | Signature of member of the police force releasing the defendant. | |
| Deposit of \$ Defendant's signature. | | | |
