

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1848. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1848.

11 Victoria – Chapter 12

An Act for establishing and maintaining a Police Force in the Parish of Portland, in the City and County of Saint John. Passed 30th March 1848.

Whereas offences against life and property have of late greatly increased in the Parish of Portland, in the City and County of Saint John, and it is expedient to establish an efficient system of Police in the said Parish;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That it shall and may be lawful for His Excellency the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice and Consent of the Executive Council, to establish a Police Office in the said Parish, and to appoint thereto a Police Magistrate, who shall reside in the said Parish, and shall be ex-officio a Justice of the Peace in the said City and County of Saint John, and shall also be invested with all such other duties and powers as shall be hereinafter specified.

II. And be it enacted, That every person to be appointed as Police Magistrate by virtue of this Act, shall, before he shall begin to execute the duties of his office, take and subscribe the following oath before one' of the Judges of the Supreme Court of this Province:—

'I, A. B., do swear, that I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute all the powers and duties of a Police Magistrate and Justice of the Peace, under and by virtue of an Act passed in the eleventh year of the Reign of Her present Majesty, intituled An Act for establishing and maintaining a Police Force in the Parish of Portland, in the City and County of Saint John.'

III. And be it enacted, That an annual salary of a sum not exceeding three hundred pounds shall be paid quarterly to such Police Magistrate out of the funds hereinafter provided.

IV. And be it enacted, That a sufficient number of fit and able men, not exceeding fifteen, shall from time to time be appointed by the said Police Magistrate, as a Police force for the said Parish of Portland, who shall be severally sworn in by such Police Magistrate, to act as Constables for the preserving the Peace, and the preventing all felonies, and apprehending offenders against the Peace; and the men so sworn shall, not only in the said Parish of Portland, but also generally within the City and County of Saint John, have all such powers, authorities, privileges, and advantages, and be liable to all such duties and responsibilities as any Constable, duly appointed, now has or hereafter may have, or is or may be liable to within his Constablewick, by virtue of the common Law, or any Statute or Act of Assembly made or to be made, and shall obey all such lawful commands as they or any of them may from time to time receive from the said Police Magistrate for conducting themselves in the execution of their office.

V. And be it enacted, That the said Police Magistrate may, from time to time, subject to the approval of the Lieutenant Governor or Administrator of the Government for the time being, in Council, frame and establish such orders and regulations as he shall deem expedient, relative to the general government of the men to be appointed members of the Police force under this Act; the place of their residence; the classification, rank, and particular service of the several men; their distribution and inspection; the description of arms, accoutrements, and other necessaries to be furnished to them; and all such other orders and regulations relative to the said Police force, as the said Police Magistrate shall from time to time deem expedient, for preventing neglect or abuse, and for rendering such force efficient in the performance of all its duties: and the said Magistrate may at any time dismiss or suspend from his employment any man belonging to the said Police force whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same; and when any man shall be so dismissed, or cease to belong to the said Police force, all powers and privileges vested in him as a Constable of the said force, or otherwise, by virtue of this Act, shall immediately cease and determine.

VI. And be it enacted, That if any tavern keeper, victualler, or keeper of any house, shop, room, or other place for the sale of any liquors, whether spirituous or otherwise, shall knowingly harbour or entertain any man belonging to the said Police force, or permit any such man to abide or remain in his house, shop, room, or other place, during any part of the time appointed for his being on duty, every such tavern keeper, victualler, or keeper as aforesaid, being convicted thereof before the said Police Magistrate, shall for every such offence forfeit and pay such sum, not exceeding five pounds, as the said Magistrate shall think meet.

VII. And be it enacted, That it shall and may be lawful for any Constable belonging to the said Police force, during the time of his being on duty, to take into custody, without warrant, all loose, idle and disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of having committed or being about to commit any felony, misdemeanour, or breach of the Peace; and all persons whom he shall find between the hours of one p.m. and five o'clock a.m., during the months of March, April, May, June, July, August, September, and October, or between the hours of seven o'clock p.m. and six o'clock a.m., during the months of November, December, January, and February, lying or lurking in any highway, yard, or other place, and not giving a satisfactory account of themselves; and also to take into custody without warrant as aforesaid, any person who in the Parish aforesaid shall be charged by any other person with committing any aggravated assault, in every case in which such Constable shall have good reason to believe that such assault has been committed, although not within view of such Constable, and that by reason of the recent commission of the offence, a warrant could not have been obtained for the apprehension of the offender, in order that such person may be secured until he can be brought before the said Police Magistrate to be dealt with according to Law.

VIII. And be it enacted, That every Constable who shall be guilty of any neglect or violation of his duty in his office of Constable, shall be liable to a penalty of not more than ten pounds at the discretion of the said Police Magistrate, the amount of which penalty may be deducted from any salary then due to such offender; or in the discretion of the Magistrate, such offender may be

imprisoned in the Common Gaol of the City and County of Saint John, for any time not more than one calendar month.

IX. And be it enacted, That no Constable belonging to the said Police force shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the said Police Magistrate, or unless he shall give to such Magistrate one calendar month's notice in writing of such his intention; and every Constable who shall so resign or withdraw himself without such leave or notice, shall be liable to forfeit all arrears of pay then due to him, or to a penalty of not more than five pounds, to be recovered hereinafter provided.

X. And be it enacted, That if any person shall threaten, assault, or resist, willfully mislead, give false information to, impede, interrupt, or otherwise attempt to prevent, interfere with, or deter any person belonging to the said Police force, in the execution of his duty, or shall aid or incite any person or persons to assault or resist, impede, prevent, interfere with, or deter as aforesaid, every such offender, being convicted thereof as hereinafter provided, shall for every such offence forfeit and pay a sum not exceeding twenty pounds.

XI. And be it enacted, That any person who shall willfully break or cause to be broken any lamp or lamps, window or windows, or who shall throw any stone, snow ball, or other missile, at any lamp or lamps, window or windows, in any public street, thoroughfare, alley, road or bye road, within the Portland Police District, established by this Act, shall be liable to a penalty of five pounds, to be recovered as hereinafter provided.

XII. And be it enacted, That no person belonging to the said Police force shall be at liberty to take or receive any fee, reward or compensation for doing or for abstaining from doing any act or thing done or performed or to be done or performed in his official capacity, (whatever it may be,) as attached to the said Police force; and any such person convicted of any such offence as aforesaid, shall forfeit any such fee, reward or compensation so received, and shall be liable to a penalty of not less than five pounds, to be recovered as hereinafter provided; and shall, at the discretion of the said Police Magistrate, be dismissed from his employment in such Police force, and be rendered incompetent to be attached to the same again: provided always, that this section be not construed to apply to any reward offered by public proclamation or by the public authorities for the apprehension of any offender or offenders.

XIII. And be it enacted, That every person shall be liable to a penalty of not more than forty shillings, who, within the limits of the Portland Police District, shall in any thoroughfare or public place commit any of the following offences, that is to say:—

First.—Every person who shall discharge any gun, pistol, blunderbuss, or other species of fire arms of any nature or kind whatever, in any public street, thoroughfare, alley, road or bye road, or within two hundred feet of any public Street, thoroughfare, alley, road or bye road:

Second.—Any person who shall make any bonfire, or set off any rocket, squib, cracker, or any other species of fire work in any public street, thoroughfare, alley, road or bye road, or within one hundred feet of any such public street, thoroughfare, alley, road or bye road:

Third.—Any person who shall throw snow balls, stones, dirt, or other missile, in or into any public street, thoroughfare, alley, road or bye road:

Fourth.—Any person who shall coast on a sled, or who shall make or use any slide upon ice or snow, down, through, in or along any public street, thoroughfare, alley, road or bye road:

Fifth.—Any person who shall play at pitching coppers, or any other game or games of any nature or kind whatsoever, in any public street, thoroughfare, alley, road or bye road, to the annoyance or inconvenience of the persons passing along such street, thoroughfare, alley, road or bye road:

Sixth.—Any person who shall use any obscene or profane language, any violent cursing or swearing, or shall indecently expose his person or any part thereof, in any public street, thoroughfare, alley, road or bye road:

Seventh.—Any person, who shall, by insulting or abusive language or behaviour, taunting epithets, or threatening gestures, attempt to provoke another person to commit a breach of the Peace in any public street, thoroughfare, alley, road or bye road, or whereby a breach of the Peace may be occasioned:

Eighth.—Any person who shall be found drunk or feigning to be drunk, or making any loud bawling, yelling, screaming, singing, or shouting, in any public street, thoroughfare, alley, road or bye road:

Ninth.—Every person who shall turn loose any horse or cattle, or suffer to be at large any unmuzzled ferocious dog, or set on or urge any dog or other animal to attack, worry or put in fear any person, horse or other animal:

Tenth.—Every person who shall ride or drive furiously, or so as to endanger the life or limb of any person, or to the common danger of the passengers in any thoroughfare, alley, street, road or bye road:

Eleventh.—Every person who shall lead or ride any horse or other animal, or draw or drive any cart or carriage, sled, truck, or barrow, upon any footway or curb stone, other than for the purpose of crossing the same, or fasten any horse or other animal so that it can stand across or upon any footway:

Twelfth.—Every person who, without the consent of the owner or occupier, shall affix any posting bill or other paper against or upon any building, wall, fence, or pale, or shall inscribe or delineate any thing thereon with chalk or paint, or in any other way whatsoever, or wilfully break, destroy or damage any part of any such building, wall, fence, or pale, or any fixture or appendage thereunto,

or any tree, shrub, or seat, in any public walk or garden, or shall write or draw any indecent or obscene word, figure, or representation, on any such building, wall, fence, pale, or any fixture or appendage thereunto:

Thirteenth.—Every person who shall wilfully and wantonly disturb any inhabitant, by pulling or ringing any door bell, or knocking at any door without lawful excuse, or who shall wilfully and unlawfully extinguish the light of any lamp:

Fourteenth.—Every person who, in any public thoroughfare, shall throw or lay any dirt, litter, or ashes, or any carrion, fish, offal, or rubbish, or throw or cause any such thing to fall into any sewer, pipe, or drain, or into any well, stream, or water course, pond, or reservoir for water, or cause any offensive matter to run from any manufactory, brewery, slaughter house, butcher's shop, or dung hill, into any thoroughfare or any uncovered place, whether or not surrounded by a wall or fence; but it shall not be deemed an offence, to lay sand, ashes, or other materials, in any thoroughfare, in time of frost, to prevent accidents, or litter or other materials to prevent the freezing of water in pipes, or in case of sickness to prevent noise, if the party laying any such things shall cause them to be removed as soon as the occasion for them shall cease:

And it shall be lawful for any Constable belonging to the said Police force to take into custody without warrant any person who shall commit any of the foregoing offences within view of any such Constable.

XIV. And be it enacted, That in all cases where a gun, pistol, or any species of fire arms of any nature or kind, is fired from any house, shed, or barn, into any public street, thoroughfare, alley, road or bye road, it shall and may be lawful for the Constable in whose view the same shall have taken place, or for any Constable to whom information thereof shall be communicated, forthwith to arrest the person or persons who fired said gun, pistol, or other fire arm, and if necessary, to enter into such dwelling house, barn, or shed, and search for the offender or offenders, and when discovered to take him or them into custody, and take him or them before the said Police Magistrate to answer for such offence; and in case of conviction, the person or persons who fired the said gun, pistol, or other fire arm, shall be liable to a penalty of not less than five pounds.

XV. And be it enacted, That it shall be lawful for, and it shall be the duty of the said Police force, or any Constable thereof, to enter into any house or premises in which they or he may hear any fighting or quarrelling going on, and to endeavour to allay or repress the same, and failing so to do, to apprehend and take into custody the party or parties so fighting or quarrelling, and to carry him, her or them before the Police Magistrate, to be dealt with according to Law.

XVI. And be it enacted, That in the construction of this Act, unless there be something in the context repugnant thereto, any word denoting the singular number, or the male sex, shall be taken to extend to any number of persons or things, and to both sexes.

XVII. And be it enacted, That for every other offence against this Act, for which no special penalty is herein appointed, the offender shall, at the discretion of the Magistrate before whom the

conviction shall take place, either be liable to a penalty of not more than five pounds, or be imprisoned for any time not more than two calendar months, in the Common Gaol of the City and County of Saint John, or the House of Correction in the said County.

XVIII. And be it enacted, That nothing herein contained shall be construed to prevent any person from being indicted for any indictable offence made punishable on summary conviction by this Act, or to prevent any person from being liable under any other Act or Acts to any other or higher penalty or punishment than is provided for such offence or offences by this Act, so, nevertheless, that no person be punished twice for the same offence.

XIX. And be it enacted, That the Police Magistrate appointed under this Act, shall be empowered summarily to convict any person charged with any offence against this Act, on the oath of one or more witness or witnesses, or by his own confession, and to award the penalty or punishment herein provided for such offence.

XX. And be it enacted, That in every case, on the adjudication of a pecuniary penalty under this Act, and non-payment thereof, it shall be lawful for the Police Magistrate to commit the offender to the Common Gaol or House of Correction of the City and County of Saint John, or to the Penitentiary, for a term not more than two calendar months where the sum to be paid shall not exceed four pounds, the imprisonment to cease on payment of the sum due, and so on pro rata, of one month's imprisonment for every forty shillings fine, in the said Common Gaol, Penitentiary, or House of Correction, at the discretion of the Magistrate.

XXI. And be it enacted, That the Police Magistrate shall attend at the Police Office every day, excepting Sundays, Christmas Day, Good Friday, and other Public Holidays, between the hours of ten of the clock in the forenoon, and three of the clock in the afternoon, and at all such other times as urgent necessity may require, to hear and dispose of the different complaints that may be brought before him; and shall keep a Book in which shall be entered a daily report of all complaints, convictions, penalties, imposts and other matters which may have been heard and determined before and by him, or made and imposed by him; and shall also keep a Book in which shall be regularly entered an account in detail of all sums of money, whether arising from fines, penalties, convictions, costs, or fees received or expended by the said Police Magistrate, in connection with or on account of the said Police establishment; both of which Books shall be submitted to the Justices in Sessions of the said City and County at each and every of their Quarterly Meetings, and shall be at all times subject to the inspection of the Lieutenant Governor of this Province or the Administrator of the Government for the time being, or such person as he may appoint to examine the same; and shall also be produced and exhibited by the said Magistrate, for inspection, for all purposes connected with the administration of Criminal Justice in the City and County of Saint John, on being duly and legally notified to that effect.

XXII. And be it enacted, That every Warrant to compel the appearance of any person, or Warrant for the apprehension of any person charged with any offence, issued by the said Police Magistrate, in respect of any matter arising within the Police District, may be served or executed out of the said District in any County or place within the Province of New Brunswick, by the Constable or

Constables to whom the same shall be directed, and shall have the same force and effect as if the same had been originally issued or subsequently endorsed by a Justice or Justices of the Peace having jurisdiction in the place where the same shall be served or executed.

XXIII. And be it enacted, That upon any information or complaint to be laid or made before the said Police Magistrate, of any matter which such Magistrate is authorized to hear and determine summarily, the Magistrate may summon the party charged, and if such party shall not appear according to the tenor of the Summons, the said Magistrate, upon proof of the service of the Summons, may proceed in all cases which are not of a criminal nature, if no sufficient cause shall be shewn for the non-appearance of the party, to hear and determine the case in the absence of the party; and in all criminal cases shall issue his Warrant for apprehending and bringing such party before him or some other Magistrate, in order that the said information or complaint may be heard and determined.

XXIV. And be it enacted, That every such Summons shall be served by delivering a copy thereof to the party summoned.

XXV. And be it enacted, That the said Police Magistrate may, without issuing any Summons, forthwith issue his Warrant for the apprehension of any person charged with any offence cognizable before him, whenever good grounds for so doing shall be stated on oath before him.

XXVI. And be it enacted, That the said Police Magistrate may subpoena any witness to appear and give evidence before him upon the matter of any offence cognizable before the said Police Magistrate, with which any person shall be charged before him, at a time and place appointed for hearing the information or complaint, and by Warrant under his hand and seal may require any person to be brought before him who shall neglect or refuse to appear to give evidence at the time and place appointed in such Subpoena, proof upon oath being first given of personal service of the Summons upon the person against whom such Warrant shall be granted; and such Magistrate may commit any person coming or brought before him, who shall refuse to give evidence, to the Common Gaol of the City and County of Saint John, there to remain without bail or mainprize for any time not exceeding fourteen days, or until such person shall sooner submit himself to be examined; and in case of such submission, the Order of the said Police Magistrate shall be a sufficient Warrant for the discharge of such person.

XVII. And be it enacted, That every person, who, upon any examination upon oath or affirmation before the said Police Magistrate, in any examination, investigation, trial or proceeding pending before him as such Police Magistrate, shall wilfully and corruptly give false evidence, or shall wilfully or corruptly swear or affirm any thing which shall be false, shall be liable to the penalties of willful and corrupt perjury.

XXVIII. And be it enacted, That it shall be lawful for any such Magistrate who shall hear and determine any charge or complaint, whether or not a Warrant or Summons shall have been issued in consequence of such charge or complaint, to award such costs according to the Table of Fees to be established by the Lieutenant Governor or Administrator of the Government of this

Province for the time being, in Council, for the purposes of this Act, as to them shall seem meet, to be paid to or by either of the parties to the said charge or complaint.

XXIX. And whereas informations are often laid for the mere sake of gain, or by parties not truly aggrieved, and the offences charged in such informations are not further prosecuted, or it appears, upon prosecution, that there was no sufficient ground for making the charge; Be it enacted, That in every case in which any information or complaint of any offence shall be laid or made before the said Police Magistrate, and shall not be further prosecuted, or in which, if further prosecuted, it shall appear to the Magistrate by whom the case shall be heard, that there was no sufficient ground for making the charge, the Magistrate shall have power to award such amends, not more than the sum of five pounds, to be paid by the informer to the party informed or complained against, for his loss of time and expenses in the matter, as to the Magistrate shall seem meet.

XXX. And be it enacted, That all offences committed within the limits of the Portland Police District, which under this Act are punishable on summary conviction before the said Police Magistrate, may be heard and determined by the said Magistrate, sitting at the Police Office, in a summary way, within six calendar months at the farthest next after the commission of any such offence, and not afterwards, whether or not any information in writing shall have been exhibited or taken before said Police Magistrate; and all such proceedings by Summons, without information in writing, shall be as valid and effectual as if an information in writing had been first exhibited in that behalf; provided always, that a note or memorandum in writing shall be made and kept in the Police Office, of the substance of every charge for which a Summons or Warrant shall be issued; provided also, that the Magistrate, if he shall think fit, may require an information in writing to be laid in every case in which it shall seem to him to be expedient, before the matter of the complaint or charge shall be brought before him; and the Magistrate shall examine into the matter of every complaint or charge brought before him, and if, upon the confession of the party accused, or on the oath of any one or more witnesses, the party accused shall be convicted of having committed the offence charged or complained of, the party so convicted shall pay such penalty as to the Magistrate shall seem fit, not exceeding the greatest penalty made payable in respect of such offence, together with the costs of conviction, to be ascertained by such Magistrate according to the Tables of Fees before mentioned.

XXXI. And be it enacted, That all penalties, forfeitures, and other sums of money imposed, awarded, or ordered to be paid by any Police Magistrate appointed under the authority of this Act, and all sums of money which any person is bound to pay under any recognizance taken before the said Magistrate, under and by virtue of this Act, which recognizance shall be taken in the name of the Commissioners hereafter named, and afterwards forfeited in case of non-payment thereof, may be levied, with the costs of such proceedings on non-payment, by distress and sale of the goods and chattels of the offender or person liable to pay the same, by Warrant under the hand of such Magistrate; and the overplus (if any) of the money so raised or recovered, after discharging, with costs, the penalty, forfeiture, or sum ordered to be paid, shall be returned, on demand, to the party whose goods and chattels shall have been distrained; and in case any such penalty, forfeiture, or sum of money, shall not be forthwith paid, it shall be lawful for such Magistrate to

order the party to be detained in safe custody, until return can be conveniently made to such Warrant of Distress, unless such party shall give security to the satisfaction of the Magistrate for his appearance at such place and time, not being more than seven days from the time of such detention, as shall be appointed for the return of the Warrant of Distress; and the Magistrate is hereby empowered to take such security by way of recognizance or otherwise; but if, upon the return of such Warrant, it shall appear that no sufficient distress could be had whereupon to levy the said penalty, forfeiture, or sum of money, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate, upon the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such penalty, forfeiture or sum of money could be levied, if a Warrant of Distress should be issued, it shall be lawful for the Magistrate, by Warrant under his hand, to commit such party or parties, as is hereinbefore provided in the twentieth section of this Act.

XXXII. And be it enacted, That all sums of money received by the said Police Magistrate for fees, fines, penalties, forfeitures, or costs incurred and paid under or by virtue of any of the provisions of this Act, shall be paid over by the said Police Magistrate on the first day of every month, (or in case the first should happen to be Sunday, or any Public Holiday, then on the first working day thereafter,) to the Treasurer of the Portland Police District to be appointed under this Act, to be by him kept or held, subject to the purposes and provisions of this Act.

XXXIII. And be it enacted, That it shall be the duty of the said Treasurer to receive all such monies which may be so paid over to him by the said Magistrate under and by virtue of this Act, and to keep and retain the same, subject to the purposes and provisions of this Act.

XXXIV. And be it enacted, That the said Police Magistrate, and the Constables appointed under and by virtue of this Act, and connected with the said Police establishment, shall be exempt from serving on any Juries or Inquests whatsoever, and from serving in the Militia of this Province, or complying with the requisitions of the several Acts for regulating the Militia in this Province.

XXXV. And be it enacted, That the forms of information and conviction used under and by virtue of this Act, shall be the forms contained in the Schedule appended to this Act, respectively marked A. and B., or as near thereto as the circumstances of each case will permit.

XXXVI. And be it enacted, That no information, conviction, or other proceeding, before or by any such Police Magistrate, shall be quashed, or set aside, or adjudged void or insufficient for want of form, or be removed by certiorari into Her Majesty's Supreme Court, or any other Court of this Province.

XXXVII. And be it enacted, That in every case of summary order or conviction before the said Police Magistrate, in which the sum or penalty adjudged to be paid shall be two pounds or upwards, or in which the penalty adjudged shall be imprisonment for any term more than one calendar month, any person who shall think himself aggrieved by such order or conviction, may appeal to the Supreme Court in banc, or to any Judge thereof; provided that such person, at the time of the order or conviction, or within forty eight hours thereafter, shall enter into a bond to the

Commissioners hereafter named, in the sum of ten pounds, with two sufficient sureties, conditioned to try such appeal, and to abide the further judgment of the said Supreme Court, or of a Judge thereof, and to pay such costs as shall be by such last mentioned Court or Judge awarded; and it shall be the duty of the said Police Magistrate, upon being served with an order of the said Supreme Court, or of a Judge thereof, to transmit to such Court or to such Judge the original depositions taken by him on the said trial and conviction in the same state in which they were taken at the time, without alteration or addition; and the judgment of the said Supreme Court, or of such Judge thereof, shall be final and conclusive between and upon the parties, both as regards the conviction and also as to all costs arising or incurred in consequence of or by reason of such appeal.

XXXVIII. And be it enacted, That when any distress shall be made for any money to be levied by virtue of the Warrant of any such Police Magistrate, 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.

XXXIX. And be it enacted, That no plaintiff shall recover in any action for any irregularity, trespass, or other wrongful proceeding made or committed in the execution of this Act, or in, under or by virtue of any power or authority hereby given, if tender or sufficient amends shall have been made by or on behalf of the party who shall have committed such irregularity, trespass, or other wrongful proceeding, before such action brought; and in case no tender shall have been made, it shall be lawful for the defendant, in any such action, by leave of the Court where such action shall depend, at any time before issue joined, to pay into Court such sum of money as he shall think 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.

XL. And be it enacted, That no action, suit, or information, or any other proceeding of what nature or kind soever, shall be brought, commenced or prosecuted against any person for anything done or omitted to be done in pursuance of this Act, or in the execution of the powers or authorities under this Act, unless twenty days previous notice in writing shall be given by the party intending to commence and prosecute such suit, information or other proceeding, to the intended defendant, nor unless such action, suit, information or other proceedings shall be brought or commenced within three calendar months next after the act committed, or in case there shall be a continuation of damage, then within three calendar months next after the doing or committing such damage shall have ceased, or unless such action, suit or information shall be laid and brought in the City and County of Saint John.

XLI. And whereas many offences against this Act may be committed by children of tender years, whom it would be impolitic to send or commit to a Penitentiary or House of Correction, and who might become useful members of society if properly brought up and preserved from the

contamination of vicious associates; Be it therefore enacted, That in all cases where offences against this Act shall or may be committed by infants under the age of fourteen years, the fines imposed by reason of such offences, on the conviction of the offenders, shall be recoverable from the parents or parent of such child or children; and in case the child or children committing any such offence shall be an apprentice, servant, or orphan, or residing with any other person or persons than the parent or parents thereof, then and in every such case, the master, employer, guardian, or usual protector or harbourer of such child or children, shall be liable and subject to the payment of all such fines as may be imposed by reason of the offence or offences of such child or children; provided always, that before issuing any warrant or other proceedings against any such parent, master, employer, guardian, or other adult person, such parent or other person as aforesaid, shall be first duly summoned before the said Police Magistrate, and shall have the same rights and privileges of defending the case as if such parent or other person had personally committed the offence or offences charged against such child or children; provided also, that the exemption of such child or children from the pains and penalties of this Act, shall be at the discretion of the said Police Magistrate.

XLII. And whereas there is no place of security for the confinement of offenders within the said Parish of Portland, and the removal to and from the County Gaol of persons committed for offences against this Act would often prove inconvenient, and tend greatly to the delay and hinderance of proceedings under this Act; for remedy thereof, Be it enacted, That the Commissioners of Police to be appointed under and by virtue of this Act, be and they are hereby authorized and empowered to appoint and establish such building or place as to them may seem meet, to be a Lock-up House in and for the said Police District; and in case there should be no place or building within the said District sufficiently secure and fit for such purpose, then and in such case the said Commissioners are hereby authorized and empowered to contract and agree with able and sufficient workmen for building and finishing a Lock-up House in and for the said Police District, and to agree for such sum or sums of money, not exceeding in amount the sum of two hundred pounds, as to them may seem meet, in order to carry their object into effect; and the said Commissioners are hereby authorized and empowered to include the amount necessary for defraying the expense of erecting and finishing such Lock-up House, not exceeding the said sum of two hundred pounds, in the first assessment to be made by them for the purpose of the said Police establishment, as hereinafter provided.

XLIII. And be it enacted, That the said Lock-up House shall be under the control and management of the said Commissioners of Police, and of the said Police Magistrate for the time being, and shall be to all intents and purposes a lawful place of committal and confinement of persons charged with offences against this Act during the time of proceeding; and until final judgment for such offence, at the discretion of the said Police Magistrate; provided always, that it shall and may be lawful for the High Sheriff of the City and County of Saint John, or for any other officer having legal custody of any person or persons, who shall or may be arrested within the said Parish of Portland for any criminal offence, or breach of the Peace, in all cases in which the said Sheriff or other officer could legally lodge the said person or persons in the Common Gaol of the said City and County, to commit such person or persons to the said Lock-up House, until such person or persons can be removed to the said Common Gaol; and further provided, that neither the said

Commissioners of Police, nor the said Police Magistrate, nor any of them, shall be in any wise responsible for the safe custody of any person or persons so committed to the said Lock-up House or House of Correction by the said Sheriff or other officer, but such responsibility shall rest only on such Sheriff or other officer, except in case of the wilful default, neglect or other malfeasance of the Keeper of such Lock-up House.

XLIV. And be it enacted, That the Commissioners of Police to be appointed under and by virtue of this Act as hereinafter provided, shall on or before the first day of May in each and every year, make an estimate in writing of the amount or sum of money necessary and expedient to be raised and provided for defraying the expenses for the current year, of supporting and maintaining the said Police establishment; such expenses being intended to include the salaries and allowances of and for the said Police Magistrate and Constables, and the Keeper of the said Lock-up House; the costs and charges of maintaining the Police Office, and its incidental expenditures; the allowances or payments to the Assessors and Collector hereinafter mentioned; and all the costs, charges and disbursements incidental to and necessary for the efficient maintenance and support of the said Police establishment and its appurtenances in general; and the said Commissioners shall file a copy of such estimate under their hands in the Office of the Clerk of the Peace of the City and County of Saint John; and forthwith after the making and filing of such estimate, the amount or sum named therein, not exceeding the sum of one thousand two hundred pounds in any one year, shall be assessed and levied upon the inhabitants of the said Police District, in the manner hereinafter provided.

XLV. And be it enacted, That it shall and may be lawful for the said Commissioners from time to time, and as often as may be necessary and requisite under the provisions of this Act, to nominate and appoint three discreet persons, being freeholders or reputable householders in the said Parish of Portland, to act as Assessors under this Act, who shall be sworn to the faithful discharge of such duty before the said Police Magistrate, or some other Justice of the Peace in and for the said City and County of Saint John; and it shall and may be lawful for the said Commissioners, by Warrant under their hands and seals, to direct and require the said Assessors to make a rate or assessment of the amount or sum estimated and determined by the said Commissioners in manner hereinbefore provided, in due proportion, upon the inhabitants of the said Parish of Portland, as hereinafter directed, that is to say: one fourth of the whole amount of such rate or assessment to be assessed and levied by an equal tax on the poll of every male inhabitant of the said District above the age of eighteen years; and the remaining three fourths of the whole amount of such rate or assessment to be assessed and levied, in due proportion, upon all real and personal estate situate and lying within the boundaries of the said Parish of Portland; which same rate and assessment to be made, shall be levied and collected by such person as the said Commissioners shall appoint to collect the same, in the same manner as Parish or County Rates are or may be levied and collected by virtue of any Act or Acts of Assembly in force within the said City and County of Saint John; and when recovered, shall be paid over by the said Collector to the Treasurer for the time being, of the Portland Police District, appointed under and by virtue of this Act, to be by him received, retained and applied for the purposes and under the provisions of this Act

XLVI. And be it enacted, That it shall be the duty of the said Commissioners of Police, and they are hereby authorized and required to receive and retain, by their Treasurer appointed under and by

virtue of this Act, all moneys and sums of money, rates and assessments, levied and collected under this Act, and also all moneys and sums of money, fees, costs, fines, forfeitures, penalties, and amerciaments, imposed, collected or received by the said Police Magistrate under this Act, and therefrom and therewith to pay, disburse, and discharge all and all manner of expenses, costs, charges, salaries, allowances, liabilities, and outgoings whatsoever, legally chargeable upon or incurred and payable for the support and maintenance of the said Police establishment, or in any wise justly arising or becoming due in carrying out the purposes and provisions of this Act; such payments to be made by the said Treasurer, on the order or orders in writing, under the hands of the said Commissioners, or any two of them; and the receipt of such Treasurer for any moneys, sum or sums of money paid into his hands under this Act, shall be a good and sufficient discharge to the person or persons paying the same.

XLVII. And whereas it would tend greatly to the convenience and benefit of the public in the said Police District, if the said Police Magistrate were authorized and empowered to collect fines and dues from defaulters assessed for Statute Labour on the Public Roads in the said District; Be it enacted, That it shall and may be lawful for the said Police Magistrate, and he is hereby authorized and required, whenever called upon for such purpose by the Assessors or any Collector of Taxes in the said Police District, to collect and enforce payment of all fines, dues, and impositions, incurred or payable by any person or persons residing in the said District, for default in performing such Road Work or Statute Labour as may have been lawfully assessed upon him or them, in the same manner and by the same process and authority as the same may or can be collected and enforced by any Justice or Justices of the Peace, under and by virtue of any Act or Acts of Assembly in that respect in force in the said City and County of Saint John, at the time of collecting or requiring payment of the same; and it shall be the duty of the said Police Magistrate to pay all moneys and sums of money as by him collected and received, on demand, into the hands of the person or persons entitled by Law to receive the same; and to pay all fees and costs charged and received by him on collecting the same, into the hands of the said Treasurer of the said Police District, in the same manner as all other fees and moneys are by this Act made payable by the said Magistrate to the said Treasurer; and such fees and costs shall be applied by the said Commissioners of Police in aid of the expenses and disbursements of the said Police establishment, and in reduction of the annual assessments for the support of the same.

XLVIII. And be it enacted, That any person appointed under this Act to be Treasurer to the said Commissioners of Police, shall, before taking upon himself or entering upon the duties of such office, enter into Bond to the said Commissioners and their successors, in the penal sum of five hundred pounds, together with two sufficient sureties, to be approved of by the said Commissioners, in the sum of two hundred and fifty pounds each, conditioned for the due and faithful performance of his duty as such Treasurer; and in like manner, any person appointed to be a Collector of any rates or assessments under this Act, shall enter into Bonds to the said Commissioners and their successors, in the sum of five hundred pounds, together with two sufficient sureties, to be approved of as aforesaid, in the sum of two hundred and fifty pounds each, for the due and faithful performance of his duty as such Collector.

XLIX. And be it enacted, That it shall and may be lawful to and for the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice of the Executive Council, from time to time to nominate and appoint, (and also to remove, re-appoint, and replace, as may be expedient,) three fit and proper persons, being freeholders, resident in the said Parish of Portland, to be Commissioners for the purpose of carrying out the provisions, and superintending the operation of this Act, who shall be styled "Commissioners of Police for the Parish of Portland;" which said Commissioners, before they enter on the performance of their duties under this Act, shall severally take and subscribe an oath or affirmation before any Justice of the Peace in and for the City and County of Saint John, faithfully to perform the trust and duties required of them by this Act.

L. And be it enacted, That it shall be the duty of the said Commissioners, and they are hereby authorized and required to exercise a general and efficient supervision, inspection and control of the fiscal and ordinary civil affairs and condition of the said Portland Police Establishment; to nominate and appoint, remove and discharge, the Treasurer of the said Police District, the Assessors and Collector for the said District, respectively, hereinbefore mentioned; and also all Clerks, Servants, Keepers, and subordinate Officers, (save and except Constables of the Police force, and Keeper of the Lock-up House,) who may be requisite for duly carrying on the business and affairs of the said Police establishment, and in their places to nominate and appoint other fit and proper persons in their place or places respectively, as occasion may require; to fix and determine the salaries, emoluments or allowances to be paid or allowed to the said Officers and Servants so by them appointed; to provide and furnish all such fuel, furniture, provisions, materials and things of every description whatsoever, as in their judgment may be necessary for the due and efficient maintenance and business of the said Police establishment, whether as it respects the Police Office, the Treasurer's Office, the Lock-up House, or otherwise; to receive, demand, recover and control all and all manner of moneys, payments, dues, emoluments and receipts whatsoever, arising or payable from or in respect of the said Police Office or Police Magistrate under and by virtue of this Act; and also all and all manner of moneys, rates and dues raised or to be raised by any assessment or assessments under this Act, and all other payments, dues, grants of money, gratuities, emoluments and perquisites whatsoever, which may at any time be given, granted, paid, or become due and payable from any source whatsoever, in respect of or for the benefit and purposes of the said Police establishment; and to disburse and expend such moneys in the payment of all and all manner of salaries, wages, debts, liabilities and expenses of every description whatsoever, which may at any time be justly due or payable in respect of or for any of the purposes of the said Police establishment, under and by virtue of this Act; and the said Commissioners shall cause a Record of all their proceedings and affairs to be duly kept in a Book to be provided for that purpose.

LI. And be it enacted, That the said Commissioners shall, annually, on or before the first Thursday in January in each and every year, cause a full, complete and perfect statement in detail, of the state and condition, affairs and transactions of the said Police establishment, and of every department thereof, throughout the year ending on the preceding thirty first day of December; and also a just and detailed account of all receipts and expenditures for and on account of the said Police establishment during such year; to be transmitted in triplicate to the Lieutenant Governor

or Administrator of the Government for the time being, for the information of His Excellency and of the Legislature; which statements and accounts shall be verified by the oath of one of the said Commissioners at least, who shall swear that the same are correct and true according to the best of his knowledge and belief.

LII. And be it enacted, That the said Portland Police District shall comprise and include all that part and portion of the said Parish of Portland bounded as follows, that is to say:—

Commencing at the Aboideau at the Mouth of the Marsh Creek, where the City Line strikes the said Creek, thence northwesterly to the western end of Lily Lake; thence westerly to the Mills known as Mackay's Mills, on the River Saint John, above Indian Town; thence southerly along the eastern side of the River Saint John, and the Harbour of Saint John, to the City Line, at Simonds' Point, so called; thence easterly along the City Line to the place of beginning:

And the authority and jurisdiction of the said Police Magistrate shall extend to and be exercised over and in respect of all and all manner of offences, acts, matters and things comprised within the purview of this Act, and in any wise mentioned or intended in and by this Act, to be subject to the jurisdiction and control of the said Police Magistrate, and which shall be committed, done, happen or arise within the boundaries of the said Police District.

LIII. And be it enacted, That all suits, actions and proceedings, whether at law or in equity, for the recovery, maintenance or defence of any moneys, dues, debts, penalties, recognizances, liabilities, rights, privileges, claims or demands whatsoever, due or owing to, or claimed or demanded by or on account of, or in any wise affecting or concerning the said Police establishment, or the said Commissioners of Police, as such Commissioners, shall be brought, commenced, instituted and carried on in the joint names of the said Commissioners for the time being, notwithstanding the cause or causes of action, or ground or grounds of defence, may have arisen or accrued previously to the appointment of such Commissioners, or either of them; and no such action, suit, or proceeding at Law, brought by the said Commissioners, shall abate by reason of the death, removal or appointment of any such Commissioner after the commencement thereof; but in case of such death, removal or appointment, the fact shall be suggested on the Record, and the name of any new Commissioner so appointed shall be substituted on the Record in place of the name of the Commissioner so deceased or removed.

LIV. And be it enacted, That it shall and may be lawful for any Police Magistrate appointed under this Act to nominate and appoint a fit and proper person to be the Keeper of the Lock-up House for the said Police District, and such Keeper to remove, discharge, replace or re-appoint at the discretion of the said Police Magistrate, and as circumstances may reasonably require; and it shall and may be lawful for the said Commissioners of Police, or any two of them, together with the said Police Magistrate, to make and establish rules and regulations for the government of the said Lock-up House, and for the guidance of the Keeper thereof; printed copies of which rules and regulations shall be posted up, and at all times kept visible in some conspicuous places in the said Lock-up House, for the information of the said Keeper and of all persons confined therein.

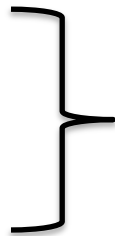
LV. And be it enacted, That if any person rated or assessed under this Act shall think himself aggrieved by any rate or assessment at any time made as hereinbefore provided, it shall and may be lawful for such person, within the space of five days after the sum so rated and assessed shall be demanded in writing, to appeal to the Mayor or Recorder of the City of Saint John, whose decision shall be final and conclusive; and the filing of a memorandum in writing of such appeal in the said Police Office, within the said five days, shall suspend all further proceedings for the recovery of the sum so assessed, until such appeal be decided.

LVI. And be it enacted, That this Act shall continue and be in force until the first day of May which will be in the year of our Lord one thousand eight hundred and fifty one.

SCHEDULE OF FORMS TO BE USED UNDER THIS ACT.

A. – Form of Information.

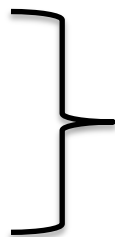
Portland Police
District, to-wit.



Be it remembered, that A.B. of _____, in the County of _____, cometh on the ___ day of _____ in the year of our Lord one thousand eight hundred and _____, before me, C.D., Police Magistrate of the Portland Police District, sitting at the Police Office within the said District, and giveth me to understand and be informed that E.F. hath been guilty of [here describe the offence.]

B. – Form of Conviction

Portland Police
District, to-wit.



Be it remembered, that on the ___ day of ___ in the year of our Lord one thousand eight hundred and ___, E.F. is brought before me, C.D., Police Magistrate of the Portland Police District, sitting at the Police Office within the said District, and is charged before me with having [here describe the offence]: and it appearing to me, upon the confession of the said E.F., [or upon the oath of a credible witness, as the case may be,] that the said E.F. is guilty of the said offence, I do therefore adjudge the said E.F. [here insert the adjudication.] Given under my hand the day and year first above written.

C.D., Police Magistrate

TABLE OF FEES

To be charged and taken by the Police Magistrate under this Act.

For every Summons or Subpoena,	£0	1	0
For every Warrant, (except Warrants of Distress,) ...	0	1	6
For backing a Warrant,	0	0	6
For every recognizance to appear before the Police Magistrate or to take Trial,	0	2	0
For every recognizance to keep the Peace, or to be of good behaviour... ..	0	3	6
For every Supersedeas,	0	1	0
For every Warrant of Distress,	0	2	0
For every Affidavit,	0	1	0
For every Folio,	0	1	0
And every Folio over one hundred words,	0	0	6
For every copy of Summons or Subpoena,	0	0	6
For every Trial and Conviction,	0	3	6
For examining each Witness,	0	0	6
For copy of proceedings furnished to any party requiring the same, for every Folio,	0	0	6
For transmitting proceedings to Judge on Appeal,	0	5	0
For Bond on Appeal,	0	2	6