

## CHAPTER 65.

### Of the Jurisdiction, Powers and Procedure of Stipendiary Magistrates and Justices of the Peace as to certain offences.

#### SECTION

- 1.—Malicious injuries to property — limitation.
- 2.—Arrest without warrant of party found committing offences.
- 3.—Stealing cod-fish of the value of \$20.—Appeal.

#### SECTION

- 4.—Foregoing enactments to apply concurrently with law of England.
- 5.—Common beggars and vagrants.
- 6.—Constable may require assistance of bystander—penalty for refusal.
- 7.—Conviction not to be quashed for want of form.

1. Whosoever shall wilfully or maliciously do or commit any damage, injury or spoil,

- (a.) To or upon any building, fence, hedge, gate, stile, tree, woods, underwood, orchard, garden, nursery-ground, crop, vegetable, plant, enclosed land, or other matter or thing growing, or being thereon, or to or upon any real or personal property, either of a public or private nature; or,
- (b.) Shall unlawfully or maliciously cut or carry away or cause to be cut or carried away, any trees, logs, timber or other woods; or,
- (c.) Shall unlawfully or maliciously break down, cut or carry away any fence, gate, pale or post, standing upon or being upon any public or private lands in this colony,

May be proceeded against before any Justice for the district or place where such offence shall have been committed; and upon conviction thereof shall forfeit and pay to the party aggrieved a sum of money not exceeding twenty-five dollars over and above the costs of recovering the same. And such Justice may also condemn the offender to a further penalty not exceeding twenty dollars.

In default of payment of the sum of money in which the offender shall have been so convicted as aforesaid immediately or within such time as the Justice shall appoint at the time of conviction, together with all costs, charges and expenses attending the conviction, such Justice shall commit such offender to the common gaol for any term not exceeding two months unless such penalty, costs, charges and expenses shall be sooner paid and satisfied.

*Provided*, that in bar and discharge of any proceedings taken under this section, the person charged may plead that the injuries and trespasses complained of, were done with the leave and license from the owner of the property alleged to be injured or trespassed upon, or from the agent of such owner, or from the persons legally entitled to the custody thereof;

and may also plead in like bar and discharge, that such proceedings were not taken within one month next after the committing of the alleged trespass or injury.

2. Any person found committing any offence against the preceding section, may be immediately apprehended without a warrant, by any person, and forthwith taken before a Justice of the Peace to be dealt with according to law.

3. Any person who shall feloniously steal, take or carry away any cod-fish, green or cured, of a value not exceeding twenty dollars, may be tried in a summary manner before a stipendiary Magistrate, and shall on conviction be subject to imprisonment for a period not exceeding six weeks; and any person subject to imprisonment under this section, may appeal from the judgment or order of such stipendiary Magistrate to the Supreme Court then next to be held at or near the place where such offence shall have been committed, on giving sufficient security to prosecute such appeal, and further to abide by and perform such order or decree as the said Court may make thereon; and on the hearing of such appeal, such Court may admit further and other evidence than that adduced before the said Magistrate, and may confirm, vary or set aside the judgment of such Magistrate, and make such orders as to the execution of any judgment as to it may seem meet. The appeal provided by this section may be heard before one Judge sitting as the Supreme Court either in St. John's or on circuit.

4. The foregoing enactments shall in no way prevent the operation of any law of England, with regard to malicious injuries, which may be in force in this colony, but shall run concurrently therewith.

5. All common beggars and vagrants having no visible means of subsistence may be arrested by the police and brought before a Justice of the Peace, and on conviction before the said Justice, may be imprisoned for a period not exceeding ten days.

6. Any constable, in the execution of his duty, may call upon any by-stander, in the Queen's name, to aid him in preventing a breach of the peace, whenever a breach of the peace is imminent, or to aid him in arresting and detaining in custody any person who is riotous or disorderly, or is committing a breach of the peace; and if any by-stander shall refuse or neglect to aid such constable when so called upon, he shall be deemed guilty of a misdemeanor, and may be tried for such offence in a summary manner before a stipendiary Magistrate, and, on conviction, may be fined a sum not exceeding ten dollars, or be imprisoned for a period not exceeding ten days.

7. No conviction or order under this chapter shall be quashed for want of form, and no warrant of commitment shall be held void by reason of any defect therein: Provided there is a valid conviction to maintain such warrant, and it is alleged in the warrant that the party has been convicted.