



ADMINISTRATION OF JUSTICE ORDINANCE, 1867.

IN THE THIRTIETH YEAR OF THE REIGN OF HER MAJESTY
QUEEN VICTORIA.

SESSION XXIII, No. 248.

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Provincial Wardens' Courts established. 3. Superintendent may appoint Wardens. 4. Ministerial Officers of Court. 5. Jurisdiction of Courts. 6. Sections in Justice of Peace Act, 1866, incorporated. 7. Power of Warden to issue Warrant of Distress.</p>	<p>8. Superintendent may make Regulations, &c. 9. Proceedings not to be questioned for want of form. 10. No action against Warden unless act done maliciously and without probable cause. 11. Jurisdiction of Resident Magistrates and Justices same. 12. The period during which this Ordinance to continue in force.</p>
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AN ORDINANCE to make Temporary Provision for the Administration of Justice in the Province of Otago. Title.
[27th May, 1867.]

WHEREAS by an Act of the Imperial Parliament passed in the Session held in the fifteenth and sixteenth years of the reign of her present Majesty intituled "An Act to grant a representative Constitution to the Colony of New Zealand" it is amongst other things enacted that it shall be lawful for the Superintendent of each Province established by the said Act with the advice and consent of the Provincial Council thereof to make and ordain all such laws and ordinances (subject and except as hereinafter mentioned) as may be required for the peace order and good government of such Province provided that the same be not repugnant to the law of England: And it is by the said Act further enacted that it shall not be lawful for any such Superintendent and Provincial Council to make or ordain any law or ordinance for the establishment or abolition of any Court of Judicature or Civil or Criminal Jurisdiction except Courts for trying and punishing such offences as by the law of New Zealand are or may be made punishable in a summary way or for altering the constitution jurisdiction or practice of any such Court except as aforesaid: And whereas it is requisite to make temporary provision for the administration of justice in the Province of Otago:

BE IT THEREFORE ENACTED by the Superintendent of Otago by and with the advice and consent of the Provincial Council thereof as follows:—

I. This Ordinance may be cited and referred to as the "Administration of Justice Ordinance 1867."

II. There shall be established throughout the Province of Otago from time to time Courts (to be called Provincial Wardens' Courts) for trying and punishing such offences as by the law of New Zealand are or may be made punishable in a summary way and the Superintendent of the said Province is hereby empowered from time to time by Proclamation in the *Provincial Government Gazette* to declare that any such Court is established at such place within the Province as he may think fit and such Court shall thereupon be and be deemed to be duly constituted and established.

Superintendent may
appoint Wardens.

III. The Superintendent is hereby empowered from time to time to appoint by warrants under his hand as many fit persons as are needed to be Wardens of such Courts and from time to time to remove any such Warden and the same person may be appointed Warden of two or more such Courts.

Ministerial Officers of
Court.

IV. Every such Court shall have a Clerk and such other Ministerial Officers for the execution of the judgments orders and process thereof as the Superintendent from time to time may deem necessary and all such Clerks and other officers shall be appointed by the Superintendent.

Jurisdiction of Courts.

V. Every such Court shall have cognizance of all such offences as by the law of New Zealand are punishable in a summary way and every Warden of any such Court shall when sitting in Court have all such powers of dealing summarily with any such offences which may be brought before him as may by the law of New Zealand be exercised by any two Justices of the Peace.

Sections of Justice of
Peace Act, 1866, in-
corporated.

VI. The following sections of the Act of the General Assembly of New Zealand intituled "The Justices of the Peace Act 1866" shall be and the same are hereby incorporated with this Ordinance and shall be construed together herewith as forming one Ordinance that is to say :

Sections Nos. 4 to 35 both inclusive Sections Nos. 37 to 46 both inclusive Sections Nos. 77 to 86 both inclusive Sections Nos. 112 to 116 both inclusive Section No. 119 Sections Nos. 127 to 130 both inclusive Section No. 141 and Sections Nos. 143 to 150 both inclusive : Provided always that wherever in the said Act the following words and expressions are used such words and expressions when read herewith shall have the meanings hereby assigned to them unless there be something in the context repugnant to such construction that is to say

The expressions "Justice of the Peace" "two or more Justices of the Peace" "Justices" "Resident Magistrate" shall mean respectively any Warden appointed under the provisions of this Ordinance.

The expression "The Colony of New Zealand" shall mean the Province of Otago.

The expressions "Clerks of Petty Sessions" "Clerks to Resident Magistrates" "Clerks to Justices of the Peace" shall mean any Clerk of a Provincial Warden's Court appointed under this Ordinance.

The expressions "Resident Magistrates' Districts" "Petty Sessions District" shall mean respectively the Province of Otago.

The expressions "Resident Magistrate's Court" "Court of Petty Sessions" shall mean respectively any Court established under this Ordinance.

Power of Warden to
issue warrant of dis-
tress.

VII. In all cases where a conviction adjudges a pecuniary penalty or compensation to be paid if such penalty or compensation be not paid within the time limited by such conviction for the payment thereof and if no different mode of raising or of enforcing payment of the same is provided by any Act or Ordinance it shall be lawful for any Warden appointed under this Ordinance to issue his warrant of distress for the purpose of levying the same or so much thereof as shall then remain unpaid which warrant of distress shall be given under the hand of the Warden making the same.

VIII. It shall be lawful for the Superintendent at any time after the passing of this Ordinance and so from time to time as he may deem expedient to settle such forms of process and establish such rules of practice and proceedings for the conduct of business in the said Courts and to fix and allow such reasonable costs and fees to be taken therein respectively as to him shall seem proper : Provided always that before any such form or rule or the allowance of any such costs or fees shall be binding the same shall be published in the *Provincial Government Gazette* and after such publication shall be of the same force and effect as if they had been inserted in the present Ordinance : Provided also that until other forms of process are settled and other fees fixed and allowed and published as aforesaid the forms of process and scale of fees settled and authorised under the said "Justices of the Peace Act 1866" with such alterations as are rendered necessary by the provisions of this Ordinance shall be used in such Courts so far as the same are applicable.

Superintendent may make regulations, &c.

IX. No information complaint conviction order or other proceeding before any Warden appointed under this Ordinance shall be quashed or set aside or adjudged void or insufficient for want of form.

Proceedings not to be questioned for want of form.

X. In every action brought against any Warden appointed under this Ordinance for any act done by him in the execution of his duty as such Warden in the declaration or statement of the cause of action it shall be expressly alleged that such act was done maliciously and without reasonable and probable cause and if the defendant shall put in issue such allegation and at the trial of any such action the plaintiff shall fail to prove such allegation he shall be nonsuit or a verdict shall be given for the defendant.

No action against Warden unless act done maliciously and without probable cause.

XI. Nothing in this Ordinance contained shall be deemed to take away the jurisdiction of any Resident Magistrate or Justice of the Peace.

Jurisdiction of Resident Magistrates and Justices same.

XII. This Ordinance and all regulations and appointments made in pursuance thereof and not revoked shall be and continue in force until the expiry of fourteen days after the commencement of the next session of the Provincial Council.

The period during which this Ordinance to continue in force.