



CRIMINALS' ORDINANCE, 1861.

IN THE TWENTY-FIFTH YEAR OF THE REIGN OF HER MAJESTY
QUEEN VICTORIA.

SESSION XIII., No. 60.

ANALYSIS.

Title.

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| <ol style="list-style-type: none"> 1. Suspected persons may be arrested. 2. Punishment on suspected persons being convicted. 3. Forfeiture of property. 4. Additional punishment for convicted persons remaining after expiration of sentence. 5. Penalty for harbouring. 6. Master liable if persons improperly brought to Otago. | <ol style="list-style-type: none"> 7. Power to grant search warrants. 8. Power to search. 9. Summary jurisdiction. 10. Words of Act sufficient statement of offence. 11. Oral proof. 12. Recovery of penalties. 13. Indemnifying Justices. 14. Appeal. 15. Duration of Ordinance. 16. Short Title. |
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AN ORDINANCE *to prevent the influx of Criminals into the Province of Otago.*

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

1. It shall be lawful for any Justice of the Peace, or any constable at any time after the passing of this Ordinance, having reasonable cause to suspect that any person has at any time been found guilty of any capital or transportable felony by a court of competent jurisdiction in the United Kingdom of Great Britain and Ireland, or any British Possession other than New Zealand, and has at any time subsequent to the first day of August, 1861, come into this Province, forthwith and without any warrant for such purpose, to cause such suspected person to be apprehended and taken before any two Justices of the Peace, to be dealt with as hereinafter men-

Suspected persons may be arrested.

tioned: Provided that it shall be lawful for any Justice of the Peace to take bail for the appearance of such suspected person before such Justices, in such sum, and with or without such sureties as such Justice may deem expedient: Provided also, that nothing in this Ordinance contained shall apply, or be deemed to apply, to any person whose sentence or sentences, if more than one, shall have expired for a greater period than three years previous to his arrival in the said Province.

Punishment on suspected persons being convicted.

2. It shall be lawful for any two Justices of the Peace, before whom any such suspected person shall have been brought, on proof that such person has come into the Province of Otago contrary to the provisions of this Ordinance, to convict him thereof, and at their discretion either to take bail that such person shall leave the said Province within ten days after his conviction, or to cause such person to be conveyed into custody to the country or possession from whence he came; or to sentence such person, if a male, to be kept to hard labour, with or without irons, on the roads or other public works of the said Province, for any period not exceeding six calendar months; or if a female, to be imprisoned, with or without hard labour, in any gaol for any period not exceeding four calendar months.

Forfeiture of property.

3. All property found upon or in the possession of any such suspected person as aforesaid, shall, upon his apprehension, be seized and detained; and in the event of his being convicted and sentenced as aforesaid, shall at the discretion of the convicting Justices, be forfeited and sold.

Additional punishment for convicted persons remaining after expiration of sentence.

4. Any person sentenced as aforesaid to hard labour or imprisonment, who shall remain in the Province of Otago for three months after the termination of such sentence, shall be liable to be again similarly apprehended and sentenced, and so on from time to time, as often as he shall so remain.

Penalty for harbouring.

5. Any person who shall harbour or conceal any other person whom he shall know or believe to have come into or remained in the said Province, contrary to the provisions of this Ordinance, shall be subject to a fine not exceeding one hundred pounds, or be imprisoned in any gaol, house of correction, or other prison, in the said Province, for any period not exceeding six calendar months.

Master liable if persons improperly brought to Otago.

6. Any master mariner or other person commanding, navigating, or sailing any vessel for the trip or voyage, when such vessel shall bring to any port or place in the said Province any person having been found guilty as aforesaid, shall upon conviction thereof before any two Justices of the Peace, for every such offence be liable to a fine not exceeding one hundred pounds, or imprisonment for any time not exceeding six calendar months, or to both, at the discretion of the said Justices.

Power to grant search warrants.

7. It shall be lawful for any Justice of the Peace, having information on oath, that any person who has arrived in the said Province contrary to the provisions of this Ordinance is harboured in any house or other place within the said Province, to grant a general search warrant to any con-

stable for such person ; and it shall be lawful for any such constable, in virtue of such general search warrant, to break, enter, and search, by day or by night, any dwelling-house, tenement, or other place, wherein such person may be suspected to be concealed, and to apprehend any person whom such constable shall have reasonable cause for suspecting to have arrived or remained in the said Province contrary to the provisions hereof, and also to apprehend all persons found in or about such dwelling-house, tenement, or other place, whom such constable shall have reasonable grounds for suspecting and believing to have knowingly harboured and concealed such suspected person ; and all persons found and apprehended as aforesaid, shall be forthwith taken before any Justice of the Peace to be dealt with as herein provided.

8. It shall be lawful for any Justice of the Peace or Constable to enter on board any vessel, and having reasonable cause to suspect that any person having been found guilty as aforesaid is on board such vessel, to search any and every part thereof, and apprehend any person found therein contrary to the provisions of this Ordinance. Power to search.

9. It shall be lawful for any two or more Justices to hear and determine in a summary way all cases arising under this Ordinance, and at their discretion to fix and determine all the fines, penalties, punishments, and forfeitures hereby imposed, and no complaint, conviction, order for confiscation, punishment, or forfeiture, or other proceeding before or by any Justices under this Ordinance, shall be quashed or set aside, or deemed void or insufficient for want of form only, or be removed or removable by certiorari, or any writ or process whatsoever into the Supreme Court. Summary jurisdiction.

10. Every summons, information, conviction, and warrant of commitment under the provisions of this Ordinance, shall be deemed valid, in which the offence charged or alleged in the same respectively, shall be set forth in the words of this Ordinance. Words of Act sufficient statement of offence.

11. Oral proof that any person was in any country known to have been, or commonly deemed or reported to have been found guilty of any felony in the United Kingdom, or any British possession other than New Zealand, or to have been serving any sentence of transportation or imprisonment for such offence, or the production of any paper purporting to be a Government Gazette published in any of the Australian Colonies, and containing the name of any person charged with offending against any of the provisions of this Ordinance, described in such paper as a convicted prisoner of the Crown or transported felon, shall for the purposes of this Ordinance be taken as good *prima facie* evidence that such person was found guilty of felony as aforesaid, and proof that any person so found guilty was apprehended in the Province of Otago, at any time after the passing of this Ordinance, not having a fixed and known place of residence, shall be deemed good *prima facie* evidence that such person arrived in Otago subsequent to the time mentioned in the first clause of this Ordinance, unless the contrary be proved. Oral proof.

Recovery of penalties. 12. Whenever any pecuniary penalty shall have been imposed under the provisions of this Ordinance, and the person convicted shall not forthwith pay the same into the hands of the convicting Justices, it shall be lawful for such Justices to direct that such person be imprisoned with or without hard labour as they shall see fit for a period not exceeding two calendar months if the penalty be not above twenty pounds, and for a period not exceeding four calendar months if the penalty be above twenty pounds and not above fifty pounds, and for a period not exceeding six calendar months if the penalty be above fifty pounds, and such person shall be detained and kept to hard labour unless such respective penalties shall be sooner paid.

Indemnifying Justices. 13. Any person who shall feel himself aggrieved by the judgment of any Justice or Justices adjudicating, or before whom he was convicted, may appeal from any such judgment or conviction in manner prescribed by an Act of the General Assembly of New Zealand, passed in the twenty-fourth year of the reign of Her present Majesty, intituled "An Act to Improve the Administration of the Law, so far as respects summary proceedings before Justices of the Peace."

Appeal. 14. On the construction of this Ordinance, wherever in describing or referring to any person, matter, or thing, or any word importing the singular number or masculine gender, is used, the same shall be applied to several persons as well as one person, and females as well as males, and several matters and things as well as one matter and thing, upon or with respect to which any offence may be committed.

Duration of Ordinance. 15. This Ordinance shall be in force for the period of one year from the passing thereof, and until the end of the then next sitting of the Provincial Council.

Short Title. 16. This ordinance may be cited and referred to as "The Criminals' Ordinance, 1861."

Passed the Provincial Council this thirty-first day of October One thousand eight hundred and sixty-one.

ALEX. RENNIE,

Speaker.

ROBERT CHAPMAN,

Clerk of Council.

Assented to on behalf of the Governor, at Dunedin, this second day of November, One thousand eight hundred and sixty-one.

J. RICHARDSON,

Superintendent of the Province of Otago.