

Sex allowed P. G. Gazette No. 233



CRIMINALS' ORDINANCE, 1862.

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

SESSION XVI., No. 82.

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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 that his sentence or sentences have not expired or that he has not received an unconditional pardon 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.

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 New Zealand within ten days after his conviction or to cause such person to be conveyed in 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 such suspected person and known to such master to be suspected 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 and being under sentence 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.

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 Ordinance sufficient statement of offence.

11. Oral proof that any person was in any country within three years immediately preceding his being charged with offending against any of the provisions of this Ordinance 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* or *Police Gazette* published within such period 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 that his sentence or sentences have not expired or that he has not received an unconditional pardon 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.
- Appeal. 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."
- Interpretation Clause. 14. On the construction of this Ordinance wherever in describing or referring to any person matter or thing 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.
- May be amended in present Session. 16. This Ordinance may be amended in the present Session of the Provincial Council.
- Short Title. 17. This Ordinance may be cited and referred to as "The Criminals' Ordinance, 1862."

Passed the Provincial Council this Twenty-eighth day of November, One thousand eight hundred and sixty-two.

CHAS. SMITH,
Clerk of Council.

ALEX. RENNIE,
Speaker.

Assented to on behalf of the Governor, this Twenty-eighth day of November, one thousand eight hundred and sixty-two.

J. L. C. RICHARDSON,
Superintendent of the Province of Otago.