



VAGRANT ORDINANCE, 1861.

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

SESSION XIII., No. 62.

ANALYSIS.

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AN ORDINANCE *for the better Prevention and Punishment of Vagrancy and other Offences.*

WHEREAS it is expedient to make more effectual provision for the prevention of vagrancy and other offences :

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

1. Any person who shall commit any of the next following offences, Idle and Disorderly persons. shall be deemed an idle and disorderly person, within the meaning of this Ordinance, and shall be liable to the punishment next hereinafter mentioned.

1st. Any person having no visible lawful means or insufficient lawful means of support, who being thereto required by any Justice of the Peace, or who having been duly summoned for such purpose, or brought

before any Justice in pursuance of the provisions of this Ordinance, shall not give a good account of his means of support to the satisfaction of such Justice.

2nd. Any habitual drunkard having been thrice convicted of drunkenness within the preceding twelve months, and any common prostitute, who in any street or public highway, or being in any place of public resort, shall behave in a riotous or indecent manner.

3rd. The occupier of any house which shall be frequented by reputed thieves or persons who have no visible lawful means of support, and any person found in any such house in company with such reputed thieves or persons, who shall not give a good account of his lawful means of support, and also of his being in such house upon some lawful occasion.

4th. Any person wandering abroad or placing himself in any public place, street, highway, court, or passage, to beg or gather alms, or causing or procuring, or encouraging any child so to do.

5th. Any person found by night armed with any gun, pistol, sword, bludgeon, or other offensive weapon or instrument, who being thereto required, shall not give a good account of his means of support, and assign a valid and satisfactory reason for his being so armed.

6th. Any person having on or about his person, without lawful excuse (the proof of which excuse shall be on such person), any deleterious drug or any article of disguise, shall be liable to imprisonment in any gaol or house of correction, or other prison in the said Province, for any time not exceeding three calendar months, with or without hard labour.

Rogues and Vagabonds.

2. Any person who shall commit any of the next following offences shall be deemed a rogue and a vagabond, within the meaning of this Ordinance, and be liable to the punishment next hereinafter specified.

1st. Any person committing any of the offences hereinbefore mentioned, having been previously convicted as an idle and disorderly person.

2nd. Any person soliciting, gathering, or collecting alms, subscriptions, or contributions, under any false pretence.

3rd. Any person imposing or endeavouring to impose upon any charitable institution, or private individual, by any false or fraudulent representation, either verbally or in writing, with a view to obtain money or any other benefit or advantage.

4th. Any person wilfully exposing to view in any street, road, thoroughfare, highway, or public place, or who shall expose, or cause to be exposed, to view in the window or other part of any shop or other building, situate in any street, road, thoroughfare, highway, or public place, any obscene book, print, picture, drawing, or representation.

5th. Any person wilfully and obscenely exposing his person in any

street, road, or public highway, or in the view thereof, or in any place of public resort.

6 $\%$. Any person playing or betting at any unlawful game.

7 $\%$. Any person playing or betting in any street, road, highway, or other open and public place, at or with any table or instrument of gaming, at any game or pretended game of chance.

8 $\%$. Any person having in his custody or possession without lawful excuse (the proof of which excuse shall be on such person) any picklock, key, crow-jack, bit, or other implement of house-breaking.

9 $\%$. Any person being armed with any gun, pistol, sword, bludgeon, or other offensive weapon or instrument, with a felonious intent.

10 $\%$. Any person found by night having his face blackened, or wearing felt or other slippers, or being dressed or otherwise disguised with a felonious intent.

11 $\%$. Any person found by night without lawful excuse (the proof of which excuse shall be on such person) in or upon any dwelling-house, warehouse, coachhouse, stable, or outhouse, or in any inclosed yard, garden, or area, or in or on board any ship or other vessel when lying or being in any port, harbour, or place within the said Province.

12 $\%$. Any suspected person or reputed thief frequenting any river, canal, navigable stream, dock, or basin, or any quay, wharf, or warehouse near or adjoining thereto, or any street, highway, or avenue, leading thereto, or any place of public resort or any avenue leading thereto, or any street, highway, or place adjacent, with intent to commit felony.

13 $\%$. Any person apprehended as an idle and disorderly person, and violently resisting any constable or other police officer so apprehending him, and being subsequently convicted of the offence for which he shall have been so apprehended, shall be liable to imprisonment in any gaol, house of correction, or other prison in the said Province, with hard labour, for any time not exceeding six calendar months, and every such pick-lock, key, crow-jack, bit, and other implement, and every such gun, pistol, sword, bludgeon, and other offensive weapon and instrument as aforesaid, shall, by the conviction of the offender, become forfeited to Her Majesty.

3. Any person who shall sing any obscene song or ballad, or write or draw any indecent or obscene word, figure, or representation, or use any profane, indecent, or obscene language in any public street, thoroughfare or place, or within the view or hearing of any person passing therein; and any person who shall use any threatening, abusive, or insulting words or behaviour in any public street, thoroughfare, or place, with intent to provoke a breach of

Obscene, threatening, or abusive language, &c., &c., in public.

the peace, or whereby a breach of the peace may be occasioned, shall forfeit and pay, on conviction, any sum not exceeding ten pounds, and in default of immediate payment, shall be committed to the common gaol, house of correction, or other prison, for any period not exceeding three calendar months.

Penalty for selling or exposing for sale unwholesome food.

4. Every person who shall sell, or expose for sale, or have in his possession with intent to sell, any unwholesome meat, fish, game, poultry, or fruit, or who shall have in his possession for the purpose of slaughtering any diseased animal unfit for human food, shall for every such offence forfeit and pay, on conviction, any sum not exceeding twenty pounds, and not less than five pounds, and it shall be lawful for any peace officer or constable to seize and take away, or cause to be seized and taken away, and to convey, or cause to be conveyed to the nearest police station, all such unwholesome meat, fish, game, poultry, fruit, and diseased animal as aforesaid; and it shall be lawful for the convicting Justice or Justices to adjudge such unwholesome meat, fish, game, poultry, fruit, and diseased animal to be forfeited, and to order and direct the same to be destroyed.

Apprehension of Offenders.

5. It shall be lawful for any person whomsoever, with or without warrant, to apprehend any person who shall be found offending against this Ordinance, and forthwith to take and convey him before some Justice of the Peace, to be dealt with in such manner as herein directed, or to deliver him to any constable or other peace officer of the place where he shall have been apprehended, to be so taken and conveyed as aforesaid: and any constable or other peace officer who shall refuse or wilfully neglect to take such offender into custody, or to take and convey him before some Justice of the Peace, or who shall not use his best endeavors to apprehend and to convey before some Justice of the Peace any person that he shall find offending against this Ordinance, shall be deemed guilty of a neglect of duty, and shall, on conviction, be punished in such manner as herein directed.

Warrants to apprehend Offenders.

6. It shall be lawful for any Justice of the Peace, upon oath being made before him, that any person hath committed or is suspected to have committed any offence against this Ordinance, to issue his warrant to apprehend and bring before him or some other Justice of the Peace the person so charged, to be dealt with as directed by this Ordinance.

Seizure of property and searching.

7. It shall be lawful for any constable, peace officer, or other person, apprehending any person charged with being an idle and disorderly person, or a rogue and vagabond, to seize any horse or other cattle, or any vehicle or goods in the possession or use of such person, and to take and convey the same, as well as such person, before a Justice of the Peace: and for every Justice of the Peace by whom any person shall be adjudged to be an idle and disorderly person, or a rogue and vagabond, to order that such offender shall be searched, and that his trunks, boxes, bundles, parcels, or packages, and any cart or other vehicle which may have been found in his possession or use, shall be inspected and searched in the presence

of the said Justice; and it shall be lawful for the said Justice to order that any money which may then be found with or upon such offender, shall be paid and applied for and towards the expense of apprehending and conveying to the gaol, house of correction, or other prison, and maintaining such offender during the time for which he shall have been committed, and towards the expense of the keep of any horse or other cattle so seized, during the time such horse or cattle shall be detained; and if upon such search money sufficient for the purposes aforesaid be not found, it shall be lawful for such Justice to order that such horse, cattle, and so much as is necessary of such other effects then found, shall be sold, and that the produce of such sale shall be paid and applied as aforesaid; and also that the overplus of such money or effects, after deducting the charges for such sale, shall be returned to the said offender.

8. In case any constable or other peace-officer shall neglect his duty in anything required of him by this Ordinance, or in case any person shall disturb or hinder any constable, peace-officer, or other person in the execution of this Ordinance, or shall be aiding, abetting, or assisting in so doing any such offender, shall for every such offence forfeit and pay any sum not exceeding twenty pounds, and in default of payment forthwith, shall be liable to imprisonment in any gaol, house of correction, or other prison, for any time not exceeding six calendar months, or until such fine be paid.

Neglect of Officers,
or obstructing
them.

9. It shall be lawful for any Justice of the Peace, upon information on oath that any person hereinbefore described to be an idle and disorderly person, or a rogue and vagabond, is suspected to be in any house, tent or place, kept or purporting to be kept for the reception, lodging, or entertainment of travellers or others, to enter the same at any time by day or night, or to issue his warrant authorising any constable or other person, in like manner to enter the same, and to apprehend and bring before him, or any other Justice of the Peace, every such idle and disorderly person, rogue and vagabond, as shall be found therein, to be dealt with in the manner herein directed.

Lodging-houses,
&c., may be
searched.

10. It shall be lawful for any one Justice of the Peace to order and adjudge any person convicted of offending against any of the provisions of this Ordinance, either on the view of such or any other Justice, or the confession of such offender, or the oath of any credible witness or witnesses, to forfeit the penalties or undergo the imprisonments hereby authorized to be imposed or awarded.

One Justice may
act.

11. All proceedings under this Ordinance shall be had and taken in a summary way, and no such proceeding shall be quashed for want of form, or removed by certiorari or otherwise into the Supreme Court, and every conviction or commitment for any offence under this Ordinance in which such offence shall be set forth in the words of this Ordinance, shall be valid and sufficient.

Want of form.

12. The time at which the night shall be deemed to commence and conclude in any offence against the provisions of this Ordinance shall be the same as in case of burglary.

The night to be as
in Burglary.

Nothing in this Ordinance to repeal Constabulary Force Ordinance, Session 1, No. 9, New Munster.

13. Nothing in this Ordinance contained shall be deemed to repeal wholly or in part the Ordinance of the Legislative Council of New Zealand, Session 1, No. 9, New Munster, intituled an ordinance to increase the efficiency of the Constabulary Force: but no person shall be liable to be punished for the same offence under the said ordinance and this ordinance.

Appeal to the Supreme Court.

14. 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.

15. 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, and the word animal shall be taken to mean any bull, ox, cow, heifer, steer, calf, sheep, lamb, hog, pig, sow, and goat, upon or with respect to which any offence may be committed.

Short Title.

16. This Ordinance shall be termed and may be cited and referred to as the "Vagrant 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.