

New Zealand.



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1884, No. 24.

Title.

AN ACT to consolidate the Laws for the Suppression of Various Offences and in Restraint of Vagrancy. [6th November, 1884.
BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act is "The Police Offences Act, 1884," and it shall come into force on the first day of January, one thousand eight hundred and eighty-five.

Commencement of Act.

Interpretation.

2. In this Act, if not inconsistent with the context,—

"Aboriginal native" or "Native" means an aboriginal native of New Zealand, and includes any half-caste living with aboriginal natives according to their customs and usages:

"Imprisonment" means imprisonment with or without hard labour at the discretion of the convicting Justice:

"Justice" means a Justice of the Peace:

"Local authority" means the body or persons in whom the property in any public place is vested, or who have the management or control over any public place, as defined in this Act:

"Public place" includes and applies to every road, street, footpath, footway, court, alley and thoroughfare, of a public nature, or open to or used by the public as of right, and to every place of public resort so open or used.

PART I.

GENERAL POLICE PROVISIONS.

Penalty on offences relating to good order, nuisances, and obstructions, in public places.

3. Any person guilty of any of the following offences is liable for every such offence, omission, or neglect to a penalty not exceeding five pounds, that is to say:—

- (1.) Throws or places any glass, filth, dirt, rubbish, or other matter of a similar nature, or any earth, stones, or other material, upon any public place;
- (2.) Rides or drives, or wheels any truck, barrow, or carriage of any kind upon or along any public footpath, or carries any load on his shoulders or otherwise, to the danger or obstruction of persons using such footpath;
- (3.) Places any hoarding, scaffolding, timber, bricks, or other building materials upon any public place without having first obtained the permission of the local authority;
- (4.) Leaves standing or lying upon any part of a public place any truck, wheelbarrow, or other similar thing, or any packing-case, crate, basket, cask, barrel, package, or any other incumbrance;
- (5.) Burns any litter, straw, shavings, or other combustible materials upon any public place, or on any open space near any building, and so as to endanger such building;
- (6.) Leaves any inflammable materials or matter in any public place, or on any open space near any building, without having first obtained the permission of the local authority;

- (7.) Draws or trails any sledge, timber, or any other heavy material in or upon any public place to the injury of or material damage to such public place ;
- (8.) Allows the drippings of the eaves of any house to fall upon any public footpath or footway ;
- (9.) Opens any drain or sewer, or removes the surface of any public footpath, public footway, or public carriage road, or makes any cellar door or other opening from the footway of any public place, without having first obtained the permission of the local authority ;
- (10.) Has any awning or show-board or sign-board on any public footpath or footway not being eight feet clear above such footpath or footway, or hangs any goods on or under such awning over such footpath or footway ;
- (11.) Exposes for sale any article whatsoever on or outside of any shop-window or doorway abutting on any public place, so as to encroach thereon ;
- (12.) Suspends or places any carcase, meat, or offal so as to overhang any part of a public place ;
- (13.) Neglects to clean any private yard, way, passage, or avenue, by which neglect a nuisance, by offensive smell or otherwise, is caused ;
- (14.) Empties any privy or cesspool, or carts away any night-soil or other offensive matter, without a license from, and without having given such security as may be required by, the local authority ;
- (15.) Spills or casts, or allows to be spilt or cast, into or upon any public place, any nightsoil or other offensive matter ;
- (16.) Sells or exposes for sale, or has in possession with intent to sell, any unwholesome meat, fish, game, poultry, or fruit, or vegetables, or milk ;
- (17.) Slaughters, except in cases of inevitable necessity, or skins any animal upon any public place, or permits any slaughtered animal or skin to remain there, or leaves any dead animal on such place ;
- (18.) Throws or leaves any dead animal or part thereof, or animal remains, or offensive matter of any kind upon any public place, or into any river, creek, stream, or other water, or on the bank thereof ;
- (19.) Suffers any dead animal or any part thereof to remain unburied upon his land or on premises in his occupation adjacent to any public place, so as to become a nuisance ;
- (20.) Neglects to bury or cause to be buried the body or part of the body of any animal belonging to him, or in his charge or keeping, that may have died while straying, or while being driven from any one place to another ;
- (21.) Exposes in any public place (except in any fair or market lawfully appointed for that purpose) any horse or other animal for show, hire, or sale ; or shoes, bleeds, or dresses any horse in any public place ;
- (22.) Permits any horse to serve a mare for breeding purposes, or permits a mare to be brought to a horse, or a horse to be

- brought to a mare, in order to ascertain if she is in season for taking the horse for breeding purposes, in or within sight of any public place ;
- (23.) Rolls any cask, beats any carpet, flies any kite, uses any bows and arrows, or catapult, or shanghai, or plays at any game to the annoyance of any person in any public place, or obstructs any public place whether by allowing any cart or animal to remain across such public place or by placing goods thereon or otherwise ;
- (24.) Wantonly or maliciously disturbs any inhabitant by ringing any door-bell, knocking at any door, blowing any horn, beating any drum, using any other noisy instrument in any public place, or ringing any fire-bell ;
- (25.) Places any placard or other document, writing, or painting on or otherwise defaces any house or building, or any wall, fence, lamp-post, or gate, without the consent of the occupier or owner thereof ;
- (26.) Throws or discharges any stone or other missile to the damage or danger of any person or property ;
- (27.) Blasts any rock, stone, or timber in or near any public place without permission of the local authority, or does not attend to any directions in regard thereto given by such local authority ;
- (28.) Discharges any firearms without reasonable cause, or sets off any fireworks or explosive material, in or on any public place, or so near thereto as to endanger, annoy, or frighten the passers-by ;
- (29.) Uses any threatening, abusive, or insulting words or behaviour in any public place within the hearing or in the view of passers by, with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned ;
- (30.) Disturbs any congregation assembled for public worship, or any public meeting, or any meeting for any lecture, concert, or entertainment, or any audience at any theatre, whether money is charged or not for such lecture, concert, entertainment, or theatre ; or interferes with the orderly conduct of any religious service in any church, chapel, cemetery, burial-ground, or other building or place.

Penalty on persons
committing offences
on public places, &c.

4. Any person who commits any of the following offences in or upon any public place is liable to a penalty not exceeding ten pounds, that is to say,—

- (1.) Who, being the driver, rides on any cart, dray, or wagon, without reins, no competent person having charge of the animal drawing the same ; or is away from his horse or cattle, so as to be unable to have the full control thereof ;
- (2.) Who acts as driver or has the sole charge of more than one vehicle, unless in cases where two of such vehicles and no more are drawn each by one horse only, and the horse of the hinder of such vehicles shall be attached by a sufficient rein to the back of the foremost of such vehicles ;
- (3.) Who drives any vehicle whatever or rides any animal and,

when meeting any other vehicle or animal, does not keep on the left or near side of the road or street, or, when passing any other vehicle or animal going in the same direction, does not go or pass, or does not allow any person desirous so to do to pass, when practicable, on the right or off side of such other vehicle or animal ;

- (4.) Furiously or negligently rides or drives any animal or vehicle, or any engine, carriage, or conveyance of any kind ;
- (5.) Drives any vehicle laden with any goods or material which project on either side more than five feet from the centre of such vehicle ;
- (6.) Drives or allows to stand any cart, coach, or other vehicle with the curtain, covering, or awnings thereof unfastened and liable to be flapped about by the wind so as to frighten, or be calculated to frighten, horses ;
- (7.) Who, being the driver or guard of a public vehicle for the conveyance of passengers, allows more passengers to enter or remain in or upon such vehicle than it is licensed to carry, or wilfully delays on the road, uses any abusive or insulting language to any passenger, or, by reason of intoxication, negligence, or other misconduct, endangers the safety or property of any passenger or other person, or demands or exacts more than the proper fare due from any passenger ;
- (8.) Drives any dog or goat harnessed or attached to any vehicle ;
- (9.) Permits any cattle to be at large, or without proper guidance, or to wander, or to be herded or grazed, or unlawfully obstructs or prevents the driving of any cattle ;
- (10.) Sets on, urges, or permits any dog or other animal, whether or not being the owner of such dog or animal, to fight, attack, or worry any other dog, or to attack or worry or put in fear any person or animal, or, by ill-usage or negligence in driving any cattle, causes any mischief to be done by such cattle ;
- (11.) Leaves any plough, harrow, cart or other vehicle without reasonable excuse ;
- (12.) Wilfully or negligently incumbers or obstructs a public place in any manner not before specially described.

The word "cattle," in this section, means and includes any horse, mare, gelding, colt, filly, ass, mule, bull, cow, ox, heifer, steer, calf, sheep, ram, ewe, lamb, goat, and pig of any kind.

5. Any person who commits any of the next following offences shall be liable to a penalty not exceeding twenty pounds, or be imprisoned for any period not exceeding three months, or both, in the discretion of the Justice before whom the case is heard, that is to say, who—

- (1.) Places any obstruction in or upon any public place, or in or upon any canal or river, whereby life or limb is likely to be endangered ;
- (2.) Leaves any hole, excavation, or dangerous formation in, upon, or near any public place without fencing or enclosing the

Penalty on offences tending to personal injury.

same, or keeping a light burning upon such enclosure from sunset to sunrise;

- (3.) Does not keep in good repair any rail, gate, fence, or cover over or about any area or entrance to any cellar or other place opening into or upon or near any public place or, keeps open for more than a reasonable time for taking in or out any articles any entrance to any such area, cellar, or other place;
- (4.) Throws any offensive matter, or any live animal with the intention of drowning it, into any river, watercourse, canal, or other place whence the supply of water for the use of the inhabitants is obtained.

Penalty on persons guilty of wilful destruction of property, whether public or private.

6. Any person who commits any of the next following offences, for every such offence, is liable to a penalty not exceeding ten pounds, or to imprisonment for a period not exceeding three months, that is to say, who—

- (1.) Wilfully breaks any pane of glass in the window of any building;
- (2.) Wilfully extinguishes or injures or breaks any lamp, or wilfully breaks or injures any lamp-post;
- (3.) Wilfully trespasses in any place, and neglects or refuses to leave such place after being warned to do so by the owner or any person authorized by or on behalf of the owner;
- (4.) Wantonly or maliciously defaces, injures, or removes any door-plate, or other plate or board with any name or notice thereon, or any bell, knocker, sign-board, or gate;
- (5.) Wilfully sets on fire any timber, bush, scrub, grass, fern, flax, or other vegetation upon any land not his own property or in his own occupation.

Penalty for cruelty to animals.

7. Any person who commits any of the next following offences shall, on conviction thereof, be liable to a penalty not exceeding twenty pounds, or to imprisonment for any period not exceeding two months, that is to say,—

- (1.) Any person who cruelly beats, ill-treats, overdrives, overloads, abuses, or tortures any animal, as hereinafter defined, or, being the owner of or having the charge of such animal, omits to supply any such animal with proper and sufficient food, water, or shelter;
- (2.) Any person who keeps or uses or acts in the management of any place for the purpose of fighting or baiting any kind of such animal, or permits or suffers any place to be so used, and any person who receives money for the admission of any other person to any place kept or used as aforesaid;
- (3.) Any person who in any manner encourages, aids, or assists at the fighting or baiting of any such animal; and
- (4.) Any person who slaughters, brands, conveys, or carries, or causes to be slaughtered, branded, conveyed, or carried, any such animal in such a manner or position as to subject such animal to unnecessary pain or suffering.

The word "animal," in this and the next succeeding section, means and includes any beast or bird of any kind or species whatever,

and whether of domestic or wild nature, and whether indigenous or imported into the colony :

Provided that, if any conviction under this section take place before a Resident Magistrate or any two or more Justices, such Magistrate or Justices may, instead of inflicting a money penalty, forthwith sentence the offender to be imprisoned for any period not exceeding six months.

8. Any person who does or omits to do, or causes or procures to be done or omitted to be done, any act the commission or omission of which is constituted an offence under the last-preceding section, and thereby does any damage or injury to any such animal, or thereby causes any damage or injury to be done to any person or to any property, shall pay to the owner of such animal or property (if the offender be not the owner thereof), or to the person who shall sustain damage or injury as aforesaid, such sum of money by way of compensation, not exceeding the sum of twenty pounds, as shall be ascertained and determined by the Justice by or before whom such person is convicted.

Liability for damage done through cruelty.

9. The payment of such compensation, or any imprisonment for the non-payment thereof, shall not prevent or in any manner affect any penalty or punishment to which any person may be liable for or in respect of any offence committed by him under section seven.

Payment of compensation not to prevent punishment

And nothing herein contained shall prevent any proceeding by action against any offender or the employer of such offender, when the amount of damage or injury is not sought to be recovered under this Act.

nor proceeding by action.

Every information or complaint in respect of an offence under sections seven or eight shall be laid or made within one month after the cause of offence or complaint arises.

10. Any constable may enter at any time into any sale-yard or place where animals are usually sold or kept for the purposes of sale, and may inspect the condition of such yard or place, and of any animal found therein, and of the appliances for the comfort, food, or shelter for such animals. Any person hindering such constable from so entering and inspecting shall be guilty of an offence against this Act, and shall for every such offence be liable to a penalty not exceeding ten pounds.

Constables may inspect saleyards, &c.

11. Whenever any offence against any of the provisions of section seven shall be committed,—

Apprehension. Warrant may issue forthwith. Limitation.

Any constable, upon his own view thereof, shall, or, upon the complaint of any other person who shall declare his or her name or place of abode to the said constable, may, take such offender into custody and forthwith, without any other authority or warrant, convey him before a Justice :

Any Justice may, without previously issuing any summons, forthwith issue his warrant for the apprehension of any person charged with any offence under the last aforesaid sections, whenever good grounds for so doing shall be stated on oath before such Justice.

12. Whenever any person having charge of any vehicle or any animal is taken into custody by any constable for any offence against the provisions of sections seven or eight, such constable may take

Vehicles, &c., may be detained.

charge of such vehicle or animal and deposit the same in some place of safe custody as a security for payment of any penalty to which the person having had charge thereof, or the owner thereof, may become liable, and for payment of any expenses which may have been or may be necessarily incurred for taking charge of and keeping the same; and any Justice before whom the case is heard may order such vehicle or such animal to be sold for the purpose of satisfying such penalty and reasonable expenses, in default of payment thereof, in like manner as if the same had been subject to be and had been distrained for the payment of such penalty and expenses.

Killing of animals.

13. If it shall be made to appear to any Justice of the Peace or Resident Magistrate, by personal inspection, or by the testimony of a competent witness, that any animal impounded in any pound, or found elsewhere, is in such a weak, disabled, or diseased state that it ought to be killed, it shall be lawful for him, by writing under his hand, to order that the said animal shall be forthwith killed; and such order shall be sufficient authority to the Poundkeeper or owner of such animal, or any other person authorized by the said Justices or Resident Magistrate, to kill the same.

Special constables may be appointed to prevent cruelty.

14. Any Resident Magistrate or any two or more Justices may appoint, in writing under his or their hands, any officer, agent, or servant of any society for the prevention of cruelty to animals to be a special constable, to act for such time and within such limits as may be appointed, and such special constable shall, during such time and within such limits as his appointment extends, have, exercise, and enjoy all such powers, authorities, advantages, and immunities, and be liable to all such duties and responsibilities, as any constable duly appointed now has by the common law of England or of any Act in force in the colony, and shall be deemed to be a constable within the meaning of sections ten and eleven.

Penalty for laying poison in or near public places, or on another person's premises.

15. Any person who throws, casts, drops, or lays, or causes or procures to be thrown, cast, dropped, or laid, any poison—

- (1.) On or in any public place, or any place adjacent thereto, in any borough or town district, or on or within three chains of any highway outside of any borough or town district; or
- (2.) On any land or premises anywhere, not in his own actual occupation; or
- (3.) Buries any poison in any land at less than two feet from the surface thereof,

shall, for every such offence, be liable to a penalty not exceeding ten pounds.

Nothing in this enactment shall affect or control any of the provisions of "The Rabbit Nuisance Act, 1882."

Penalty for trading, &c., on Sunday.

16. Any person who on Sunday, in or in view of any public place, trades, works at his trade or calling, deals, transacts business, or exposes goods for sale, or keeps open to public view any house, store, shop, bar, or other place for the purpose of trading, dealing, transacting business, or exposing goods for sale therein, shall be liable to a penalty not exceeding one pound.

But nothing herein contained shall apply to works of necessity or charity, or the driving of live stock, or the sale of medicines, or the sale or delivery of milk, or to hairdressers or barbers before nine

o'clock in the forenoon, or to persons driving any public or private carriage or cab, or to persons employed in the working of railway trains or tram cars, or cable lines, or on steamers, vessels, or boats, or to any livery stable-keeper, or to any person letting boats for hire, or to any person employed in or in connection with any telegraph or post office, or to any person employed in preparing, printing, and publishing a daily paper.

17. In any case where, under this Part of this Act, any offence is created, and it appears to the Justice before whom the complaint or information against any person for the commission of any such offence may be heard that the person committing the same has acted only under the orders or by the sanction of any master or employer of any such person, and that such master or employer is, in fact, the offending party either solely or as well as such person so rendered liable, such Justice may summon and proceed against such master or employer as if the information or complaint had originally been laid or made against any such master or employer, and may either discharge such person so first informed or complained against, or may otherwise proceed against both, as such Justice may see fit.

Masters made liable where servants have acted under their orders.

PART II.

INDECENCY AND VAGRANCY.

18. For the purposes of Part II. of this Act, the words "public place" shall, in addition to the meaning assigned to the said words in section two of this Act, be deemed to include—

Extended interpretation of "public place."

- Any public park, garden reserve, or other place of public recreation or resort; or
- Any railway station, platform, or carriage; or
- Any public wharf, pier, or jetty; or
- Any passenger ship or boat plying for hire; or
- Any licensed public vehicle plying for hire; or
- Any church, chapel, or other public building, where Divine service is being publicly held; or
- Any public hall, theatre, or room in which any public concert, theatrical representation, or other public entertainment is being held or performed, or is taking place; or
- Any market; or
- Any auction room, or mart, or place, while a sale by auction is there proceeding; or
- Any open bar in the premises of any licensed publican, whether under an annual or temporary license; or
- Any racecourse, cricket-ground, football-ground, or other such place, to which the public have access free or on payment of any gate-money; or
- Any public place within the meaning of the same words in section two of this Act.

Drunkenness and Riot.

19. Every person found drunk in any public place—

On a first conviction, shall be liable to a penalty of not more than twenty shillings, and, in default of payment thereof,

Penalty on persons found drunk.

may be imprisoned for any period not exceeding forty-eight hours ;

On a second conviction within a period of six months, shall be liable to a penalty not exceeding three pounds, and in default may be imprisoned for any period not exceeding seven days ;

On a third conviction within such period of six months, shall be liable to be imprisoned for any period not exceeding fourteen days, or, at the discretion of the convicting Justice, to a penalty not exceeding five pounds, and fourteen days' imprisonment in case of default ; and

On any subsequent conviction within such period of six months, shall be deemed to be a habitual drunkard, and shall be liable to be imprisoned for any period not exceeding three months.

Penalty on persons found drunk while in charge of horses, &c., or loaded firearms.

20. Every person who is drunk while in charge, on any public place, of any carriage, horse, cattle, or steam-engine, or when in possession of any firearms and ammunition, or who, while drunk, is guilty of riotous or disorderly behaviour on or in any public place, shall be liable to a penalty of not more than ten pounds, or, in the discretion of the convicting Justice, to imprisonment for any term not exceeding three months.

Drunken persons to be visited while in custody.

21. Where any person shall be arrested in a state of helpless drunkenness—

(1.) It shall be the duty of the constable for the time being in charge of such person, until such person shall be brought before a Justice, to visit the said person from time to time, so that not more than three hours shall intervene between any two of such visits. Proper remedies shall be used in order that such person shall not perish from cold or exhaustion, and, if the senior constable present shall think it necessary, medical assistance shall be procured without delay for such person.

Magistrate may remand such persons to hospital or elsewhere for treatment.

(2.) The Justice before whom any such person as aforesaid shall be brought may, if he shall think fit, remand such person for not more than seven days, and thereafter for such further time as he shall think proper, to some hospital, infirmary, or other fitting place for curative treatment and care.

When any person shall be so remanded, he shall be deemed to be in the custody of the gaoler, and he may be brought from the place to which he has been sent, and taken before any Justice, to be proceeded against for the offence in respect of which he was originally arrested.

Expenses and cost of maintenance to be paid by persons arrested.

All expenses incident in either of such cases, and the cost of his maintenance in any hospital, infirmary, or other place to which he may have been sent for curative treatment, shall be paid by such person, and shall be recovered from him in a summary way.

Any Justice before whom he shall be brought, either in the first instance or at any time thereafter, shall make an order for payment of such expenses, when ascertained, separate from any other order made by him or any other Justice in respect of such person or his offence.

In default of payment of such expenses and cost of maintenance, such person may be imprisoned for any term not exceeding three months.

22. Any person who keeps or has any house, shop, room, tent, or place of public resort wherein provisions or liquors of any kind are sold or consumed, and knowingly permits or suffers prostitutes or persons of notoriously bad character to meet together and remain therein, shall, for every such offence, be liable to a penalty of not more than ten pounds.

Penalty on keepers of refreshment-houses not properly conducting them.

23. Any common prostitute—

- (1.) Who loiters and importunes passengers in or upon any public place for the purpose of prostitution, shall, for every such offence, be liable to a penalty of two pounds, or to imprisonment for any term not exceeding one month :
- (2.) Who behaves in a riotous or indecent manner in any public place, shall be liable to imprisonment for any time not exceeding three months.

Prostitutes importuning passengers, or being riotous.

Obscenity.

24. Any person who commits any of the next following offences shall be liable to imprisonment with hard labour for any time not exceeding one year :—

Exposing for sale, &c., obscene pictures, prints, books, &c.

- (1.) Wilfully offers for sale or for distribution, or exhibits to public view in any public place, or who exposes or causes to be exposed to view in the window or other part of any shop or other building situate in any public place, any indecent, or obscene book, paper, writing, print, picture, drawing, or representation ;
- (2.) Sings any obscene song or ballad, or writes or draws any indecent or obscene word, figure, or representation, or uses any profane, indecent, or obscene language, in any public place, or within the view or hearing of any person passing therein, or residing in such public place ;
- (3.) Wilfully and obscenely exposes his person in any public place or within the view thereof, or wilfully does any grossly indecent act in any such place, or within the view thereof, whether alone or with any other person.

25. Every male person accused of or charged with any offence under subsection three of the last-preceding section shall be brought before a Resident Magistrate or two or more Justices.

Penalty for exposure of person or grossly indecent acts.

If such Resident Magistrate or Justices, after hearing the evidence, be of opinion that such person can be sufficiently punished under the last-preceding section, the said Resident Magistrate or Justices may deal with the case in a summary way.

But if such Resident Magistrate or Justices consider that the offence is one which, if proved, would be deserving of additional punishment, then the person so charged may be committed for trial as for an indictable offence, in the ordinary way, to the next sittings of the nearest Court of competent jurisdiction ; and upon the conviction of such person before the said Court he may, in addition to the whole or any part of the punishment provided for under this Act,

Flogging.

be ordered to be once or twice privately whipped, in the manner and subject to the conditions provided by "The Offences against the Person Act Amendment Act, 1874," but so that the number of strokes to be inflicted in any case shall not exceed twenty-five at each whipping: Provided further that no such whipping shall form part of his sentence, unless it shall have been recommended by the jury.

Idle and Disorderly Persons.

Vagrants, &c.

26. Any person who commits any of the next following offences shall be deemed an idle and disorderly person within the meaning of this Act, and shall be liable to the punishment next hereinafter mentioned:—

- (1.) Who, having no visible lawful means or insufficient lawful means of support, on being thereto required by any Justice, or who having been duly summoned for such purpose, or brought before any Justice in pursuance of the provisions of this Act, does not give a good account of his means of support to the satisfaction of such Justice;
- (2.) Who is the occupier of any house which is 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 does not give a good account of his lawful means of support, and also of his being in such house upon some lawful occasion;
- (3.) Who wanders abroad, or places himself in any public place, to beg or gather alms, or causes or procures or encourages any child so to do,

shall be liable to imprisonment for any time not exceeding three months.

Persons armed by night or wearing disguises.

27. Any person who commits any of the next following offences shall be deemed an idle and disorderly person within the meaning of this Act, and shall be liable to the punishment next hereinafter mentioned:—

- (1.) Who is found by night armed with any gun, pistol, sword, bludgeon, or other offensive weapon or instrument, and who, being thereto required by any Justice, does not give a good account of his means of support, and assign a valid and satisfactory reason for his being so armed;
- (2.) Who has on or about his person, without lawful excuse (the proof of which excuse shall be on such person), any deleterious drug, or any articles of disguise,

shall be liable to imprisonment for any time not exceeding six months; and every such gun, pistol, sword, bludgeon, or other offensive weapon or instrument, and every such deleterious drug, and article of disguise as aforesaid shall, by the conviction of the offender, become forfeited to Her Majesty.

Rogues and Vagabonds.

Impostors, loiterers, and housebreakers.

28. Any person who commits any of the next following offences

shall be deemed a rogue and vagabond within the meaning of this Act, and be liable to the punishment next hereinafter mentioned:—

- (1.) Who commits any of the offences in this Part of this Act before mentioned, having been previously convicted as an idle and disorderly person;
- (2.) On being apprehended as an idle and disorderly person, violently resists any constable or other peace officer so apprehending him, and is subsequently convicted of the offence for which he shall have been so apprehended;
- (3.) Solicits, gathers, or collects alms, subscriptions, or contributions under any false pretence;
- (4.) Imposes or endeavours 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;
- (5.) Plays or bets in any public place, at or with any table or instrument of gaming, at any game or pretended game of chance;
- (6.) Has 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;
- (7.) Is armed with any gun, pistol, sword, bludgeon, or other offensive weapon or instrument, with a felonious intent;
- (8.) Is found by night having his face blackened, or wearing felt or other slippers, or is dressed or otherwise disguised with a felonious intent;
- (9.) Is found by night, without lawful excuse (the proof of which excuse shall be on such person), in or upon any dwellinghouse, warehouse, coach-house, stable, or out-house, or in any enclosed 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 colony;
- (10.) Who, being a suspected person or reputed thief, frequents any port or harbour, river, canal, navigable stream, dock or basin, or any quay or wharf, or any other public place, or any house, building, or other place adjacent to any such port or harbour, river, canal, navigable stream, dock or basin, or quay or wharf, with intent to commit felony,

shall be liable to imprisonment with hard labour for any time not exceeding one year; and every such picklock-key, crow, jack, bit, or other implement, and every such gun, pistol, sword, bludgeon, or other offensive weapon or instrument as aforesaid shall, by the conviction of the offender, become forfeited to Her Majesty.

Incorrigible Rogues.

29. Any person who commits any of the next following offences shall be deemed an incorrigible rogue, and be liable to the punishment next hereinafter mentioned:—

- (1.) Breaks or escapes out of any place of legal confinement

Persons guilty of prison-breaking and repeated offences may be dealt with summarily,

before the expiration of the term for which he shall have been committed;

(2.) Commits any offence against this Part of this Act which shall subject him to be dealt with as a rogue and vagabond, such person having been previously convicted as a rogue and vagabond;

(3.) Is apprehended as a rogue and vagabond and violently resists any constable or other peace officer so apprehending him, and is subsequently convicted of the offence for which he shall have been so apprehended,

shall be liable to imprisonment with hard labour for any term not exceeding two years:

or committed for trial.

Or the Justice before whom the accused person is charged, at his discretion, may order that such offender be committed to the nearest prison, there to remain until the next sittings of the Supreme Court or of the District Court, whichever shall then next be held in the district wherein or nearest to which the said offence shall be committed; and every offender who shall be so committed as aforesaid shall be there kept to hard labour during the period of his imprisonment.

Punishment of incorrigible rogues by District or Supreme Court.

30. When any incorrigible rogue is committed to any prison, there to remain until the next sitting of the Supreme Court or District Court, such Court may examine into the circumstances of the case in a summary way, and, upon conviction, may order that such offender be further imprisoned and be kept to hard labour for any time not exceeding three years from the time of making such order.

Apprehension, &c.

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

31. Any Justice, upon information on oath that any person, hereinbefore described to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, is or 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, may enter the same at any time, by day or night, or may issue his warrant authorizing any constable or other person in like manner to enter the same and to apprehend and bring before him or any other Justice every such idle and disorderly person, rogue and vagabond, or incorrigible rogue as shall be found therein, to be dealt with in the manner herein directed.

Constable may seize property, &c., of offenders.

32. Any constable or other person apprehending any person charged with being an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, may seize any horse or other cattle, or any vehicle, or goods in the possession or use of such person, and may take and convey the same, as well as such person, before a Justice.

Justice may direct offenders to be searched and property sold for maintenance in prison, &c.

33. Any Justice by whom any person shall be adjudged to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue may 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 the said Justice may order that any money which may then be found with or upon such offender be paid and applied for and

towards the expense of apprehending and conveying to 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 are detained.

If upon such search money sufficient for the purposes aforesaid be not found, any Justice may order that such horse, cattle, and so much as is necessary of such other effects then found be sold, and that the produce of such sale be paid and applied as aforesaid; and also that the overplus of such money or effects, after deducting the charges for such sale, be returned to the said offender.

34. Any person whosoever, with or without warrant, may apprehend any person found offending against the provisions of this Part of this Act, and forthwith take and convey him before some Justice, to be dealt with in such manner as in this Part of this Act directed, or may deliver him to any constable to be so taken and conveyed and dealt with.

Apprehension of offenders under Part II.

PART III.

MISCELLANEOUS.

35. Any constable, and all persons whom he shall call to his assistance, may take into custody, without a warrant,—

Any person who, within view of any such constable, shall offend in any manner against this Act, and whose name and residence shall be unknown to such constable and cannot be ascertained by him;

All loose, idle, and disorderly persons whom he shall find disturbing the public peace, or any person whom he shall have good cause to suspect of having committed, or being about to commit, any felony, misdemeanour, or breach of the peace.

36. Any constable may take into custody, without a warrant, any person who shall be charged by any other person with committing any aggravated assault in every case in which such constable shall have good reason to believe that such assault has been committed, although not within view of such constable, and that by reason of the recent commission of the offence a warrant could not have been obtained for the apprehension of the offender.

Apprehension of offenders whose names not known, loiterers, &c.

Apprehension of persons charged with recent assaults.

37. If any person disturb or hinder any constable or other person in the execution of this Act, every 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 for any time not exceeding three months, or until such fine be paid.

Penalty for obstructing officers or others.

38. If any person resist or assault, or wilfully obstruct, or incite or encourage any person to resist, assault, or obstruct, any constable in the execution of his duty, or any person acting in aid of such constable, such person may be taken into custody, without warrant, by any constable, and on conviction shall be liable to a penalty not exceeding twenty pounds, or be liable to imprisonment for any period not exceeding three months.

Penalty for assaulting or resisting constables, &c.

Penalty on constable for a neglect of duty.

39. Any constable who refuses or wilfully neglects to take such offender into custody, or to take and convey him before some Justice, or who does not use his best endeavours to apprehend and to convey before some Justice any person that he shall find offending against this Act, shall be deemed guilty of a neglect of duty, and on conviction, if such person have been found offending against Part I. of this Act, shall, for every such offence, be liable to a penalty not exceeding five pounds; and, if such person have been found offending against Part II. of this Act, to a penalty not exceeding twenty pounds, and, in default of payment of such last-mentioned sum forthwith, may be imprisoned for any term not exceeding three months, or until such fine be paid.

Summary proceedings.

40. All offences and all penalties under this Act, when not otherwise provided for, may be heard and determined and recovered in a summary way before one Justice, either on the view of such or any other Justice, or the confession of the offender, or the oath of any credible witness:

Person charged under Part II., may have his case heard by two Justices.

Provided that any person who shall be charged with any offence whatever under Part II. of this Act shall be entitled to have his case heard by a Resident Magistrate or two Justices, if he shall declare to any Justice before whom he is taken that he desires to have the case so heard, and he shall be taken with the least possible delay before a Resident Magistrate or two Justices accordingly.

Offence may be set forth in words of Act.

41. In every complaint or information, and in every conviction or warrant of commitment, it shall be sufficient to set forth the offence or cause of complaint, as the case may be, in the words of this Act.

Proving intent to commit a felony.

42. In proceedings under this Act, in proving the intent to commit a felony it shall not be necessary to show that the person suspected was guilty of any particular act or acts tending to show his purpose or intent, and he may be convicted if, from the circumstances of the case, and from his known character as proved to the Justices or Court before whom or which he is brought, it appears to such Justices or Court that his intent was to commit a felony.

Offences of a serious nature not to be tried under this Act.

43. If any Justice before whom any information shall be brought under this Act shall be of opinion that the offence so charged does not properly come within the meaning and intention of this Act, but that an indictable offence has been committed, such Justice shall refuse to entertain any such information and complaint as under this Act, and shall deal with such information and complaint if such indictable offence had been directly charged in any such information or complaint, whether the person charged has pleaded or not to such information or complaint.

Want of form, no *certiorari*.

44. No proceeding under this Act, and no information, conviction, warrant, order, or other proceeding shall be removed into the Supreme Court by *certiorari* or otherwise.

Act not to affect any penalty imposed by any other law.

45. Nothing herein contained shall be construed to prevent any person from being indicted for any indictable offence, or to prevent any person from being liable under any law in force to any other penalty or punishment than is provided for such offence by this Act, so nevertheless that no person be punished twice for the same offence.

Police officer may prosecute in all proceedings.

46. Any police officer in any district, although not the informant

or complainant, may appear and act in Court on behalf of the prosecution in all proceedings under this Act.

47. Nothing contained in this Act shall be deemed to repeal wholly or in part—

(1.) Any of the provisions of any Act not mentioned in the Schedule and now in force :

(2.) Any by-laws made by any local authority and now in force, not in conflict with the provisions of this Act, nor to take from, lessen, or alter any power to make or adopt by-laws, not in conflict with the provisions of this Act, or to grant licenses or any other powers or privileges now possessed by any local authority or other authority or body, but the same may be exercised and enjoyed to the same extent as if this Act had not been passed.

Saving of other Acts.

Act not to interfere with powers of local authorities.

But this enactment shall be read subject to the provisions of section forty-five.

48. The Acts, enactments, and Provincial Ordinances the Titles or Short Titles of which are set forth in the Schedule herefo are to the extent therein mentioned hereby repealed, so far as the same may be in force in the colony.

Repeals.

SCHEDULE.

Schedule.

IMPERIAL ACTS REPEALED.

- 1 Cha. I., c. 1.—An Act for punishing of Divers Abuses committed on the Lord's Day, called Sunday.
 3 Cha., I. c. 2.—An Act for the Further Reformation of Sunday Abuses committed on the Lord's Day, commonly called Sunday.
 29 Cha. II., c. 7.—An Act for the Better Observation of the Lord's Day, commonly called Sunday.

COLONIAL ACTS AND ORDINANCES REPEALED.

(1.) *Ordinance of the Lieutenant-Governor and Legislative Council of New Munster.*
 1849, No. 9.—An Ordinance to increase the Efficiency of the Constabulary Force.

(2.) *Acts of the General Assembly.*

- 1866, No. 10.—The Vagrant Act, 1866.
 1869, No. 53.—The Vagrant Act 1866 Amendment Act, 1869.
 1882, No. 9.—The Vagrant Act 1866 Amendment Act, 1882.
 1873, No. 12.—The Assaults on Constables Act, 1873.
 1880, No. 11.—The Cruelty to Animals Act, 1880.
 1881, No. 21.—The Licensing Act, 1881. *In part, namely, sections one hundred and forty-three, one hundred and forty-four, and one hundred and forty-five.*

(3.) *Acts of the Province of Auckland.*

- 1866, Sess. XIX., No. 11.—The Rural Police Act, 1866.
 1866, Sess. XIX., No. 15.—The Municipal Police Act, 1866.
 1868, Sess. XXII., No. 2.—The Municipal Police Act 1866 Amendment Act, 1868.
 1870, Sess. XXV., No. 2.—The Municipal Police Act 1866 Amendment Act, 1870.
 1871, Sess. XXVII., No. 10.—The Municipal Police Act 1866 Amendment Act, 1871.

(4.) *Ordinances of the Province of Taranaki.*

- 1862, Sess. X., No. 15.—The Municipal Police Ordinance, 1862.
 1874, Sess. XXIII., No. 2.—The Lotteries Ordinance, 1874.

(5.) *Acts of the Province of Hawke's Bay.*

- 1864, Sess. VIII., No. 3.—The Police Act, 1864.
 1870, Sess. XVI., No. 6.—The Police Act Amendment Act, 1870.
 1872, Sess. XIX., No. 2.—The Police Act, 1872.

(6.) Act of the Province of Wellington.

1872, Sess. XXII., No. 5.—An Act to declare the Mode in which the Punishment of Offences created by Acts of the Superintendent and Provincial Council of Wellington shall be enforced, and for limiting the Amount of such Punishment.

(7.) Acts of the Province of Nelson.

1862, Sess. IX., No. 5.—The Poison Act, 1862.

1864, Sess. XII., No. 2.—The Bush Fires Act, 1864.

(8.) Acts of the Province of Marlborough.

1864, Sess. VIII., No. 2.—The Fires Prevention Act, 1864.

1865, Sess. XI., No. 2.—The Laying of Poison Regulation Act, 1865.

(9.) Ordinances of the Province of Canterbury.

1858, Sess. X., No. 1.—The Police Ordinance, 1858.

1862, Sess. XVII., No. 12.—The Police Amendment Ordinance, 1862.

(10.) Ordinances of the Province of Otago.

1862, Sess. XVI., No. 103.—The Town and Country Police Ordinance, 1862.

1863, Sess. XVII., No. 129.—The Town and Country Police Ordinance Extension and Amendment Ordinance, 1863.

1865, Sess. XXI., No. 214.—The Town and Country Police Ordinance Extension Ordinance, 1865.

1872, Sess. XXX., No. 377.—The Town and Country Police Ordinance, 1872.

1863, Sess. XVII., No. 124.—The Sunday Observance Ordinance, 1863.

1864, Sess. XIX., No. 166.—The Fire Prevention Ordinance, 1864.