

New Parliament.]

HOUSE OF REPRESENTATIVES.

[STATUTES REVISION COMMISSION.]

POLICE OFFENCES.

THIS Bill consolidates four Acts of the General Assembly relating to vagrancy and assaults on constables, that part of "The Licensing Act, 1881," which defines the punishment for drunkenness, and twenty-two Provincial Ordinances relating to police offences.

The existing Act relating to cruelty to animals has also been included in this Bill, because its provisions are cognate to the general scope of the measure.

Nearly all the provisions in the First Part of this Act have been the law in most parts of the country for the past thirty years, the Provincial Ordinances on these subjects being expansions of the New Munster Ordinance of 1849, which was in force throughout the colony, except in Auckland and Taranaki, where similar enactments were passed in 1862. We have thought it expedient, therefore, to incorporate in this Bill such portions of the law at present in force in different provincial districts as seemed to us of general application.

The whole of the general and provincial law at present existing is repealed, subject to certain exceptions.

The provisions of the Imperial Act, 29 Chas. II., c. 7, which prohibit arrests on Sunday, and the service of any legal process on such day, are preserved, as being the sole *general* law on this subject in force in the colony.

It will be for the Assembly to determine whether, except as above, the Sunday trading Acts of Charles I. and II. should be repealed. The citation of these in the Schedule to the Bill is made from the revised edition of the English statutes.

This Bill does not interfere with the powers now vested in local authorities to make by-laws in respect of certain classes of offences; but it is of course necessary that some provision should be made in respect of places where by-laws are not in force, or to which they do not extend. Express provision is made (sec. 42) saving all existing laws to a like effect, but stating that no person shall be punished twice for the same offence.

New matter is indicated in the usual way; and we now direct attention to certain details appearing in this Bill.

Clause 2 contains certain interpreted expressions. Attention is directed to the definitions of "local authority" and "public place." It is submitted these are so framed as to meet all necessary requirements.

Clauses 3, 4, and 5 contain certain provisions which are frequently the subject of by-laws, and some which are also included in the Public Works Act and other Acts; but it has been thought as well to let these stand in the Bill, as an independent power of procedure is given where the local authority fails to act, and also because, the offences in this Bill being in respect of "public places," a wider operation will be given to this measure than if it were

restricted merely to roads and streets. Instances of this double provision may be seen in clause 3, subsections (2), (7), and (9), which are also covered by section 102 of "The Public Works Act, 1882;" again, subsection (16), relating to the exposure of diseased meat or vegetables for sale, is provided for generally by "The Public Health Act, 1876" (secs. 80 and 81).

Clauses 7 to 11 contain the provisions of "The Cruelty to Animals Act, 1880."

Clause 12 contains provisions as to the laying of poison in boroughs and in places beyond their limits. We are led to understand that some such provisions as these are necessary, and we therefore recommend them for adoption. Enactments of a like nature are now in force in Nelson and Marlborough.

Clause 15 extends the interpretation of "public place" in the case of offences within Part II. This clause is adapted from the Act in force in the Colony of Victoria, which is quoted in the margin.

Clauses 16 to 18 are the sections from "The Licensing Act, 1881," relating to drunkenness, and are incorporated in this Act, as being their more proper place. To clause 14 is added the existing provision of "The Vagrant Act, 1866," extending the term of imprisonment for habitual drunkards, which is beyond the provisions of "The Licensing Act, 1881," but not in conflict therewith.

Clause 21 is not new, but the provisions of the Vagrant Acts of 1866 and 1869 relating to obscenity and indecency are here collected into one enactment.

In subsection (3) of this clause are inserted some words intended to reach cases not within the present law. We submit these for consideration by the Legislature.

Clause 25. The italics in subsection (10) are taken from the English Act, 34 and 35 Vict. (1871), c. 112.

Clause 26. The words in italic type are suggested for the purpose of making more clear the discretionary power of Justices to proceed by summary conviction, or, in gross cases, to commit for trial; the object of the latter part of the enactment being that offenders, when so committed, might be put to hard labour whilst awaiting trial. In England there is no discretionary power, but Justices must commit. (See 5 Geo. IV., c. 83, s. 5.)

Clause 39 is taken from the English Act of 1871 above mentioned. Its object is to remove doubts in the construction of the original English Act from which our Vagrant Act of 1866 was framed.

Clause 40 preserves the right to proceed by indictment where it may be thought the offence is of a more serious character than is covered by this Bill.

Clause 43 saves all provisions of existing Acts not hereby specifically repealed, as also all borough and other by-laws.

Clause 44 repeals the existing law as stated in the Schedule.

A. J. JOHNSTON.

W. S. REID.

[STATUTES REVISION COMMISSION.]

POLICE OFFENCES.

ANALYSIS.

<p>Title.</p> <p>1. Short Title. Commencement of Act.</p> <p>2. Interpretation.</p> <p style="text-align: center;">PART I.</p> <p style="text-align: center;">GENERAL POLICE PROVISIONS.</p> <p>3. Penalty on offences relating to good order, nuisances, and obstructions, in public places.</p> <p>4. Penalty on persons committing offences on public places, &c.</p> <p>5. Penalty on offences tending to personal injury.</p> <p>6. Penalty on persons guilty of wilful destruction of property, whether public or private.</p> <p>7. Penalty for cruelty to animals.</p> <p>8. Liability for damage done through cruelty.</p> <p>9. Payment of compensation not to prevent punishment nor proceeding by action.</p> <p>10. Apprehension. Warrant may issue forthwith. Limitation.</p> <p>11. Vehicles, &c., may be detained.</p> <p>12. Penalty for laying poison in or near public places, or on another person's premises.</p> <p>13. Penalty for trading, &c., on Sunday.</p> <p>14. Masters made liable where servants have acted under their orders.</p> <p style="text-align: center;">PART II.</p> <p style="text-align: center;">INDECENCY AND VAGRANCY.</p> <p>15. Extended interpretation of "public place." <i>Drunkenness and Riot.</i></p> <p>16. Penalty on persons found drunk.</p> <p>17. Penalty on persons found drunk while in charge of horses, &c., or loaded firearms.</p> <p>18. Drunken persons to be visited while in custody. Magistrate may remand such persons to hospital or elsewhere for treatment. Expenses and cost of maintenance to be paid by persons arrested.</p> <p>19. Penalty on keepers of refreshment-houses not properly conducting them.</p> <p>20. Prostitutes importuning passengers or being riotous. <i>Obscenity.</i></p> <p>21. Exposing for sale obscene pictures, prints, books, &c.</p>	<p>22. Penalty for exposure of person or grossly indecent acts. Flogging. <i>Idle and Disorderly Persons.</i></p> <p>23. Vagrants, &c.</p> <p>24. Persons armed by night or wearing disguises. <i>Rogues and Vagabonds.</i></p> <p>25. Impostors, loiterers, and housebreakers. <i>Incorrigible Rogues.</i></p> <p>26. Persons guilty of prison-breaking and repeated offences may be dealt with summarily, or committed for trial.</p> <p>27. Punishment of incorrigible rogues by District or Supreme Court. <i>Apprehension, &c.</i></p> <p>28. Lodging-houses, &c., may be searched.</p> <p>29. Constable may seize property, &c., of offenders.</p> <p>30. Justice may direct offenders to be searched and property sold for maintenance in prison, &c.</p> <p>31. Apprehension of offenders under Part II.</p> <p style="text-align: center;">PART III.</p> <p style="text-align: center;">MISCELLANEOUS.</p> <p>32. Apprehension of offenders whose names not known, loiterers, &c.</p> <p>33. Apprehension of persons charged with recent assaults.</p> <p>34. Penalty for obstructing officers or others.</p> <p>35. Penalty for assaulting or resisting constables, &c.</p> <p>36. Penalty on constable for a neglect of duty.</p> <p>37. Summary proceedings. Person charged under Part II. may have his case heard by two Justices.</p> <p>38. Offence may be set forth in words of Act.</p> <p>39. Proving intent to commit a felony.</p> <p>40. Offences of a serious nature not to be tried under this Act.</p> <p>41. Want of form, no <i>certiorari</i>.</p> <p>42. Act not to affect any penalty imposed by any other law.</p> <p>43. Saving of other Acts. Act not to interfere with powers of local authorities.</p> <p>44. Repeals. Schedule.</p>
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A BILL INTITULED

AN ACT to consolidate the Laws for the Suppression of Various Offences and in Restraint of Vagrancy. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

No. 2—1.

Short Title.
Commencement of
Act.

Interpretation.
Otago Ord., No. 103,
enlarged.

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.

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: 5

"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: 10

"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. 15

PART I.

GENERAL POLICE PROVISIONS.

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

New Munster Ord., 1849.

Auckland Acts, 1866, Nos. 11, 15.

Canterbury Ord., 1858, 1862.

Otago Ord., 1862, No. 103.

Victorian Act, 1878, No. 630.

G.A. Act, 1869, No. 53, s. 4.

3. Any person guilty of any of the following offences is liable for every such offence, omission, or neglect to a penalty of not less than ten shillings nor more than five pounds:— 20

(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, 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; 25

(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; 30

(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; 35

(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; 40

(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; 45

(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; 50

- (10.) Has any awning or show-board or sign-board on any *public footpath* or footway not being seven feet clear above *such footpath* or footway, or hangs any goods on or under such awning over *such footpath* or footway;
- 5 (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;
- 10 (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 (15.) *Spills or casts*, or allows to be spilt or cast, into or upon any public place, any nightsoil or other offensive matter;
- 20 (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;
- 25 (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;
- 30 (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;
- 35 (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;
- 40 (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;
- 45 (23.) Rolls any cask, beats any carpet, flies any kite, uses any bows and arrows, 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;
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- (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; 5
- (26.) Throws or discharges any stone or other missile to the damage or danger of any person; 10
- (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 lawful 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; 15
- (29.) Uses any threatening, abusive, or insulting words or behaviour in any public place, with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned. 20

Penalty on persons committing offences on public places, &c. Auckland Act, 1866. Canterbury Ord., 1868. Otago Ord., Nos. 108, 129, 214.

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,— 25

- (1.) Who, being the driver, rides on any cart, dray, or wagon, not being a light or spring cart usually driven with reins, and 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; 30
- (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; 35
- (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; 40
- (4.) Furiously or negligently rides or drives *any animal or vehicle, or any engine, carriage, or conveyance of any kind*;
- (5.) Rides or drives upon or over any *public* bridge at any greater pace than a walking pace; 45
- (6.) Drives any vehicle laden with any goods or material which project on either side more than five feet from the centre of such vehicle, unless permission in writing so to do is first obtained from the local authority; 50

- (7.) 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;
- 5 (8.) Who, being the driver or guard of a public vehicle for the conveyance of passengers, *allows more passengers to enter or remain in 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;
- 10 (9.) Drives any dog or goat harnessed or attached to any vehicle;
- (10.) Trains or breaks in any horse;
- 15 (11.) Turns loose or allows to wander any cattle; or unlawfully obstructs or prevents the driving of any cattle;
- (12.) 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;
- 20 (13.) Leaves any plough, harrow, cart or other vehicle, unless in consequence of some accident having occurred thereto, without any horse or other animal being harnessed thereto;
- 25 (14.) Wilfully 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:—

- (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;
- 40 (2.) Leaves any hole, excavation, or dangerous formation *in, upon, or near any public place* without fencing or enclosing the same, or keeping a light burning upon such enclosure from sunset to sunrise;
- 45 (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;
- 50 (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 offences tending to personal injury.
Auckland Act, 1866.
Otago Ord., 1862.

Penalty on persons guilty of wilful destruction of property, whether public or private. Auckland Act, 1866. Otago Ord., 1862.

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:—

- (1.) Wilfully breaks any pane of glass in the window of any building; 5
- (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; 10
- (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. 15

Nelson Act, 1864. Marlborough Act, 1864. Canterbury Ord., 1858.

Penalty for cruelty to animals. 1880, No. 11, ss. 2-9.

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,— 20

- (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 sufficient food or water; 25
- (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; 30
- (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. 35

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. 40

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. 45

Liability for damage done through cruelty. Ib., s. 11.

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 50

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.

5 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

10 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.

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

Apprehension. Warrant may issue forthwith. Limitation. 1880, No. 11, ss. 10, 12, 13.

20 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:

25 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.

30 11. 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 this section, such constable may take 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.

Vehicles, &c., may be detained.

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

Penalty for laying poison in or near public places, or on another person's premises. Nelson Act, 1862. Marlborough Act, 1865.

45 (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,

50 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.
Auckland Acts,
1866, Nos. 11, 15;
1870, No. 2.
Otago Ord., 1863,
No. 124.

13. Any person who on Sunday, in or in view of any public place, trades, 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, or plays at any game or pastime in any public place, or discharges any firearms, shall, for every such offence, be liable to a penalty not exceeding ten pounds. 5

But nothing herein contained shall be construed to prohibit the sale of medicines or the keeping open of the shops of druggists or apothecaries, nor to bakers or pastrycooks until nine in the forenoon or between one and six in the afternoon, nor to *hairdressers* or barbers until half-past nine in the forenoon. 10

Masters made liable
where servants have
acted under their
orders.

Otago Ord., 1862,
No. 103, s. 26.

14. 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. 15 20

PART II.

INDECENCY AND VAGRANCY.

Extended interpretation
of "public
place."

Victorian Act, 1878,
No. 690.

15. 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— 25

Any public park, garden reserve, or other place of public recreation or resort; or

Any railway station, platform, or carriage; or 30

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 35

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 40

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 45

Any public place within the meaning of the same words in section *two* of this Act.

Drunkenness and Riot.

16. Every person found drunk in any public place— 50

On a first conviction, shall be liable to a penalty of not less than five shillings nor more than twenty shillings, and, in

Penalty on persons
found drunk.
1881, No. 21, s. 143.
1866, No. 10, s. 2 (4).

default of payment thereof, may be imprisoned for any period not exceeding forty-eight hours;

5 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;

10 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

15 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.

17. 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 loaded firearms, or who, while drunk, is guilty of riotous or disorderly behaviour on or in any public place, shall be 20 liable to a penalty of not less than twenty shillings nor more than ten pounds, or, in the discretion of the convicting Justice, to imprisonment for any term not exceeding three months.

Penalty on persons found drunk while in charge of horses, &c., or loaded firearms. 1831, No. 21, s. 144.

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

Drunken persons to be visited while in custody. Ib., s. 145.

25 (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 30 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.

35 (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.

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

40 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.

45 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.

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

50 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 55 months.

Penalty on keepers of refreshment-houses not properly conducting them. 1869, No. 53, s. 3.

19. 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. 5

Prostitutes importuning passengers, or being riotous. 1866, No. 10, s. 2. 1869, No. 53, s. 2.

20. 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: 10
- (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.

Obscenity.

15

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

21. 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:—

1866, No. 10, s. 4.

- (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 profane, indecent, or obscene book, *paper, writing, print, picture, drawing, or representation*; 20

1869, No. 53, s. 4.

- (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; 25

1866, No. 10, s. 4.

- (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. 30

Penalty for exposure of person or grossly indecent acts. 1866, No. 10, s. 4 (b). 1882, No. 9, s. 2.

22. Every male person accused of or charged with any offence under *section three of the last-preceding section* shall be brought before a Resident Magistrate or two or more Justices. 35

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. 40

Flogging.

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, 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. 45 50

Idle and Disorderly Persons.

23. 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 :—

Vagrants, &c.
1866, No. 10, s. 2.

- 5 (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 ;
- 10 (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 ;
- 15 (3.) Who, not being an aboriginal native or the child of any aboriginal native, on being found lodging or wandering in company with aboriginal natives, and being thereto required by any Justice, does not give a good account, to the satisfaction of such Justice, that he has a lawful fixed place of residence and lawful means of support, and that such lodging or wandering has been for some lawful occasion only ;
- 20 (4.) 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,
- 25 shall be liable to imprisonment for any time not exceeding three months.

24. 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 :—

Persons armed by night or wearing disguises.
Ib., s. 3.

- 35 (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 ;
- 40 (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,
- 45 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.

25. 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 :—

Impostors, loiterers, and housebreakers.
Ib., s. 4.

- (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 ; 5
- (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 ; 10
- (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 ; 15
- (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 ; 20
- (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 ; 25
- (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 ; 30
- (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, 35

34 and 35 Vict.,
c. 112, s. 15.

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. 40

Incorrigible Rogues.

26. 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 :— 45

- (1.) Breaks or escapes out of any place of legal confinement before the expiration of the term for which he shall have been committed ; 50
- (2.) Commits any offence against this Part of this Act which shall subject him to be dealt with as a rogue and vagabond,

Persons guilty of
prison-breaking and
repeated offences
may be dealt with
summarily,
1866, No. 10, s. 5.

such person having been previously convicted as a rogue and vagabond ;

5 (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 :

10 Or the convicting Justice, 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
15 during the period of his imprisonment.

27. 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
20 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.

28. Any Justice, upon information on oath that any person, hereinbefore described to be an idle and disorderly person, or a rogue and
25 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
30 and disorderly person, rogue and vagabond, or incorrigible rogue as shall be found therein, to be dealt with in the manner herein directed.

29. Any constable or other person apprehending any person charged with being an idle and disorderly person, or a rogue and
35 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.

30. Every 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 ;

45 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
50 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.

Apprehension of offenders under Part II. 1866, No. 10, s. 10.

31. 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*.

5

PART III.

10

MISCELLANEOUS.

Apprehension of offenders whose names not known, loiterers, &c. Otago Ord., 1862, No. 103, ss. 28, 29.

32. 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;

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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.

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Apprehension of persons charged with recent assaults. *Ib.*, s. 30.

33. 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.

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Penalty for obstructing officers or others. 1866, No. 10, s. 12.

34. 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.

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Penalty for assaulting or resisting constables, &c. 1873, No. 12.

35. 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.

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Penalty on constable for a neglect of duty. 1866, No. 10, ss. 10, 11.

36. 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.

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37. 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 :

Summary proceedings. 1866, No. 10, s. 13.

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.

Person charged under Part II., may have his case heard by two Justices. *Ib.*, s. 14.

38. 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.

Offence may be set forth in words of Act.

39. 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.

Proving intent to commit a felony. 34 and 35 Vict., c. 112, s. 15.

40. 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.

Offences of a serious nature not to be tried under this Act. Otago Ord., 1862, No. 103, s. 36.

41. 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.

Want of form, no *certiorari*. 1866, No. 10, s. 16.

42. 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.

Act not to affect any penalty imposed any other law. Otago Ord., 1862, No. 103, s. 36.

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

Saving of other Acts.

(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, nor to take from, lessen, or alter any power to make or adopt by-laws, 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.

Act not to interfere with powers of local authorities.

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

44. The Acts, enactments, and Provincial Ordinances the Titles or Short Titles of which are set forth in the Schedule hereto are to the extent therein mentioned hereby repealed.

Repeals.

chedule.

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. *In part, namely, the whole Act, except section six.*

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.