

547

New Zealand

ANNO TRICESIMO

VICTORIÆ REGINÆ.

No. —.

ANALYSIS.

Title	9. Lodging-houses &c may be searched
1. Short Title	10. Apprehension of offenders
2. Idle and disorderly persons	11. Neglect of duty
3. Idle and disorderly persons	12. Obstructions to officers
4. Rogues and vagabonds	13. Procedure
5. Incurrible rogues	14.
6. Seizure of property and searching	15. Appeal
7. Recognizance of witness	16. Want of form <i>certiorari</i>
8. Power of Supreme Court &c.	17. Limitation of actions

A BILL INTITULED

AN ACT to define and restrain Vagrancy.

Title

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

Preamble

I. The Short Title of this Act shall be "The Vagrant Act 1866"

Short Title

II. Any person who shall commit 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—

Idle and disorderly persons

1. Any person having no visible lawful means or insufficient lawful means of support who 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. Any person not being an aboriginal native or the child of any aboriginal native who being found lodging or wandering in company with any of the aboriginal natives of New Zealand 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 temporary and lawful occasion only.
3. Any habitual drunkard having been thrice convicted of drunkenness within the preceding twelve months and any common prostitute who in any street or public highway or being in any place of public resort shall behave in a riotous or indecent manner.
4. 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

Vagrant.

good account of his lawful means of support and also of his being in such house upon some lawful occasion.

5. Any person wandering abroad or placing himself in any public place street highway court or passage to beg or gather alms or causing or procuring or encouraging any child so to do shall be liable to imprisonment in any gaol for any time not exceeding three calendar months with or without hard labour.

Idle and disorderly persons

III. Any person who shall commit 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. Any person found by night armed with any gun pistol sword bludgeon or other offensive weapon or instrument who being thereunto required does not give a good account of his means of support and assign a valid and satisfactory reason for his being so armed.
2. Any person having on or about his person without lawful excuse (the proof of which excuse shall be on such person) any deleterious drug or any articles of disguise shall be liable to imprisonment in any gaol for any time not exceeding six months with or without hard labour 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

IV. Any person who shall commit 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 specified—

1. Any person committing any of the offences hereinbefore mentioned having been previously convicted as an idle and disorderly person
2. Any person soliciting gathering or collecting alms subscriptions or contributions under any false pretence
3. Any person imposing or endeavoring 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
4. Any person wilfully exposing to view in any street road thoroughfare highway or 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 street road thoroughfare highway or public place any obscene book print picture drawing or representation
5. Any person wilfully and obscenely exposing his person in any street road or public highway or in the view thereof or in any place of public resort
6. Any person playing or betting at any unlawful game
7. Any person playing or betting in any street road highway or other open and public place at or with any table or instrument of gaming at any game or pretended game of chance
8. Any person having in his custody or possession without lawful excuse (the proof of which excuse shall be on such person) any picklock-key crow jack bit or other implement of housebreaking
9. Any person being armed with any gun pistol sword bludgeon or

Vagrant.

other offensive weapon or instrument with a felonious intent

10. Any person found by night having his face blackened or wearing felt or other slippers or being dressed or otherwise disguised with a felonious intent
11. Any person found by night without lawful excuse (the proof of which excuse shall be on such person) in or upon any dwelling-house warehouse coach-house stable or outhouse or in any inclosed yard garden or arca or in or on board any ship or other vessel when lying or being in any port harbor or place within New Zealand
12. Any suspected person or reputed thief frequenting any river canal navigable stream dock or basin or any quay wharf or warehouse near or adjoining thereto or any street highway or avenue leading thereto or any place of public resort or any avenue leading thereto or any street highway or place adjacent with intent to commit felony
13. Any person apprehended as an idle and disorderly person and violently resisting any constable or other police officer so apprehending him and being subsequently convicted of the offence for which he shall have been so apprehended

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

V. Any person who shall commit any of the next following offences shall be deemed an incorrigible rogue and be liable to the punishment next hereinafter specified— Incorrigible rogues

1. Any person who shall break or escape out of any place of legal confinement before the expiration of the term for which he shall have been committed
2. Any person committing any offence against 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. Any person apprehended as a rogue and vagabond and violently resisting any constable or other peace officer so apprehending him and being subsequently convicted of the offence for which he shall have been so apprehended

shall be liable to imprisonment in any gaol for any term not exceeding two years with hard labour Provided that nothing shall prevent such offender being committed to the nearest gaol 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.

VI. Any constable peace officer 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 and 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 Seizure of property and searching

Vagrant.

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 the gaol 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 and if upon such search money sufficient for the purposes aforesaid be not found such 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.

Recognizance of witness

VII. When any Justice as aforesaid commits any such incorrigible rogue to any gaol there to remain till the next sittings of the Supreme Court or District Court or when any such idle and disorderly person rogue and vagabond or incorrigible rogue shall appeal against the adjudication or conviction of any Justice under this Act and shall in accordance with the provisions of any Act for the time being in force regulating such appeals enter into a bond or recognizance to prosecute such appeal such Justice shall require the person by whom such offender is apprehended and the person whose evidence appears to him to be material to prove the offence or to support such conviction to become bound in recognizance to Her Majesty to appear at the said Supreme Court or District Court to give evidence against such offender touching such offence and if any such person as aforesaid refuse to enter into such recognizance such Justice may commit such person so refusing to a gaol there to remain until he shall enter into such recognizance or shall be otherwise discharged by due course of law.

Power of Supreme Court &c.

VIII. When any incorrigible rogue shall have been committed to any gaol there to remain until the next sitting of the Supreme Court or District Court it shall be lawful for such Court in a summary way to examine into the circumstances of the case and upon conviction to 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.

Lodging-houses &c. may be searched

IX. 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.

Apprehension of offenders

X. Any person whatsoever with or without warrant may apprehend any person found offending against the provisions of this Act and forthwith take and convey him before some Justice to be dealt with in such manner as herein directed deliver him to any constable or other peace officer to be so taken and conveyed as aforesaid and any constable or other peace officer 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 him 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 this Act shall be liable to the penalty hereinafter imposed.

5-11
 5-11

Vagrant.

XI. If any constable or other peace officer neglect his duty in anything required of him by Section IX of this Act he shall for every such offence forfeit and pay any sum not exceeding twenty pounds and in default of payment forthwith may be imprisoned for any term not exceeding three months or until such fine be paid. Neglect of duty

XII. If any person disturb or hinder any constable peace officer 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. Obstruction to officers

XIII. All offences and all penalties under this Act when not otherwise provided for may be heard and determined and recovered 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. Procedure

XIV. Any person who shall be charged with any offence whatever under this Act shall be entitled to have his case heard by 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 two Justices accordingly.

XV. If any person feel aggrieved by any summary judgment under this Act he may appeal in the manner provided by any Act for the time being in force for the regulation of appeals from convictions or orders by Justices of the Peace. Appeal

XVI. No proceeding under this Act and no information conviction warrant order or other proceeding before or by any Justice or on appeal therefrom under this Act shall be quashed for want of form and none of the said proceedings shall be removed into the Supreme Court by *certiorari*. Want of form *certiorari*

XVII. Every action which shall be brought against any Justice constable or other person for or on account of any matter or thing done or committed by him or in execution of his duty or office under this Act shall be commenced within three months after the cause of action or complaint shall have arisen and not afterwards and if any person shall be sued as aforesaid he may plead the general issue and give the special matter in evidence. Limitation of actions