

VICTORIA.



ANNO DECIMO SEXTO

VICTORIÆ REGINÆ.

By His Excellency CHARLES JOSEPH LA TROBE, ESQUIRE, Lieutenant Governor of the Colony of Victoria and its Dependencies, with the advice and consent of the Legislative Council.

No. XXII.

An Act for the better prevention of Vagrancy and other Offences. [Assented to 29th December, 1852.]

WHEREAS it is expedient to make more effectual provision for the prevention of Vagrancy and other Offences Be it therefore enacted by His Excellency the Lieutenant Governor of the Colony of Victoria by and with the advice and consent of the Legislative Council thereof as follows :

Preamble.

I. From and after the commencement of this Act an Act of the Governor and Legislative Council of the Colony of New South Wales passed in the sixth year of the reign of His late Majesty King William the Fourth intituled "*An Act for the prevention of Vagrancy and for the punishment of idle and disorderly persons rogues and vagabonds and incorrigible rogues in the Colony of New South Wales*" and an Act of the Lieutenant Governor and Legislative Council of the Colony of Victoria passed in the fifteenth year of the reign of Her present Majesty Queen Victoria intituled "*An Act to restrain the practice of Gambling and the use of Obscene Language*" shall be and the same are hereby repealed except as to any offences committed or penalties incurred under or contrary to the provisions of the said Acts or either of them.

Repeal of 6 William IV, No. 6.

And 15 Victoria, No. 12.

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 of the Peace or who having been duly summoned for such purpose or brought before any Justice in pursuance of the provisions of this Act shall 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 the said Colony and being thereto required by any Justice of the Peace shall not give a good account to the satisfaction of such Justice that he hath a lawful fixed place of residence and lawful means of support and that

that such lodging or wandering hath 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 shall be frequented by reputed Thieves or Persons who have no visible lawful means of support and any person found in any such house in company with such reputed Thieves or persons who shall not give a good account of his lawful means of support and also of his being in such house upon some lawful occasion.
 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.
 6. Any person found by night armed with any Gun Pistol Sword Bludgeon or other Offensive Weapon or Instrument who being thereto required shall not give a good account of his means of support and assign a valid and satisfactory reason for his being so armed.
 7. Any person having on or about his person without lawful excuse (the proof of which excuse shall be on such person) any deleterious drug or any article of disguise
- shall be liable to imprisonment in any Gaol or House of Correction in the said Colony for any time not exceeding twelve months with or without hard labour.

Rogues and Vagabonds

III. 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 endeavouring to impose upon any charitable Institution or private Individual by any false or fraudulent representation either verbally or in writing with a view to obtain money or any other benefit or advantage
4. Any person wilfully exposing to view in any Street Road Thoroughfare Highway or Public Place or who shall expose or cause to be exposed to view in the Window or other part of any Shop or other Building situate in any Street Road Thoroughfare Highway or Public Place any Obscene Book Print Picture Drawing or Representation
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 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

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 area or in or on board any Ship or other Vessel when lying or being in any Port Harbor or Place within the said Colony,

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 or House of Correction in the said Colony with hard labor for any time not exceeding two years 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.

IV. 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 or House of Correction in the said Colony for any term not exceeding three years with hard labor. Provided that nothing shall prevent such Offender being committed to the nearest Gaol or House of Correction there to remain until the next General Sessions of the Peace to 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 labor during the period of his imprisonment.

V. Any person who shall sing any obscene song or ballad or write or draw any indecent or obscene word figure or representation or use any profane indecent or obscene language in any Public Street Thoroughfare or Place or within the view or hearing of any person passing therein and any person who shall use any threatening abusive or insulting words or behaviour in any Public Street Thoroughfare or Place with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned shall forfeit and pay on conviction any sum not exceeding ten pounds and in default of immediate payment shall be committed to the Common Gaol or House of Correction for any period not exceeding three calendar months. Obscene, threatening, or abusive language &c., in public.

VI. It shall be lawful for any person whosoever with or without Warrant to apprehend any person who shall be found offending against this Act and forthwith to take and convey him before some Justice of the Peace to be dealt with in such manner as herein directed or to deliver him to any Constable or other Peace Officer of the place where he shall have been apprehended to be so taken and conveyed as aforesaid and any Constable or other Peace Officer who shall refuse or wilfully neglect to take such Offender into custody or to take and convey him before some Justice Apprehension of offenders.

Justice of the Peace or who shall not use his best endeavours to apprehend and to convey before some Justice of the Peace any person that he shall find offending against this Act shall be deemed guilty of a neglect of duty and shall on conviction be punished in such manner as herein directed.

Warrants to apprehend offenders.

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

Seizure of property and searching.

VIII. It shall be lawful for any Constable Peace Officer or other person apprehending any person charged with being an Idle and Disorderly Person or a Rogue and Vagabond or an Incorrigible Rogue to seize any Horse or other Cattle or any Vehicle or Goods in the possession or use of such person and to take and convey the same as well as such person before a Justice of the Peace and for every Justice of the Peace by whom any person shall be adjudged to be an Idle and Disorderly Person or a Rogue and Vagabond or an Incorrigible Rogue to order that such Offender shall be searched and that his Trunks Boxes Bundles Parcels or Packages and any Cart or other Vehicle which may have been found in his possession or use shall be inspected and searched in the presence of the said Justice and it shall be lawful for the said Justice to order that any money which may then be found with or upon such Offender shall be paid and applied for and towards the expense of apprehending and conveying to the Gaol or House of Correction and maintaining such Offender during the time for which he shall have been committed, and towards the expense of the keep of any horse or other cattle so seized during the time such horse or cattle shall be detained and if upon such search money sufficient for the purposes aforesaid be not found it shall be lawful for such Justice to order that such horse cattle and so much as is necessary of such other effects then found shall be sold and that the produce of such sale shall be paid and applied as aforesaid and also that the overplus of such money or effects after deducting the charges for such sale shall be returned to the said Offender.

Recognizance of Witness.

IX. When any Justice as aforesaid shall commit any such Incorrigible Rogue to any Gaol or House of Correction there to remain till the next General Sessions 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 enter into a bond or recognizance as hereinafter directed to prosecute such appeal such Justice shall require the person by whom such offender shall be apprehended and the person whose evidence shall appear to him to be material to prove the offence or to support such conviction to become bound in recognizance to Her Majesty Her Heirs and Successors to appear at the said General Sessions to give evidence against such offender touching such offence and in case any such person as aforesaid shall refuse to enter into such recognizance it shall be lawful for such Justice to commit such person so refusing to the Common Gaol there to remain until he shall enter into such recognizance or shall be otherwise discharged by due course of Law.

Power of General Sessions.

X. When any Incorrigible Rogue shall have been committed to any Gaol or House of Correction there to remain until the next General Sessions it shall be lawful for such Court of General Sessions in a summary way to examine into the circumstances of the case and upon conviction to order that such Offender be further imprisoned therein and be kept to hard labour for any time not exceeding three years from the time of making such order.

Neglect of Officers, or obstructions to them.

XI. In case any Constable or other Peace Officer shall neglect his duty in anything required of him by this Act or in case any person shall disturb or hinder any Constable Peace Officer or other person in the execution of this Act or shall be aiding abetting or assisting in so doing every

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 in any Gaol or House of Correction for any time not exceeding three calendar months or until such fine be paid.

XII. It shall be lawful for any Justice of the Peace upon information on Oath that any person hereinbefore described to be an Idle and Disorderly Person or a Rogue and Vagabond or an Incurable 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 to enter the same at any time by day or night or to issue his Warrant authorising any Constable or other person in like manner to enter the same and to apprehend and bring before him or any other Justice of the Peace every such Idle and Disorderly Person Rogue and Vagabond or Incurable Rogue as shall be found therein to be dealt with in the manner herein directed.

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

XIII. It shall be lawful for any one Justice of the Peace to order and adjudge any person convicted of offending against any of the provisions of this Act either on the view of such or any other Justice or the confession of such Offender or the oath of any credible Witness or Witnesses to forfeit the Penalties or undergo the Imprisonments hereby authorised to be imposed or awarded.

One Justice may act.

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

Want of Form.

XV. The time at which the Night shall be deemed to commence and conclude in any offence against the provisions of this Act shall be the same as in cases of Burglary.

The Night to be as
in Burglary.

XVI. Nothing in this Act contained shall be deemed to repeal wholly or in part the Act of the Lieutenant Governor and Legislative Council of the Colony of Victoria passed in this present Session of Council intituled "*An Act for the better Prevention of Offences*" but no person shall be liable to be punished for the same Offence under the said Act and this Act.

Nothing in this Act
to repeal 16 Vic.,
No. 14.

XVII. Any person who shall feel himself aggrieved by the Judgment of any Justice or Justices adjudicating or before whom he was convicted may appeal from any such Judgment or Conviction to the next Court of General Sessions of the Peace which shall be held nearest to the place where such Judgment or Conviction shall have been given or made and the execution of every such Judgment or Conviction so appealed from shall be suspended in case such person shall with two or more sufficient Sureties immediately before such Justice or Justices enter into a Bond or Recognizance to Her Majesty Her Heirs and Successors in such sum as such Justice or Justices shall (having reference to the Offence) consider reasonable which Bond or Recognizance respectively such Justice or Justices is and are hereby authorised and required to take and such Bond or Recognizance shall be conditioned to prosecute such Appeal with effect and to be forthcoming to abide the determination of the said Court of General Sessions and to pay such Costs as the said Court shall award on such occasion and such Court of General Sessions is hereby authorised and required to hear and determine the matter of the said Appeal and the decision of such Court shall be final to all intents and purposes.

Appeal to General
Sessions.

XVIII. In all cases where an Action shall be brought against any Justice of the Peace Constable or other person for or on account of any matter or thing whatsoever done or committed by him or in execution of his duty or office under this Act such Justice Constable or other person if he shall have Judgment in his favour shall have double costs awarded to

Double Costs.

to him by the Court unless the Judge shall certify that there was a reasonable cause for such Action.

Limitation of Actions.

XIX. Every such Action shall be commenced within three calendar months after the cause of Action or Complaint shall have arisen and not afterwards and if any person shall be sued for any matter or thing which he may have done in the execution of this Act he may plead the General Issue and give the special matter in evidence.

Application of Fines.

XX. The Monies arising from the Fines Penalties and Forfeitures imposed by this Act shall when recovered be paid and applied one-half to such Public Charitable Institutions as the Lieutenant Governor may direct and the other half to the "Police Reward Fund" to be appropriated according to the Rules and Regulations in force for the time being for the distribution of the said Fund.

Commencement of Act.

XXI. This Act shall commence from and after the first day of January in the year of our Lord one thousand eight hundred and fifty-three, and may be cited and referred to as "The Vagrant Act 1852."