

Vagrancy.

Act No. 74, 1902.

An Act to consolidate the Acts for the prevention
of Vagrancy. [11th September, 1902.]

VAGRANCY.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Preliminary and Interpretation.

1. This Act may be cited as the "Vagrancy Act, 1902." Short title.
2. The Vagrancy Act, 1901, is hereby repealed. Repeal.
3. In this Act, unless the context or subject matter otherwise indicates or requires,— Interpretation.
 - "Aboriginal" means an aboriginal native of New South Wales.
 - "Idle or disorderly person" means every person who commits any offence mentioned in subsection one of section four.
 - "Incorrigible rogue" means every person who commits any offence mentioned in subsection three of section four.
 - "Justice" means justice of the peace.
 - "Rogue and vagabond" means every person who commits any offence mentioned in subsection two of section four.No. 13, 1901, s. 3.

Offences.

4. (1) Whosoever— Punishment of idle and disorderly persons.
 - (a) having no visible lawful means of support, or insufficient lawful means, does not, on being required by or summoned to appear or brought before a justice in pursuance of the provisions of this Act, give a good account of his means of support to the satisfaction of the justice; Ibid. s. 4.
 - (b) not being an aboriginal, or the child of an aboriginal, lodges or wanders in company with any aboriginal, and does not, on being required by a justice, give to his satisfaction a good account that he has a lawful fixed place of residence in New South Wales and lawful means of support, and that he so lodged or wandered for some temporary and lawful occasion only, and did not continue so to do beyond such occasion;
 - (c) being a common prostitute, wanders in any street or public highway, or is in any place of public resort, and in either case behaves in a riotous or indecent manner;
 - (d) being a habitual drunkard, thrice convicted of drunkenness within the preceding twelve months, behaves in a riotous or indecent manner in any street, public highway, or place of public resort; (e)

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- (e) is the holder of a house frequented by reputed thieves or persons who have no visible lawful means of support ;
- (f) is found in a house frequented by reputed thieves, or persons who have no visible lawful means of support in company with reputed thieves or such persons, and does not on being required by a justice give to his satisfaction a good account of his lawful means of support, and of his being in such house on a lawful occasion ;
- (g) wanders abroad, or places himself in a public place, street, highway, court, or passage to beg or gather alms ;
- (h) causes, procures, or encourages any child to wander abroad, or place himself in a public place, street, highway, court, or passage to beg or gather alms,

shall, on conviction before any justice, by his own view or otherwise, be liable to imprisonment with hard labour for a term not exceeding six months.

Punishment of
rogues and
vagabonds.
No. 13, 1901, s. 4.

(2) Whosoever—

- (a) having been convicted under this or any former Act of any such offence as is mentioned in the last preceding subsection afterwards commits any offence in the said subsection mentioned ;
- (b) goes about gathering alms under false pretence of loss by fire or other casualty, or as collector under any false pretence ;
- (c) imposes or endeavours to impose upon any charitable institution or private individual, by false or fraudulent representations, with a view to obtain money or other benefit or advantage ;
- (d) wilfully and obscenely exposes his person in or in view of any street, road, or public highway, or in any place of public resort ;
- (e) plays or bets at any unlawful game ;
- (f) plays or bets 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 ;
- (g) has in his custody or possession any implement with intent feloniously to break into any dwelling-house, warehouse, coachhouse, stable or out-building ;
- (h) is armed with any offensive weapon, or has upon him any instrument, with intent to commit any felonious act ;
- (i) having any unlawful purpose is found in any dwelling-house, warehouse, coachhouse, stable, or outhouse, or in any enclosed yard, garden, or area, or on board any ship or vessel in any port, harbour, or place within New South Wales ;
- (j) being a suspected person or reputed thief frequents any river, canal, or navigable stream, dock or basin, or any quay, wharf, or warehouse near or adjoining thereto, or any street,
highway,

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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 ;

- (k) on being apprehended as an idle and disorderly person, violently resists the constable or peace officer apprehending him, and is subsequently convicted of the offence for which he was apprehended,

shall, on conviction before any justice, be liable to imprisonment with hard labour for a term not exceeding six months, and every such implement, offensive weapon, and instrument as aforesaid shall, by the conviction of the offender, become forfeited to the King's Majesty.

(3) Whosoever—

- (a) breaks or escapes out of any place of legal confinement before the expiration of the term for which he was committed or ordered to be confined by virtue of this Act ;
- (b) having been convicted under this or any former Act of any such offence as is mentioned in the last preceding subsection, afterwards commits any offence in the said subsection mentioned ;
- (c) on being apprehended as a rogue and vagabond violently resists the constable apprehending him, and is subsequently convicted of the offence for which he was apprehended,

shall, on conviction before any justice, be liable to be committed to prison with hard labour until the next Court of Quarter Sessions is held in the district within or nearest to which the offence was committed.

5. The Court of Quarter Sessions may examine into the circumstances of the case, and, upon conviction, order the offender to be further imprisoned and kept to hard labour for a term not exceeding twelve months from the time of making such order.

Punishment of incorrigible rogues. No. 13, 1901, s. 4.

Powers of Quarter Sessions. *Ibid.* s. 5.

6. Whenever a justice commits an incorrigible rogue to prison until the holding of a Court of Quarter Sessions, he shall require the person by whom the offender was apprehended, and every person whose evidence appears material to prove the offence, to become bound by recognizance to appear at the Court of Quarter Sessions to give evidence against the offender touching the offence, and may commit to prison any such person who refuses to enter into a recognizance until he does so, or is otherwise discharged by due course of law.

Witnesses may be bound over to Quarter Sessions. *Ibid.* s. 6.

7. Whosoever, in any public street, thoroughfare, or place, or within the view or hearing of a person passing therein—

- (a) sings any obscene song or ballad ;
- (b) writes or draws any indecent or obscene word, figure, or representation ; or
- (c) uses any profane, indecent, or obscene language,

shall be liable, on conviction before a justice, to a penalty not exceeding five pounds.

Obscene language or writing in a public street. *Ibid.* s. 7.

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Abusive or threatening words or behaviour in a public street.

No. 13, 1901, s. 8.

8. Whosoever, in any public street, thoroughfare, or place, uses any threatening, abusive, or insulting words or behaviour with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned, shall, on conviction before a justice, be liable to a penalty not exceeding five pounds.

Apprehension of offenders and suspected persons.

Constable or other person may apprehend offender.

Ibid. s. 9.

Offender may be handed over to constable.

Ibid.

Constable to take offender before a justice.

Ibid.

9. (1) Any person found offending against this Act may be apprehended by a constable or other person, and forthwith taken before a justice to be dealt with as directed by this Act.

(2) Whenever a person other than a constable apprehends an offender he may deliver him to a constable to be taken before a justice.

(3) Every constable who refuses or wilfully neglects to take into his custody, or take before a justice, a person so delivered to him, or does not use his best endeavours to apprehend and convey before a justice any person whom he finds offending against this Act, shall be deemed to have neglected his duty within the meaning of section thirteen.

Lodging-houses may be entered and offenders found therein apprehended.

Ibid. s. 10.

10. Any justice upon information on oath before him made that an idle and disorderly person, a rogue and vagabond, or an incorrigible rogue is, or is reasonably suspected to be, harboured or concealed in any house kept, or purporting to be kept, for the reception, lodging, or entertainment of travellers or others, may by warrant under his hand and seal authorise any constable or other person to enter at any time into such house, and apprehend and bring before him or some other justice every idle and disorderly person, rogue and vagabond, or incorrigible rogue found therein to be dealt with in the manner directed by this Act.

Seizure and disposal of property of offenders.

Powers to seize goods found in possession of offender.

Ibid. s. 11.

11. Any constable or other person apprehending a person charged with being an idle and disorderly person, rogue and vagabond, or incorrigible rogue, may take any horse, cattle, vehicle or goods, in the possession or use of the person apprehended, and convey them before a justice.

Powers to search offender.

Ibid.

12. Whenever a person is adjudged to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, the convicting justice may order—

- (a) the offender to be searched, and
- (b) his trunks, boxes, bundles, parcels or packages to be inspected in the presence of the justice and the offender, and
- (c) any vehicle found in the offender's possession or use to be searched in the offender's presence, and

(d)

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- (d) any money which is then found with or upon the offender to be paid and applied towards the expense of apprehending the offender and conveying him to prison and maintaining him during the term for which he is committed, and the overplus of such money to be returned to the offender, and Application of money found. No. 13, 1901, s. 11.
- (e) in the event of sufficient money for the purposes aforesaid not being found upon such search that the part, or if necessary the whole of the offender's other effects then found, be sold and the produce of the sale paid and applied as aforesaid, and the overplus of such effects returned to the offender after deducting the charges for the sale. Sale of effects where sufficient money not found. Ibid.

Neglect of duty by constable.

13. Every constable who neglects his duty in any thing required of him by this Act shall, on conviction before one or more justices, be liable to a penalty not exceeding five pounds.

Hindering constable in execution of duty.

14. Every person who disturbs or hinders any constable or other person in the execution of this Act, or aid, abets, or assists in so doing, shall, on conviction before one or more justices, be liable to a penalty not exceeding five pounds. Penalty. Ibid. s. 14.

Actions against justices and others.

15. (1) Every action brought against a justice, constable, or other person for 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 arose. Limitation of actions. Ibid. s. 15.

(2) If any person is sued for any matter or thing done in the execution of this Act, he may plead the general issue, and give the special matter in evidence.

(3) The defendant in any such action shall, if judgment be given in his favour, have treble costs awarded to him by the Court, unless the Judge certifies that there was a reasonable cause for such action. Successful defendant to have treble costs. Ibid.

Application of penalties.

16. All penalties or forfeitures imposed by this Act shall, when recovered, be paid as follows, that is to say, one moiety into the Consolidated Revenue Fund, and the other moiety into the Police Reward Fund. Half penalty to go to revenue, half to Police Reward Fund. Ibid. s. 16.