



ANNO TRICESIMO TERTIO ET TRICESIMO QUARTO

VICTORIÆ REGINÆ.

A.D. 1870.

No. 9.

An Act for the more effectual Prevention of Crime.

[Assented to, 21st September, 1870.]

WHEREAS it is expedient to make further provision for the suppression of crimes committed by habitual offenders—Be it therefore Enacted, by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows: Preamble.

1. This Act may be cited as the “Habitual Criminals Act, 1870.” Short title.

2. In this Act the term “Court” includes any Justice or Justices of the Peace, or other person or persons having jurisdiction in the matter to which the term refers; the word “Magistrate” shall mean Stipendiary Magistrate; the words “Inspector of Police” shall mean an Inspector of either foot police or horse police, and shall be deemed to include the Commissioner of Police. Definition of terms.

3. Where any person is convicted on indictment of any offence specified in the First Schedule hereto, and he be proved to have been previously convicted of any offence specified in the said Schedule, either before or after the passing of this Act, then, in addition to any other punishment which may be awarded to him, it shall be deemed to be part of the sentence passed upon him, unless otherwise declared by the Court, that he is to be subject to the supervision of the police as hereinafter mentioned for a period of seven years, or such less period as the Court shall direct, commencing from Person twice guilty of felony to be subject to the supervision of the police.

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from the time at which he is convicted, and exclusive of the time during which he is undergoing his punishment. Where any person is subject, in pursuance of this Act, to the supervision of the police, he shall be guilty of an offence punishable (on summary conviction before two or more Justices or a Magistrate) with imprisonment, with or without hard labor, for a term not exceeding one year, under the following circumstances, or any of them:—

Firstly—If, on his being charged by a constable or police officer, with getting his livelihood by dishonest means, he fails to make it appear to the Justices or Magistrate before whom he is brought that he is not getting his livelihood by dishonest means:

Secondly—If he is found by any constable or police officer in any place, whether public or private, under such circumstances as to satisfy the Justices or Magistrate before whom he was brought that he was about to commit or to aid in the commission of any crime punishable on summary conviction or indictment, or was waiting for an opportunity to commit or aid in the commission of any such crime:

Thirdly—If he is found by any person in or upon any dwelling-house, or any building, yard, or premises being parcel of, or attached to such building or dwelling-house, or in or upon any shop, warehouse, counting-house, or other place of business, or in any garden, orchard, pleasure ground, nursery ground, or enclosed land, being private property, without being able to account to the satisfaction of the Justices or Magistrate before whom he is brought for his being found on such premises:

Any person charged with being guilty of any offence punishable on summary conviction under this section may be taken into custody by any constable or police officer without warrant; or may, if charged with being guilty of an offence committed under the circumstances thirdly hereinbefore mentioned or any of them, be apprehended by the owner or occupier of the property on which he is found or by the servants of the owner or occupier, or by any other person authorized by the owner or occupier, and may be detained until he can be delivered into the custody of a constable or police officer for the purpose of being brought before Justices or Magistrate: Provided that no person shall be so taken into custody on the ground that he is suspected of getting his livelihood by dishonest means, except under a written authority from an Inspector of Police. When a person is convicted under this section of an offence, which subjects him to the supervision of the police, the record of his conviction shall contain a statement to the effect that he is subject to the supervision of the police, in pursuance of this Act, for a period of years to be therein named, commencing from the date of his conviction, and exclusive of the time during which he is undergoing his punishment, or words to the like purport, but the omission of any such statement shall not exempt any person from the operation of this section.

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house, wine shop, or other place where spirituous liquors are sold, or place of public entertainment or public resort, and knowingly lodges or harbors thieves or reputed thieves, or knowingly permits or suffers them to meet or assemble therein, or allows the deposit of goods therein, having reasonable cause for believing them to be stolen, shall be liable, on summary conviction, to a penalty not exceeding Ten Pounds, and the Justices or Magistrate before whom he is brought may, if they or he think fit, in addition to or in lieu of any penalty, require him to enter into recognizances with or without sureties for keeping the peace or being of good behaviour during twelve months: Provided

Firstly—That no person shall be imprisoned for not finding sureties in pursuance of this section for a longer period than three months:

Secondly—The security required from a surety shall not exceed twenty pounds:

And any licence for the sale of any spirituous liquors which has been granted to the occupier or keeper of any such house or shop shall be forfeited on his first conviction of an offence under this section, and on his second conviction of such an offence he shall be disqualified for a period of two years from holding or receiving any such licence; moreover, where two convictions under this section have taken place within a period of two years in respect of the same premises, whether the persons convicted were or were not the same, the Justices or Magistrate may, if they or he so think fit, direct that for a term not exceeding one year from the date of the last of such convictions no such licence as aforesaid shall be granted to any person whatever in respect of such premises; and any licence granted in contravention of this section shall be void.

5. Where any person, who, either before or after the passing of this Act has been previously convicted of any offence specified in the First Schedule hereto, and involving fraud or dishonesty, is found in the possession of stolen goods, evidence of such previous conviction shall be admissible as evidence of his knowledge that such goods have been stolen, and on proof of such previous conviction he shall be deemed to have known such goods to have been stolen until he has proved the contrary; and in any proceedings that may be taken against him as receiver of stolen goods, or otherwise in relation to his having been found in possession of such goods, proof may be given of his previous conviction before evidence is given of his having been found in possession of such stolen goods: Provided that not less than seven days' notice shall be given to such person that proof is intended to be given of his previous conviction, and that he will be deemed to have known such goods to have been stolen until he has proved the contrary. Moreover, where proceedings are taken against any person for having in his possession stolen goods, evidence may be given that there were found in the possession of such person other goods stolen within the preceding period

Burden of proof in cases of receiving stolen goods.

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period of twelve months, and such evidence may be taken into consideration for the purpose of proving that such person knew the goods to be stolen which form the subject of the proceedings taken against him. Any constable or police officer may, if authorized so to do in writing by an Inspector of Police, enter any house, shop, warehouse, yard, or other premises in search of stolen goods, and make such search and seize and secure any property he may believe to have been stolen, in such manner as he would be authorized to do if he had a search warrant, and the property seized, if any, corresponded to the property described in such search warrant: Provided that in every case in which any property is seized, the person on whose premises it was at the time of seizure, or the person from whom it was taken if other than the person on whose premises it was, shall, unless previously charged with receiving the same knowing it to have been stolen, be summoned within three days before a Justice of the Peace or Magistrate to account for his possession of such property, and such Justice or Magistrate shall make such order respecting the disposal of such property as the justice of the case may require; and it shall be lawful for any Inspector of Police to give such authority as aforesaid in the following cases:—

Firstly—When such premises are at, or have been within eighteen months of, the time of such search in the occupation of any person who has been convicted of receiving stolen property or of harboring thieves:

Secondly—When such premises are at the time of such search in the occupation of any person who has been convicted of any offence involving fraud or dishonesty and punishable by penal servitude or imprisonment; and it shall not be necessary for such Inspector of Police in giving such authority to specify any particular property, but he may give such authority if he has reason to believe generally that such premises are being made a receptacle for stolen goods.

Power to remand.

6. Any person accused of an offence punishable on summary conviction under this Act may be remanded from time to time by the Justices or Magistrate before whom he is brought for the purpose of enabling evidence to be obtained against him, or for any other just cause.

Forms in Schedule.

7. The forms set forth in the Second Schedule of this Act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and when used shall be deemed to be valid and sufficient in law.

In the name and on behalf of the Queen, I hereby assent to this Act.

JAMES FERGUSSON, Governor.

FIRST

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FIRST SCHEDULE.

Any felony, or the offence of uttering false or counterfeit coin, or of possessing counterfeit gold or silver coin, or the offence of obtaining goods or money by false pretences, or the offence of conspiracy to defraud.

SECOND SCHEDULE.

To } To _____, a police officer in the Province of South Australia, and to the
wit. } keeper of the _____ in the said Province.

Whereas A. B., being a person subject by the provisions of the "Habitual Criminals Act, 1870," to the supervision of the police, has been taken into custody by C. D., a constable, and brought this day before us, the undersigned, two of Her Majesty's Justices of the Peace in and for the Province of South Australia, and charged before us, upon the oath of the said C. D., taken before us in the presence and hearing of the said A. B. [with being suspected by the said C. D. of getting his livelihood by dishonest means] or [with being found by the said C. D. in _____, under such circumstances as to give rise to suspicion that the said A. B. was about to commit or aid in the commission of a crime punishable on summary conviction or indictment] that is to say _____ or [waiting for an opportunity to commit or aid in the commission of a crime punishable on summary conviction or indictment] that is to say _____ or [with being found by _____ in or upon a dwelling-house, or building, or yard, or premises, being parcel of or attached to a dwelling-house, or in or upon a shop, warehouse, counting-house, or other place of business, or in any garden, orchard, pleasure ground, nursery ground, or enclosed land, being private property, the said A. B. not being able satisfactorily to account for his being found on the said _____] we the said Justices do, in pursuance of the above-recited Act, convict the said A. B. of the said offence, and adjudge that the said A. B. for the said offence shall be imprisoned in _____, and there kept to hard labor for the space of _____: These are therefore to command you the said constable, to take the said A. B. and him safely to convey to the _____ aforesaid, and there to deliver him to the keeper thereof, together with this precept; and we do hereby command you, the said keeper of the said _____, to receive the said A. B. into your custody, in the said _____, there to imprison him and keep him to hard labor for the space of _____.

Given under our hands and seals at _____, in the Province of South Australia, this _____ day of _____, A.D. 18 _____.

To } To _____, a constable of the said Province of South Australia, and to the
wit. } keeper of the _____.

Whereas A. B. has been this day brought before us the undersigned, two of Her Majesty's Justices of the Peace in and for the Province of South Australia, under the provisions of the "Habitual Criminals Act, 1870," and it has been duly proved upon oath before us that the said A. B. has been twice convicted of felony: And whereas he is charged before us, upon the oath of C. D., a constable, for that the said A. B. on the _____ day of _____, at _____, in the said Province, was found by the said C. D. in _____, under such circumstances as to give rise to suspicion that he was about to commit or to aid in the commission of a crime punishable on summary conviction or indictment, or was waiting for an opportunity to commit or aid in the commission of a crime punishable on indictment or summary conviction; or [was found by _____ in or upon any dwelling-house, or any building, or yard, or premises, being parcel of or attached to such dwelling-house, or in or upon any shop,

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shop, warehouse, counting-house, or other place of business, or in any garden, orchard, pleasure ground, nursery ground, or enclosed land, being private property, without being able satisfactorily to account for his being found on such premises] contrary to the Statute: Now we the said Justices do, in pursuance of the above-recited Act, convict the said A. B. of the said offence, and adjudge that the said A. B. for the said offence shall be imprisoned in the at , and there kept to hard labor for the space of : These are therefore to command you, the said constable, to take the said A. B. and him safely convey to the aforesaid, and there to deliver him to the keeper thereof, together with this precept; and we do command you, the said keeper of the said , to receive the said A. B. into your custody in the said , there to imprison him and keep him to hard labor for the space of .

Given under our hands and seals at , this day of , A.D. 18 .