CHAP. 99.

An Act for the more effectual Prevention of Crime. A.D. 1869.

[11th August 1869.]

WHEREAS it is expedient to make further provision for the suppression of crimes committed by convicts at large on licence or by other offenders:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited as "The Habitual Criminals Act, 1869." 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. "Chief officer of police" shall mean within the district of the London metropolitan police force the commissioner of police, or an assistant commissioner, or a district superintendent; in the City of London the commissioner of police; within the police district of Dublin metropolis any one of the commissioners of police for the said district; and elsewhere shall include any of the following persons,—in England, any chief constable, head constable, or other chief officer of police or of a division of police, by whatever name such chief officer may be called; the expression "stipendiary magistrate" shall include a metropolitan police magistrate; and in Ireland, any inspector, sub-inspector, head or other constable of the Royal Irish Constabulary acting as chief officer of constabulary within any district or town. Where in any of the provisions of this Act the expression "stipendiary magistrate" is used, such provisions shall be interpreted in Scotland as if the expression "sheriff or sheriff substitute" had been used. Definition of terms.

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PART I.

Convicts at large on Licence.

Power to apprehend holders of licence on suspicion.

3. Any constable or police officer may, if authorized so to do in writing by a chief officer of police, without warrant, take into custody any convict who is the holder of a licence granted under the Penal Servitude Acts, 1853, 1857, and 1864, or any of them, and whom he has reason to believe to be getting a livelihood by dishonest means, and may bring him before two or more justices of the peace or a stipendiary magistrate.

If it shall appear from the facts proved before such justices or magistrate that there are reasonable grounds for such belief, his licence shall be forfeited in the same manner as if he had been convicted of an indictable offence, and the justices or magistrate before whom he is brought shall commit him to any prison within their or his jurisdiction, there to remain until he can conveniently be removed to some prison in which convicts under sentence of penal servitude may lawfully be confined, in order that he may there undergo the term of penal servitude to which he is liable under the said Penal Servitude Acts or some of them.

Penalty for breach of conditions of licence.

4. Where in any licence granted under the said Penal Servitude Acts, or any of them, any conditions different from or in addition to those contained in Schedule A. of the Penal Servitude Act, 1864, are inserted, the holder of such licence shall, on a breach of such conditions, be deemed guilty of an offence, in the same manner as if such conditions were contained in the said Schedule A.

There shall be repealed so much of the fourth section of the Penal Servitude Act, 1864, as requires the holder of a licence to report himself personally once in each month.

A copy of any conditions annexed to any licence granted under the Penal Servitude Acts, other than the conditions contained in Schedule A. of "The Penal Servitude Act, 1864," shall be laid before Parliament within twenty-one days after the making thereof, if Parliament be then sitting, or if not, then within fourteen days after the commencement of the next session of Parliament.

PART II. A.D. 1869.

Registration of Criminals.

Register of criminals.

5. For the better supervision of criminals a register of all persons convicted of crime in England shall be kept in London, under the management of the Commissioner of Police for the Metropolis, or of such other person as one of Her Majesty's Principal Secretaries of State may appoint, and in Dublin a like register shall be kept, under the management of the Commissioners of Police for the police district of Dublin metropolis, or of such other person as the Lord Lieutenant or other Chief Governor or Governors of Ireland may appoint, in such form, with such evidences of identity, and containing such particulars, and subject to such regulations as may from time to time be prescribed by one of Her Majesty's Principal Secretaries of State in England, or in Ireland by the Lord Lieutenant. All expenses incurred with the sanction of the Commissioners of the Treasury in keeping such register shall be paid out of monies provided by Parliament.

Returns for purposes of register.

6. In order to make such register complete, and to make the supervision over criminals effectual, the gaolers or governors of county and borough prisons, and the chief officers of police in every county, borough, and other place in the United Kingdom which maintains a separate police, shall from time to time make returns, if such prison, county, borough, or other place be in Great Britain, to one of Her Majesty's Principal Secretaries of State, and if the same be situate in Ireland to the Lord Lieutenant or other Chief Governor or Governors of Ireland, or to such person as they may respectively appoint, in such manner, and at such time, and containing such evidences of identity and other information with respect to persons convicted of crime, as they may from time to time respectively direct.

All expenses incurred in any place in carrying this section into effect with the sanction of the authority authorized to allow charges on the funds for the maintenance of the police in that place shall be deemed to be part of the expenses of such police, and be defrayed accordingly.

Part of Act to be construed with Penal Servitude Acts.

7. The first two parts of this Act, so far as is consistent with the tenor thereof, shall be construed as one with the said Penal Servitude Acts. Crime, for the purposes of this Act, so far as relates to the registration of criminals, shall mean any felony or any offence not a felony specified in the first schedule hereto.

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PART III.

Habitual Criminals.

Person twice guilty of felony and not punished with penal servitude to be subject to the supervision of the police.

8. Where any person is convicted on indictment of any offence specified in the first schedule hereto in England or Ireland, and in the second schedule hereto in Scotland, 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 on him, unless otherwise declared by the court, that he is to be subject to the supervision of the police as herein-after mentioned for a period of seven years, or such less period as the court shall direct, commencing 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 stipendiary magistrate) with imprisonment, with or without hard labour, for a term not exceeding one year, under the following circumstances, or any of them:

First. 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 is 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 dwelling house, or in or upon any shop, warehouse, counting-house, or other place of business, or in any garden, orchard, pleasure ground, or nursery ground, 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,

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if charged with being guilty of an offence committed under the circumstances thirdly herein-before 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 the 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 a chief officer 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 seven years 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.

A convict who has been sentenced to penal servitude shall not during the time when he is at large under a licence granted under the said Penal Servitude Acts, or any of them, be deemed for the purposes of this section to be undergoing his punishment.

Amendment of sect. 4 of the Vagrant Act, 5 G. 4. c. 83.

9. And whereas by the fourth section of the Act passed in the fifth year of the reign of King George the Fourth, chapter eighty-three, intituled "An Act for the punishment of idle and disorderly "persons, and rogues and vagabonds, in that part of Great "Britain called England," it is, amongst other things, provided that every suspected person or reputed thief frequenting any river, canal, or 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, shall be deemed a rogue and vagabond, and may be apprehended and committed to prison with hard labour for any time not exceeding three calendar months: And whereas doubts are entertained as to the nature of the evidence required to prove for the purposes of the said section the intent to commit a felony: Be it enacted, that in proving such intent 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

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the circumstances of the case, and from his known character as proved to the justices or magistrate, it appears to such justices or magistrate that his intent was to commit a felony.

Penalty for harbouring thieves, &c. 25 & 26 Vict. c. 101. s. 337.

10. Every person who occupies or keeps any lodging-house, beerhouse, public house, or other place where exciseable liquors are sold, or place of public entertainment or public resort, and knowingly lodges or harbours 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:

(1.) Provided that no person shall be imprisoned for not finding sureties in pursuance of this section for a longer period than three months:

(2.) The security required from a surety shall not exceed twenty pounds:

And any licence for the sale of any exciseable liquors or for keeping any place of public entertainment or public resort which has been granted to the occupier or keeper of any such house or place as aforesaid shall be forfeited on his first conviction of an offence under this section, and on his second conviction for such an offence he shall be disqualified for a period of two years from 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 by the Excise or otherwise shall be void.

PART IV. A.D. 1869.

Receivers of stolen Goods.

Burden of proof in cases of receiving stolen goods.

11. 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 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 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 a chief officer 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 other competent magistrate to account for his possession of such property, and such justice or other 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 chief officer of police to give such authority as aforesaid in the following cases:—

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First. 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 harbouring thieves:

Second. 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 chief officer 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.

PART V.

Assaults on Police.

Assaults on police.

12. Where any person is convicted of an assault and battery on any constable or police or peace officer when in the execution of his duty, such person shall on summary conviction before two or more justices, or one stipendiary magistrate, be liable either to pay a penalty not exceeding twenty pounds, and in default of payment to be imprisoned for a term not exceeding six months, or, in the discretion of the court, to be imprisoned for any term not exceeding six months, with or without hard labour.

PART VI.

General Provisions.

Power to remand.

13. 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.

14. The forms set forth in the second schedule to 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.

Constabulary station to include police stations in Dublin.

15. The term "constabulary station" in section four of "The Penal Servitude Act, 1864," shall include any police station within the police district of Dublin metropolis.

Children of convicts.

16. The provisions of "The Industrial Schools Act, 1861," shall apply to all the children under the age of fourteen years of any woman who shall be convicted for the second time of any offence specified in the first schedule hereto, when such children shall at the time of the conviction be under her care and control, and have no visible means of subsistence.

Penalty on dealer in old metals.

17. Any dealer in old metals as defined in the Old Metal Dealers Act, 1861, who shall either personally or by any servant or agent purchase, receive, or bargain for lead, whether new or old, in any quantity at one time of less weight than one hundred and twelve pounds, or who shall personally or by any servant or agent purchase, receive, or bargain for copper, whether new or old, in any quantity at one time of less weight than fifty-six pounds, shall be liable to a penalty of five pounds, to be recovered in the same manner as penalties incurred under the said recited Act are therein directed to be recovered.

FIRST SCHEDULE.

Any felony not punishable with death also, 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, or misdemeanor under the fifty-eighth section of the twenty-fourth and twenty-fifth Victoria, chapter ninety-six.

SECOND SCHEDULE.

Robbery, theft, assault with intent to rob, stouthrief, falsehood, fraud, and wilful imposition, obtaining goods or money by false pretences, uttering false or counterfeit coin.

THIRD SCHEDULE.

To a constable of the said county of
To wit. and to the keeper of the prison
at in the said county, and to the governor
of the (*convict prison*).

WHEREAS *A.B.* was this day brought before me the undersigned, one of Her Majesty's justices of the peace in and for the said county of having been taken into custody by *C.D.*, a constable of the said county, under the provisions of "The Habitual Criminals Act, 1869," the said *A.B.* being the holder of a licence granted under the Penal Servitude Acts, 1853, 1857, and 1864, or some of them, and suspected of getting a livelihood by dishonest means, and the said *A.B.* the holder of the said licence having failed to make it appear to the satisfaction of me the said justice that he is not getting a livelihood by dishonest means, the said licence so held by the said *A.B.* is forfeited; I the said justice, in pursuance of the above first-recited Act, do commit the said *A.B.* to the prison, there to be detained until he can conveniently be removed to the (*convict prison*); and I the said justice do therefore require you the said constable to take the said *A.B.*, and him

safely to convey to the prison aforesaid, and there to deliver him to the keeper thereof, together with this precept; and I do hereby command you the said keeper to receive into your custody the said *A.B.* in the said prison, and there safely keep him until he can conveniently be removed as aforesaid; and I do hereby require the said governor of the said (*convict prison*) to receive the said *A.B.*, and to detain him until he has undergone the term of penal servitude to which he is liable under the Penal Servitude Acts, 1853, 1857, and 1864, or some of such Acts. A.D. 1869.

Given under my hand and seal at in the said county, this day of in the year of our Lord one thousand eight hundred and .

To a constable in the said county of
To wit. and to the keeper of the House of Correction
at in the said county.

WHEREAS *A.B.*, being a person subject by the provisions of "The Habitual Criminals Act, 1869," 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 county of , 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, or nursery ground, 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 the house

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of correction at in the said county, and there kept to hard labour 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 house of correction 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 house of correction, to receive the said *A.B.* into your custody in the said house of correction, there to imprison him and keep him to hard labour for the space of .

Given under our hands and seals at in the said county this day of in the year of our Lord one thousand eight hundred and .

To a constable of the said county of

To wit. , and to the keeper of the House of Correction at , in the said county of .

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 county of , under the provisions of "The Habitual Criminals Act, 1869," and it has been duly proved upon oath before us that the said *A.B.* has been three times 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 the parish of in the said county of " 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 sum- " mary 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, warehouse, counting-house, or other place of " business, *or* in any garden, orchard, pleasure ground, or nursery " ground, 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 house of correction at in the said county, and there kept to hard labour for the space of . A.D. 1869.

These are therefore to command you, the said constable, to take the said *A.B.* and him safely to convey to the house of correction 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 house of correction, to receive the said *A.B.* into your custody in the said house of correction, there to imprison him and keep him to hard labour for the space of .

Given under our hands and seals at this day of in the year of our Lord one thousand eight hundred and .

To a constable of the said county of
To wit. , and to the keeper of the House of Correction at in the said county of .

Whereas *A.B.* was on this day duly convicted before me the undersigned, one of Her Majesty's justices of the peace in and for the county of , having been brought before me by *C.D.*, a constable, under the provisions of "The Habitual Criminals Act, 1869," and charged upon the oath of the said *C.D.*, taken before me in the presence and hearing of the said *A.B.*, of being a rogue and vagabond within the intent and meaning of the statutes made in the fifth year of the reign of His late Majesty King George the Fourth, intituled "An Act for the punishment of idle and dis-"orderly persons and rogues and vagabonds in that part of Great "Britain called England," and "The Habitual Criminals Act, 1869," before mentioned, (that is to say,) for that the said *A.B.* on the day of in the year of our Lord one thousand eight hundred and , in the parish of , in the said county of , [*here set out the circumstances under which the justice was of opinion that the said* A.B. *might reasonably be suspected to have intended to commit a felony*], contrary to the said statutes. And it was thereby adjudged that the said *A.B.* for the said offence should be imprisoned at the house of correction at in the said county, and there kept to hard labour for the space of .

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These are therefore to command you the said constable to take the said *A.B.*, and him safely to convey to the house of correction aforesaid, and there to deliver him to the keeper thereof, together with this precept; and I do command you, the said keeper of the said house of correction, to receive the said *A.B.* into your custody in the said house of correction, there to imprison him and keep him to hard labour for the space of

Given under my hand and seal at this day of in the year of our Lord one thousand eight hundred and

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