

No. XXIII.

An Act to amend the Criminal Law so far as regards the punishment of persons convicted of First Offences, and persons undergoing imprisonment or penal servitude. [1st June, 1894.]

FIRST OFFENDERS
PROBATION.

WHEREAS there is reason to believe that many offenders might be induced to reform if, instead of being committed to prison on their first conviction, an opportunity of reformation were afforded them, and it is expedient to amend the law so far as to allow of such opportunity being afforded: Be it therefore enacted by the Queen'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:—

1. This Act may be cited as the "First Offenders Probation Act of 1894."

First Offenders Probation.

Interpretation.

2. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively (that is to say) :—

“ Court ”—The Supreme Court, Quarter Sessions, or any Justice or Justices by or before whom a person is convicted.

“ Minor offence ”—Any offence punishable on summary conviction before any Justice or Justices, with or without the consent of the accused person, or any offence, of whatever nature, which in the opinion of the Court is one to which the provisions of this Act should be applied.

“ Offender ”—A person convicted of a minor offence.

Suspension of punishment on first conviction.

3. When a person is convicted of a minor offence, not having been previously convicted in New South Wales, or elsewhere, in so far as is known to the Court, of an indictable offence, and is sentenced upon such conviction to penal servitude or imprisonment, the following provisions shall have effect :—

(I) The Court shall proceed to pass sentence upon the offender in the usual form.

(II) The Court may, if it thinks fit, suspend the execution of the sentence upon the offender entering into a recognizance with or without sureties in such amount as the Court directs, such recognizance being conditioned that the offender shall be of good behaviour for a period from the date of the sentence equal to the term of the sentence, or if the term of the sentence is less than twelve months, then for the period of twelve months, and shall not during the like period do or omit to do any act whereby the recognizance would become liable to be forfeited under the provisions hereinafter contained.

(III) When such recognizance is entered into the offender may be removed to such gaol or other place as the Court may determine, and there forthwith submitted to the examination customary for securing future identification. But detention for this purpose shall not exceed the term of forty-eight hours, and the offender shall thereupon be discharged from custody, but shall be liable to be arrested by any of the Peace Officers and to be committed to prison, under a warrant issued for that purpose by any Court or Justice of the Peace, to perform his sentence, if during the period specified in the recognizance any of the conditions hereinafter specified happens with respect to him, and written notice shall upon his discharge be given to the offender, signed by the Clerk or other officer of the Court, specifying the conditions under which the offender will become liable to be so committed to prison.

(IV) When an offender is so committed to prison, the sentence shall begin to run from the date of such committal, but the term of the sentence shall not extend beyond the period specified in the recognizance, and at the expiration of that period the offender shall be entitled to be discharged.

Order for restitution or payment of compensation to be made by Court.

4. If the offence of which a person is convicted has relation to property or is an offence against the person, the Court may, if it thinks fit, upon suspending the execution of the sentence as hereinbefore provided, order the offender to make restitution of the property in respect of which the offence was committed, or to pay compensation for the injury done to such property, or compensation for the injury done to the person injured, as the case may be, and may assess the amount to be paid by the offender in any such case, and may direct when and to whom and in what instalments the amount ordered to be paid shall be paid. Every such order may be enforced by any Justice in

the

First Offenders Probation.

the same manner as orders made by Justices upon summary convictions. The Court may also, if it thinks fit, require the offender to give security for the performance of any such order, and may make the discharge of the offender from custody conditional upon such security being given.

5. Every offender discharged under the provisions of this Act shall, once, at least, in every three months during the period specified in the recognizance, report his address and occupation to the Principal Officer of Police at the place in which he was convicted, or at such other place as the Inspector-General of Police may appoint. Such report may be made either by the offender personally attending at the place aforesaid, or by post letter signed by him and addressed to the Principal Officer of Police at that place, unless in any case the Colonial Secretary directs that the report shall be made by the offender personally, in which case it must be made in that mode only.

Defendant discharged to report himself.

6. If, during the period specified in the recognizance an offender so discharged,—

Conditions under which defendant may be arrested.

- (I) Is proved to any Justice to have failed to report his address and occupation to the person at the times, and in the manner prescribed by the last preceding section; or
- (II) On his being charged by an Officer of Police with getting his livelihood by dishonest means, and, being brought before any Justice, it appears to such Justice that there are reasonable grounds for believing that he is getting his livelihood by dishonest means; or
- (III) On being charged with an offence punishable on indictment or summary conviction, and on being required by the Justice or Justices before whom he is charged, to give his name and address he refuses to do so, or gives a false name or a false address; or
- (IV) He is convicted of any offence against the Act of the Governor and Legislative Council of New South Wales, passed in the fifteenth year of Her Majesty's reign, and numbered four, entitled "*An Act for the more effectual 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,*" or is convicted of any indictable offence, or of any offence punishable on summary conviction, and for which imprisonment for a period exceeding one month may be imposed,

then and in any of such cases the Justice or Justices before which such proof is given or before which the offender is so charged or convicted, may forfeit the recognizance and direct him to be committed to prison to perform his sentence as aforesaid, or so much thereof as remains to be performed under the provisions hereinbefore contained, and he shall be so committed accordingly; and the Justice or Justices may grant any necessary warrant for his committal. But if, during the period aforesaid, none of the aforesaid events happen, he shall be discharged from the sentence, and the conviction on which the sentence was imposed shall not on any subsequent conviction against him be deemed to be a previous conviction for the purposes of any Act under which a greater punishment may be inflicted upon a person who has been previously convicted.