

New Zealand.



ANALYSIS.

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1886, No. 22.

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| Title. | AN ACT to permit the Conditional Release of First Offenders for Probation of Good Conduct. [9th August, 1886.] |
| Preamble. | WHEREAS it would be conducive to the public good if first offenders were in certain cases permitted to be at large on probation, without suffering imprisonment :
For such purpose,—
BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:— |
| Short Title. | 1. The Short Title of this Act is “The First Offenders’ Probation Act, 1886.” |
| Interpretation. | 2. In this Act, if not inconsistent with the context,—
“Court” means any Court having jurisdiction to try and determine an offence as herein defined, and includes a Court of summary jurisdiction having jurisdiction as aforesaid :
“Offence” means any indictable offence, not being one for murder, attempted murder, burglary, coining, corrosive-fluid throwing, demanding money with menaces, extortion of money under threats of accusation of crime, placing an explosive substance to endanger life or property, rape, robbery with violence, or an offence attended by irreparable or serious consequences, and either endangering life, or indicating, in the opinion of the Court, an established criminal intention on the part of the accused, and includes any indictable offence which may be dealt with and disposed of by a Court of summary jurisdiction : |

“Offender” means a person whose previous character has been good, and against whom an indictment has not previously been laid or a warrant of arrest for an indictable offence issued, convicted of an offence by verdict of a jury, or by a Court of summary jurisdiction.

Words in this Act relating to any Court, Justices, officer, district, or office shall be construed distributively as applying to each Court, Justices, officer, district, or office to which or to whom the same is applicable.

3. The Governor may from time to time make, alter, or repeal regulations for any purpose incidental or necessary to the due administration of this Act; and any such regulations, on being gazetted, shall take effect and have the operation of law, as if they had been herein enacted.

Governor may make regulations.

4. The Governor may from time to time appoint and remove such police officers or other persons as he shall think fit as Probation Officers under this Act, who may hold such office in conjunction with any other office, and the Governor may assign to any such officer or officers a district or districts wherein he or they may exercise his or their functions.

Governor may appoint Probation Officers.

Every appointment of a Probation Officer shall be gazetted.

5. Every Probation Officer shall, in the exercise of his official duties, have the powers of a constable and of a police officer, and shall be paid such salary or other remuneration as the General Assembly may determine.

Probation Officers to have powers of constables.

6. It shall be the duty of every Probation Officer—

Duties of Probation Officers.

(1.) To inquire carefully into the character and offence of every person arrested for any first offence, for the purpose of ascertaining whether the accused may reasonably be expected to reform without imprisonment;

(2.) To keep a full record of the results of his investigations.

7. It shall be the special duty of every Probation Officer, if satisfied upon investigation that the best interests of the public and the offender would be subserved by placing him upon probation, to recommend the same to the Court trying the case.

To recommend release of accused persons upon probation.

8. When any person is convicted of an offence as defined by this Act, and it is a first offence so far as the Court is not aware to the contrary, the Court before which he is so convicted may, instead of sentencing him at once to any punishment, direct that he shall be placed upon probation in terms of this Act for any period not exceeding the longest term of imprisonment to which he might be sentenced.

Court may release first offenders on probation.

9. The conditions of the liberty accorded to a person released upon probation [unless any one of them is specially remitted for a given reason for a period not exceeding seven days by a Probation Officer], in addition to any special conditions which may be imposed by the Court, a copy of which shall be furnished to the person released upon probation, shall be—

Conditions of release to be furnished to person released.

(1.) That he shall report himself where directed within twenty-four hours after liberation :

(2.) That he shall report himself, in person, once in every month where directed, between the hours of nine in the morning and nine in the evening on the days specified, unless the

Probation Officer shall authorize such report to be made in writing :

- (3.) That he shall reside—that is, sleep—at the address notified to the Probation Officer, in order that he may be at once found, if required for any legal purpose :
- (4.) That he shall get his living by honest means, the nature and place of which shall be specified to and approved of by the Probation Officer :
- (5.) That, if he shall change his address, he must give notice of his removal to the Probation Officer forty-eight hours prior to such removal ; and, if he shall remove to any place within the limits of a district of another Probation Officer, then he shall also, within twenty-four hours, notify the fact of his removal, as also his address and employment, to the Probation Officer in that district :
- (6.) That he shall produce, when required by a police officer, his license of conditional liberty issued by the Probation Officer by order of the Court.

Costs of prosecution.

It may be a condition of every such release on probation that the offender shall enter into recognizances to be of good behaviour, with or without sureties, and shall pay the costs of the prosecution, or some portion of the same, within such period and by such instalments as may be directed by the Court.

Discharge.

10. Upon the due and satisfactory fulfilment of all the conditions of his release, the person on probation at the expiration of the term of his probation shall be deemed to be discharged as if he had been sentenced and served the same.

Person committed for trial unable to procure bail may released in terms of Act.

11. When any person is committed for trial for an offence as defined by this Act, and is unable to procure bail for his appearance when required, the committing Justices or Resident Magistrate may, if they or he think fit, release such person on probation in terms of this Act instead of sending him to prison to await his trial, and in any such case the provisions of this Act shall apply in respect of the person so released in the same manner as if he had been convicted of the offence for which he has been committed as aforesaid.

Person on probation may be rearrested by Probation Officer.

12. Any offender placed upon probation by a Court and failing to comply with, or conducting himself in a manner inconsistent with, the conditions of his release, may be re-arrested by the Probation Officer of the district wherein the offender is residing, or at the verbal or written request of such Probation Officer, or by any other Probation Officer or constable in any part of the colony, without further warrant, and again brought before the Court where he was originally convicted, and such Court may, after taking the evidence of the Probation Officer, and considering the record of the facts at the trial or hearing adduced, and any other evidence, may thereupon commit the offender to prison for any period allowed by law in respect of the offence whereof he was originally convicted, or again release him on probation on such terms as it shall think fit.

If committed, time on probation not counted as part of sentence.

13. If any person so re-arrested is committed to prison, the time between his release on probation and his committal to prison shall not be taken to be any part of the term of sentence.

14. Every Probation Officer shall make a return to the Minister of Justice monthly, showing the name, sex, and offence of each person placed upon probation, with such other particulars as the said Minister may require, and the result in each case when the term of probation is completed.

Monthly return of persons on probation to be sent to Minister of Justice.

15. Notwithstanding anything hereinbefore contained, the following provisions shall apply in respect to persons accused of an offence under this Act:—

Court of summary jurisdiction may discharge without sentence.

A Court of summary jurisdiction, after hearing the evidence, may discharge such person without sentencing him ; or

The Supreme Court, at any stage of the trial of such person, may direct him to be discharged either before or after verdict; and such discharge shall have all the effect of an acquittal of the accused in respect of the offence for which he was committed for trial, held to bail, or indicted.

Supreme Court may direct discharge before or after verdict.

16. Nothing in this Act contained shall be construed to annul, abridge, or alter any authorities or jurisdiction which any Court, or any Judge or Justices thereof, possesses or possess under any Act other than this Act, or otherwise.

Saving clause.