



ANNO QUINQUAGESIMO ET QUINQUAGESIMO
PRIMO

VICTORIÆ REGINÆ.

A.D. 1887.

No. 401.

An Act to amend the Criminal Law so far as regards
the Punishment of Persons Convicted of First
Offences for Minor Offences.

[*Assented to, November 16th, 1887.*]

WHEREAS there is reason to believe that many offenders might Preamble.
be induced to reform if, instead of being committed to prison
upon 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 Governor of the Province of South Australia, by and with
the advice and consent of the Legislative Council and House of
Assembly of the said province, in this present Parliament assembled,
as follows:

1. This Act may be cited as “The Offenders Probation Act of Short title.
1887.”

2. In this Act, unless the context otherwise indicates, the fol- Interpretation.
lowing terms have the meanings set against them respectively, that
is to say—

“Court”—The Supreme Court, or a Justice or Justices by or
before whom a person is convicted:

“Minor offence”—Any offence punishable on summary con-
viction before a Justice or Justices, with or without the
consent of the accused person, or any offence of whatever
nature for which by law a sentence of imprisonment, with

The Offenders Probation Act.—1887.

or without hard labor, for a shorter period than two years may be imposed, and for which a sentence of such duration is, in the opinion of the Court, an adequate punishment:

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

“Court of Summary Jurisdiction”—One or more Justice or Justices having jurisdiction to try persons charged with offences punishable on summary conviction.

Suspension of punishment on first conviction.

3. When a person is convicted of a minor offence, not having been previously convicted in South Australia or elsewhere of an offence and sentenced upon such conviction to imprisonment for a period exceeding three months, the following provisions shall, if the Court is satisfied that the case is a proper one to be dealt with under the provisions of this Act, have effect:—

- (1) The Court shall proceed to pass sentence upon the offender in the usual form, and may, if it thinks fit, instead of any other punishment which the Court may lawfully inflict, order that such offender, being a male under the age of sixteen years, shall be once, twice, or thrice privately whipped, the number of strokes not to exceed twenty-five at each whipping, the number of strokes at each whipping to be specified by the Court in the sentence; all whippings to be carried out in the manner provided in the Act No. 35 of 1872, intituled “An Act for the more effectual Punishment of Juvenile Offenders.”
- (2) The Court may, if it thinks fit, suspend the execution of the sentence, upon the offender entering into a recognizance 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 six months, then for the period of six 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:
- (3) When such recognizance is entered into the offender shall be discharged from custody, but shall be liable to be committed to prison to perform his sentence if, during the period specified in the recognizance, any of the conditions hereinafter specified happens with respect to him:

A written notice shall be given to the offender upon his discharge specifying the conditions under which he will become liable to be so committed to prison:

- (4) 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

The Offenders Probation Act.—1887.

of that period the offender shall be entitled to be discharged:

Provided that nothing herein contained shall be taken to limit or in anywise affect the power of a Judge or Justices at common law to refrain from passing sentence on any offender upon his entering into recognizances to come up for judgment when called upon.

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.

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

(1) If in any of the cases in this section before mentioned the offence is committed by a person under the age of fourteen years, it shall be lawful for the Court, upon suspending the execution of the sentence as hereinbefore provided, to order that the father, mother, or guardian of the offender make restitution of the property in respect of which the offence was committed, or pay compensation for the injury done to such property, or for the injury done to the person injured, as the case may be, and may assess the amount to be paid by such father, mother, or guardian in any such case, and may direct when and to whom and in what instalments the amount ordered to be paid shall be paid:

(2) Every such order may by any Justice be enforced in the same manner as orders made by Justices upon summary convictions:

(3) The Court may also, if it think fit, require the offender, if under the age of fourteen years, or his father, mother, or guardian 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 Commissioner of Police may appoint.

Defendant discharged to report himself.

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 Court directs by notice in writing to be served on the offender personally by some officer of police that the report shall be made

The Offenders Probation Act.—1887.

made by the offender personally, in which case it must be made in that mode only.

Conditions under which defendant may be arrested.

6. If, during the period specified in the recognizance—

- (1) It is proved to a Court of summary jurisdiction that an offender so discharged has failed to report his address and occupation to the person, at the times, and in the manner prescribed by the last preceding section; or
- (2) If, on being charged with an offence punishable on information or summary conviction, and on being required by the 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
- (3) If he is convicted of any offence under "The Police Act, 1869-70," or is convicted of any 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 Court before which the offender is 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 if in the case of his being convicted of any offence as in subsection 3 hereof the Court, may if it decide to award a term of imprisonment as a punishment for such conviction, order that such term of imprisonment be cumulative with the sentence or so much thereof as remains to be performed upon the former conviction. And the Court may grant any necessary warrant for his committal.

But if during the period aforesaid none of the aforesaid events happens, he shall be discharged from the sentence.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. C. F. ROBINSON, Governor.