



Western Australia.

ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. VI.

AN ACT to permit the Conditional Release of First Offenders in certain cases.

[Assented to, 1st February, 1892.]

WHEREAS it is expedient to make provision for cases where the reformation of persons convicted of first offences may, by reason of the offender's youth or the trivial nature of the offence or other circumstances, be brought about without imprisonment: Preamble.

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. IF upon the trial of any person on a charge of larceny, or false pretences, or any other offence punishable with not more than two years imprisonment (with or without any alternative punishment), before any Court, such person shall plead guilty, or the Court shall think the offence proved, if it appears to the Court that regard being had to the youth, character, or antecedents of the offender, or the trivial nature of the offence, or to any extenuating

Power of Court to discharge offender without punishment, and to order the payment of damages and costs.

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circumstances under which the offence was committed, it is inexpedient to inflict any punishment, or any other than a nominal punishment, and provided that no previous conviction is proved against the offender :

- (1.) The Court, without proceeding to conviction, may dismiss the information or complaint, and make an order to that effect, and if the Court think fit may, upon such dismissal, also order the person charged to pay to the prosecutor such damages not exceeding Twenty pounds, and such costs of the prosecution, or either of them, as the Court may think reasonable ; or
- (2.) The Court may convict the offender and discharge him conditionally on his entering into a recognizance with or without sureties, and during such period as the Court may direct, to appear and receive judgment when called upon, and, in the meantime, to keep the peace and be of good behaviour; and either without payment of damages and costs as aforesaid, or subject to the payment of such damages and costs, or either of them, as the Court may think reasonable. Forms of recognizance are given in the Schedule to this Act.

The Court may direct any such damages or costs to be paid within such period and by such instalments as the court may think fit, and the payment of any such damages or costs may be enforced by the court or any court of summary jurisdiction in like manner as any penalty or order for the payment of money or costs may be enforced under the law regulating proceedings before Justices out of Sessions with respect to summary convictions and orders: Provided that an order made for the payment of any such damages and costs as aforesaid or either of them or of any instalment thereof, respectively, shall not, in default of distress or otherwise, be enforced by imprisonment, unless it be proved to the satisfaction of such court, or of any court of summary jurisdiction, that the person making default in payment of such damages and costs or either of them or of any instalment thereof, respectively, either has, or has had since the date of the order, the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same, and in any such case the court shall have the same power of imprisonment as a local court would for the time being have under "The Debtors Act, 1871," for default of payment if such sum had been recovered in that court, but shall not have any greater power.

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Proof of the means of the person making default may be given in such manner as the Court to whom application is made for the commitment to prison think just, and for the purposes of such proof

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the person making default and any witnesses may be summoned and examined on oath according to the rules for the time being in force under "The Debtors Act, 1871," in relation to the summoning and examination of witnesses.

2. ANY order of dismissal or conviction and conditional discharge under the provisions of the preceding section shall be a bar to all further or other proceedings, civil or criminal, for the same cause.

Dismissal or conviction to be a bar to further proceedings.

3. (1.) IF a Court having power to deal with the offender in respect of his original offence, or any Court of summary jurisdiction, is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may forfeit the recognizance and issue a warrant for his apprehension.

Provision in case of offender failing to observe conditions of his recognizance.

(2.) An offender, when apprehended on any such warrant, shall, if not brought forthwith before the Court having power to sentence him, be brought before a Court of summary jurisdiction, and that Court may either remand him by warrant until the time at which he was required by his recognizance to appear for judgment, or until the sitting of a Court having power to deal with his original offence, or may admit him to bail with a sufficient surety conditioned on his appearing for judgment.

(3.) The offender, when so remanded, may be committed to any prison near the place where he is bound to appear for judgment; and the warrant of remand shall order that he be brought before the Court before which he was bound to appear for judgment, or to answer as to his conduct since his release.

4. IN this Act the term "Court" includes a Court of summary jurisdiction.

Definition of "Court."

5. THIS Act may be cited as "The Probation of First Offenders Act, 1892."

Short title.

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

ALEX. C. ONSLOW, Administrator.

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Schedule.

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Recognizance without Sureties.

In the Supreme Court, (or the Court of Petty Sessions sitting
at or the Court of Quarter Sessions at
as the case may be).

I, the undersigned, acknowledge myself to owe to our Sovereign Lady the Queen the sum of pounds, to be levied on my goods, lands, and tenements if I fail in the condition hereunder written.

A.B.

Taken before me, the day of 189 .

Signed by Judge or Justice
(as the case may be).

The condition of the above recognizance is such that if the above bounden (A.B.) shall, if called upon (within a period of from this date) appear before (the Supreme Court or Court of Quarter Sessions at or the Court of Petty Sessions at as the case may be), and receive judgment, and shall in the meantime keep the peace and be of good behaviour, then this recognizance shall be void, but otherwise shall remain in full force.

Adjudication of Forfeiture.

(To be endorsed.)

In the (name of Court).

The within mentioned principal not having complied with the said condition, the Court adjudges the within written recognizance to be forfeited.

Dated

Judge or Justice of Peace.

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Recognizance with Sureties.

In the (name of Court).

We, the undersigned, severally acknowledge ourselves to owe to our Sovereign Lady the Queen the several sums following, namely, of as principal the sum of £ and of (and of) as surety (ies) the sum of £ each to be levied on our several goods, lands, and tenements if the said principal fail in the condition hereunder written.

A.B.

C.D.

E.F.

Taken before me, the day of 189 .

Judge or Justice of Peace.

[Same condition and same adjudication of forfeiture as previous form.]