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Hon. Mr. Tole.

FIRST OFFENDERS' PROBATION.

ANALYSIS.

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A BILL INTITULED

AN ACT to permit the Conditional Release of First Offenders for Probation of Good Conduct. Title.

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: Preamble.

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:—

1. The Short Title of this Act is "The First Offenders' Probation Act, 1886." Short Title.

2. In this Act, if not inconsistent with the context,— Interpretation.

"Court" means any Court or Justices having jurisdiction to try and determine an offence as herein defined:

"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:

"Offender" means a person, either male or female, 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 in cases which may be dealt with by a Court of summary jurisdiction, after such evi-

dence has been adduced before the Court as leads to the determination of the guilt of the prisoner of the alleged offence :

Words in this Act relating to any Court, Justices, officer, district, or office shall be construed distributively as applying to each Court, Visiting Justice, officer, district, or office to which or to whom the same is applicable. 5

Governor may make regulations.

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. 10

Governor may appoint Probation Officers.

4. The Governor may from time to time appoint and remove such police officers or other persons as he shall think fit to be Probation Officers under this Act, who may hold such office in conjunction with any other office, and may assign to any such officer or person a district wherein he may exercise his functions. 15

Probation Officers to have powers of constables.

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. 20

Duties of Probation Officers.

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

- (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; 25
- (2.) To attend the sittings of all Courts in his district where first offenders are to be tried;
- (3.) To recommend to the Court the placing on probation of first offenders; 30
- (4.) To keep a full record of the results of his investigations.

To recommend release of accused persons upon probation.

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. 35

Court may release first offenders on probation.

8. When a verdict of guilty has been returned by a jury against any offender for any offence as defined by this Act, or a Court of summary jurisdiction has been satisfied according to law of the guilt of an accused person of any offence within the jurisdiction of such Court to dispose of summarily, *and so far as the Court is not aware to the contrary it is the first offence as aforesaid*, in respect of which an indictment has been laid or a warrant of arrest issued against the accused, the Court, instead of sentencing the offender to prison, may direct the verdict of the jury or the opinion of the Court of summary jurisdiction, as the case may be, to be recorded, and may permit the offender to be placed upon probation as hereinafter provided, and upon any special terms it may deem advisable, having regard to his reformation, and may order him to appear before the Court at such future time or times, and such report to be then made concerning his conduct as it shall think fit. 40 45 50

Conditions of release to be furnished to person released.

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

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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—

- 5 (1.) That he shall report himself where directed within twenty-four hours after liberation :
- (2.) That he shall report himself, in person, once or oftener 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 :
- 10 (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, and regular employment, the nature and place of which shall be specified to and approved of by the Probation Officer :
- 15 (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 :
- 20 (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.

25 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. Costs of prosecution.

30 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 served his sentence. Discharge.

35 11. Any person placed upon probation, upon the recommendation of a Probation Officer, may be rearrested by him without further warrant, and again brought before the Court where he was originally convicted, or before any Judge thereof, or before any two Justices of the Peace if originally convicted on summary procedure ; and such Person on probation may be rearrested by Probation Officer.

40 Judge or Justices, as the case may be, may thereupon commit such person to prison for the period of his original sentence, or again release him on probation on such further terms as he or they shall think fit.

45 If any person so rearrested 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. If committed, time on probation not counted as part of sentence.

50 12. 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.