

No. II.

An Act for the more speedy trial and punishment of Juvenile Offenders. [19th July, 1850.]

JUVENILE
OFFENDERS.
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WHEREAS in order in certain cases to ensure the more speedy Preamble.
trial of Juvenile Offenders and to avoid the evils of their long
imprisonment previously to trial it is expedient to allow of such
offenders being proceeded against in a more summary manner than is
now by law provided and to give further power to bail them Be it there-
fore enacted by His Excellency the Governor of New South Wales with
the advice and consent of the Legislative Council thereof That every
person who shall subsequently to the passing of this Act be charged
with having committed or having attempted to commit or with having
been an aider abettor counsellor or procurer in the commission of any
offence which now is or hereafter shall or may be by law deemed or
declared to be simple larceny or punishable as simple larceny and
whose age at the period of the commission or attempted commission of
such offence shall not in the opinion of the Justices before whom he
or she shall be brought or appear as hereinafter mentioned exceed the
the age of fourteen years shall upon conviction thereof upon his Persons not exceed-
ing fourteen years of
age committing cer-
tain offences may be
summarily convicted
by two Justices.
own confession or upon proof before any two or more Justices of the
Peace for any city town or place within the Colony of New South
Wales in Petty Sessions assembled at the usual place and in open
Court be committed to the common gaol or house of correction within
the jurisdiction of such Justices there to be imprisoned with or with-
out hard labor for any term not exceeding three calendar months or
in

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in the discretion of such Justices shall forfeit and pay such sum not exceeding three pounds as the said Justices shall adjudge Provided always that if such Justices upon the hearing of any such case shall deem the offence not to be proved or that it is not expedient to inflict any punishment they shall dismiss the party charged on finding surety or sureties for his future good behaviour or without such sureties and then make out and deliver to the party charged a certificate under the hands of such Justices stating the fact of such dismissal and such certificate shall and may be in the form or to the effect set forth in the Schedule to this Act annexed marked A Provided also that if such Justices shall be of opinion before the person charged shall have made his or her defence that the charge is from any circumstance a fit subject for prosecution by information or indictment or if the person charged shall upon being called upon to answer the charge object to the case being summarily disposed of under the provisions of this Act such Justices shall instead of summarily adjudicating thereupon deal with the case in all respects as if this Act had not been passed.

Justices may dismiss the accused if they deem it expedient not to inflict any punishment.

Power to Justices to hear and determine.

2. And be it enacted That any two or more Justices of the Peace for any city town or place within the said Colony in Petty Sessions assembled and in open Court before whom any such person as aforesaid charged with any offence made punishable under this Act shall be brought or appear are hereby authorized to hear and determine the case under the provisions of this Act.

Proceedings under this Act a bar to further proceedings.

3. And be it enacted That every person who shall have obtained such certificate of dismissal as aforesaid and every person who shall have been convicted under the authority of this Act shall be released from all further or other proceedings for the same cause.

Mode of compelling appearance of persons punishable on summary conviction.

4. And for the more effectual prosecution of offences punishable upon summary conviction by virtue of this Act Be it enacted That where any person whose age is alleged not to exceed fourteen years shall be charged with any such offence on the oath of a credible witness before any Justice of the Peace such Justice may issue his summons or warrant to summon or to apprehend the person so charged to appear before any two Justices of the Peace in Petty Sessions assembled as aforesaid at a time and place to be named in such summons or warrant.

Power to one Justice to remand and take bail.

5. And be it enacted That any Justice or Justices of the Peace if he or they shall think fit may remand for further examination or for trial or suffer to go at large upon his or her finding sufficient surety or sureties any such person as aforesaid charged before him or them with any such offence as aforesaid and every such surety shall be bound by recognizance to be conditioned for the appearance of such person before the same or some other Justice or Justices of the Peace for further examination or for trial before two or more Justices of the Peace in Petty Sessions assembled as aforesaid or for trial at some superior Court as the case may be and every such recognizance may be enlarged from time to time by any such Justice or Justices to such further time as he or they shall appoint and every such recognizance which shall not be enlarged shall be discharged without fee or reward when the party shall have appeared according to the condition thereof.

Application of fines.

6. And be it enacted That every fine imposed by any Justices under the authority of this Act shall be paid to Her Majesty Her Heirs and Successors to be applied for the public uses of the said Colony and in support of the Government thereof in such manner as from time to time may be directed by any Acts of the said Governor and Legislative Council.

As to the summoning and attendance of witnesses.

7. And be it enacted That it shall be lawful for any Justice of the Peace by summons to require the attendance of any person as a witness upon the hearing of any case before two Justices under the authority

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authority of this Act at a time and place to be named in such summons and such Justice may require and bind by recognizance all persons whom he may consider necessary to be examined touching the matter of such charge to attend at the time and place to be appointed by him and then and there to give evidence upon the hearing of such charge and in case any person so summoned or required or bound as aforesaid shall neglect or refuse to attend in pursuance of such summons or recognizance then upon proof being first given of such person's having been duly summoned as hereinafter mentioned or bound by recognizance as aforesaid it shall be lawful for the Justices before whom any such person ought to have attended to issue their warrant to compel his appearance as a witness.

8. And be it enacted That every summons issued under the authority of this Act may be served by delivering a copy of the summons to the party or by delivering a copy of the summons to some inmate at such party's usual place of abode and every person so required by any writing under the hand or hands of any Justice or Justices to attend and give evidence as aforesaid shall be deemed to have been duly summoned. Service of summons.

9. And be it enacted That the Justices before whom any person shall be summarily convicted of any such offence as hereinbefore mentioned may cause the conviction to be drawn up in the form of words set forth in the Schedule to this Act annexed marked B or in any other form of words to the same effect which conviction shall be good and effectual to all intents and purposes. Form of conviction.

10. And be it enacted That no such conviction shall be quashed for want of form or be removed by *certiorari* or otherwise into any of Her Majesty's Supreme Courts of Record and no warrant of commitment shall be held void by reason of any defect therein provided it be therein alleged that the party has been duly convicted and there be a good and valid conviction to sustain the same. No certiorari &c.

11. And be it enacted That the Justices of the Peace before whom any person shall be convicted under the provisions of this Act shall forthwith thereafter transmit the conviction and recognizances to the Clerk of the Peace of the place or district or the Clerk of the Peace nearest to the place or district where any such person shall have been convicted as aforesaid to be kept by him among the Records of the Court of General Quarter Sessions of the Peace. Convictions &c. to be returned to the Quarter Sessions.

12. And be it enacted That no conviction under the authority of this Act shall be attended with any forfeiture but whenever any person shall be deemed guilty under the provisions of this Act it shall be lawful for the presiding Justices to order restitution of the property in respect of which such offence shall have been committed to the owner thereof or his representatives and if such property shall not then be forthcoming the same Justices whether they award punishment or dismiss the complaint may inquire into and ascertain the value thereof in money and if they think proper order payment of such sum of money to the true owner by the person or persons convicted either at one time or by instalments at such periods as the Court may deem reasonable and the party or parties so ordered to pay shall be liable to be sued for the same as a debt in any Court in which debts may be by law recovered with costs of suit according to the practice of such Court. No forfeiture upon conviction under this Act but presiding Justices may order restitution of property.

13. And be it enacted That when any Justices of the Peace shall adjudge any offender to forfeit and pay a pecuniary penalty under the authority of this Act and such penalty shall not be forthwith paid it shall be lawful for such Justices if they shall deem it expedient to appoint some future day for the payment of such penalty and to order the offender to be detained in safe custody until the day so to be appointed. Recovery of penalties.

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appointed unless such offender shall give security to the satisfaction of such Justices for his or her appearance on such day and such Justices are hereby empowered to take such security by way of recognizance or otherwise at their discretion and if at the time so appointed such penalty shall not be paid it shall be lawful for the same or any other Justices of the Peace by warrant under their hands and seals to commit the offender to the common gaol or house of correction within their jurisdiction there to remain for any time not exceeding three calendar months reckoned from the day of such adjudication such imprisonment to cease on payment of the said penalty.

Proceedings against
persons acting under
this Act.

14. And for the protection of persons acting in the execution of this Act Be it enacted That all actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be commenced within three calendar months after the fact committed and not otherwise and notice in writing of such action or prosecution and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action or prosecution and in any such action or prosecution the defendant may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant and if a verdict shall pass for the defendant or the plaintiff shall become nonsuit or discontinue any such action or prosecution after issue joined or if upon demurrer or otherwise judgment shall be given against the plaintiff the defendant shall recover his full costs as between attorney and client and have the like remedy for the same as any defendant hath by law in any other cases and though a verdict shall be given for the plaintiff in such action the plaintiff shall not have costs against the defendant unless the Judge before whom the trial shall be shall certify his approbation of the action and of the verdict thereupon.

Act may be amended
&c.

15. And be it enacted That this Act may be amended or repealed by any Act to be passed by His Excellency the Governor of the Colony of New South Wales with the advice of the Legislative Council thereof.

SCHEDULES TO WHICH THIS ACT REFERS.

A.

Form of Certificate of Dismissal.

To wit. }
 WE of Her Majesty's Justices of the Peace for the
 (*city town or place as the case may be*) do hereby certify That on the
 day of in the year of our Lord at
 in the said (*city town or place*) M. N. was brought before us the said
 Justices charged with the following offence that is to say (*Here state briefly the
 particulars of the charge*) and that we the said Justices thereupon dismissed
 the said charge.
 Given under our hands this day of
