



ANNO VICESIMO SECUNDO ET VICESIMO TERTIO

VICTORIÆ REGINÆ.

A.D. 1859.

No. 7.

An Act for consolidating the Statute Law in force in South Australia relating to Indictable Offences by Forgery.

[Assented to, 1st September, 1859.]

WHEREAS it is expedient to consolidate the Statute Law in force in the Province of South Australia, relating to Indictable Offences by Forgery—Be it therefore Enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province in this present Parliament assembled, as follows:

As to forging private securities:

1. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any will, testament, codicil, or testamentary writing, or any deed, bond, or writing obligatory; or any bill of exchange, or any promissory note for the payment of money, or any endorsement on or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant, or order for the payment of money; or any acquittance or receipt either for money or goods, or any accountable receipt either for money or goods, or for any note, bill, or other security, for payment of money, or any warrant, order, or request for the delivery or transfer of goods, or for the delivery of any note, bill, or other security for payment of money, with intent, in any of the cases aforesaid, to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned for life, or for any less term, with or without hard labor, and with or without solitary confinement.

Forging a will, codicil, or testamentary paper; or a deed, bond, or writing obligatory; or a bill of exchange, promissory note, or warrant or order for payment of money; or a receipt for money or goods, or an order for delivery of goods. 1 W. 4, c. 66, ss. 3, 10, 26. 9 & 10 Vict., c. 24, s. 1.

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ment, however designated, which is in law a will, bill of exchange, &c.
1 W. 4, c. 66, s. 4.

2. Where by this or by any Act any person is made liable to punishment for forging or altering, or for offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any instrument or writing designated in such Act by any special name or description, and such instrument or writing, however designated, is in law a will, testament, codicil, or testamentary writing, or a bill of exchange or a promissory note for the payment of money, or an endorsement on or assignment of a bill of exchange or promissory note for the payment of money, or an acceptance of a bill of exchange, or an undertaking, warrant, or order for the payment of money, within the true intent and meaning of this Act, in every such case the person forging or altering such instrument or writing, or offering, uttering, disposing of, or putting off such instrument or writing, knowing the same to be forged or altered, may be indicted as an offender against this Act, and punished accordingly.

As to forging transfers of stock, &c.:

Forging a transfer of certain stock, and power of attorney relating thereto.
1 W. 4, c. 66, s. 6.
2 & 3 W. 4, c. 123.
1 Vict., c. 84, ss. 1, 2, 3.

3. Whosoever shall forge or alter, or shall utter, knowing the same to be forged or altered, any transfer of any share or interest of or in the capital stock of any body corporate, company, or society which now is or hereafter may be established, or shall forge or alter, or shall utter, knowing the same to be forged or altered, any power of attorney or other authority to transfer any share or interest of or in any such capital stock as is in this section before mentioned, or to receive any dividend payable in respect of any such share or interest, or shall demand or endeavor to have any such share or interest transferred, or to receive any dividend payable in respect thereof, by virtue of any such forged or altered power of attorney or other authority, knowing the same to be forged or altered, with intent in any of the cases aforesaid to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned for life, or for any less term, with or without hard labor, and with or without solitary confinement.

Personating the owner of certain stock, and transferring or receiving or endeavoring to transfer or receive the dividends.
1 W. 4, c. 66, ss. 6, 7, 26.

4. Whosoever shall falsely and deceitfully personate any owner of any share or interest of or in the capital stock of any body corporate, company, or society which now is or hereafter may be established, or any owner of any dividend payable in respect of any such share or interest as aforesaid, and shall thereby transfer or endeavor to transfer any share or interest belonging to any such owner, or thereby receive or endeavor to receive any money due to any such owner, as if such offender were the true and lawful owner, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned for life, or for any less term, with or without hard labor, and with or without solitary confinement.

Forging attestation to power of attorney for transfer of stock, &c.
1 W. 4, c. 66, ss. 8, 26.

5. Whosoever shall forge the name or handwriting of any person as or purporting to be a witness attesting the execution of any power of attorney or other authority to transfer any share or interest of or in

in any such capital stock as is in either of the last two preceding sections mentioned, or to receive any dividend payable in respect of any such share or interest, or shall utter any such power of attorney or other authority with the name or handwriting of any person forged thereon as an attesting witness, knowing the same to be forged, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding four years, with or without hard labor, and with or without solitary confinement.

As to making mould, &c., for bankers' notes:

6. Whosoever shall make or use any frame, mould, or instrument for the manufacture of paper, with the name or firm of any person or persons, body corporate, or company carrying on the business of bankers, appearing visible in the substance of the paper, without the authority of such person or persons, body corporate, or company, the proof of which authority shall lie on the party accused; or whosoever shall, without lawful excuse, the proof whereof shall lie on the party accused, knowingly have in his custody or possession any such frame, mould, or instrument; or whosoever shall, without such authority, to be proved as aforesaid, manufacture, use, sell, expose to sale, utter, or dispose of, or shall, without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession any paper in the substance of which the name or firm of any such person or persons, body corporate, or company carrying on the business of bankers shall appear visible; or whosoever shall, without such authority, to be proved as aforesaid, cause the name or firm of any such person or persons, body corporate, or company carrying on the business of bankers to appear visible in the substance of the paper upon which the same shall be written or printed, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding eight years, with or without hard labor, and with or without solitary confinement.

Making or having mould for making paper, with the name of any bankers; making or having such paper.
1 W. 4, c. 66, ss. 17, 26.

7. Whosoever shall engrave or in anywise make upon any plate whatever, or upon any wood, stone, or other material, any bill of exchange or promissory note for the payment of money, or any part of any bill of exchange or promissory note for the payment of money, purporting to be the bill or note, or part of the bill or note, of any person or persons, body corporate, or company carrying on the business of bankers, without the authority of such person or persons, body corporate, or company, the proof of which authority shall lie on the party accused; or whosoever shall engrave or make upon any plate whatever, or upon any wood, stone, or other material, any word or words resembling, or apparently intended to resemble, any subscription subjoined to any bill of exchange or promissory note for the payment of money issued by any such person or persons, body corporate, or company carrying on the business of bankers, without such authority, to be proved as aforesaid; or whosoever shall, without such authority, to be proved as aforesaid, use, or shall, without lawful excuse, to be proved by the party accused, knowingly have

Engraving on plate, &c., any bill of exchange or promissory note of any bankers, or using such plate; or uttering or having any paper upon which part of such bill or note is printed.
1. W. 4, c. 66, ss. 18, 26.

have in his custody or possession, any plate, wood, stone, or other material upon which any such bill or note, or part thereof, or any word or words resembling, or apparently intended to resemble, such subscription, shall be engraved or made; or whosoever shall, without such authority, to be proved as aforesaid, knowingly offer, utter, dispose of, or put off, or shall, without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession any paper upon which any part of such bill or note, or any word or words resembling, or apparently intended to resemble, any such subscription, shall be made or printed, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding eight years, with or without hard labor, and with or without solitary confinement.

As to forging certificates relating to quarantine:

Forging or uttering
false certificates of
quarantine.
6 G. 4, c. 78, s. 25.

8. Whosoever shall knowingly or wilfully forge or counterfeit, interline, erase, or alter, or procure to be forged or counterfeited, interlined, erased, or altered, any certificate directed or required to be granted by Act of Council, or Act of Parliament, now in force or hereafter to be passed in the said Province, touching quarantine, or shall publish any such forged or counterfeited, interlined, erased, or altered certificate, knowing the same to be forged or counterfeited, interlined, erased, or altered; or shall knowingly and wilfully utter and publish any such certificate, with the intent to obtain the effect of a true certificate to be given thereto, knowing the contents of such certificate to be false, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned for four years, or for any less term, with or without hard labor, and with or without solitary confinement.

As to other matters:

Forging in South
Australia documents
purporting to be made,
or actually made, out
of South Australia;
forging, &c., in South
Australia, bills of ex-
change, &c., purport-
ing to be payable out
of South Australia. 1
W. 4, c. 66, s. 30.

9. Where the forging or altering any writing or matter whatsoever, or the offering, uttering, disposing of, or putting off any writing or matter whatsoever, knowing the same to be forged or altered, is in this Act expressed to be an offence, if any person shall, in the said Province, forge or alter, or offer, or utter, dispose of, or put off, knowing the same to be forged or altered, any such writing or matter, in whatsoever place or country out of the said Province, whether under the dominion of Her Majesty or not, such writing or matter may purport to be made or may have been made, and in whatever language the same or any part thereof may be expressed, every such person, and every person aiding, abetting, or counselling such person, shall be deemed to be an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the writing or matter had purported to be made or had been made in the said Province; and if any person shall, in the said Province, forge or alter, or offer, utter, or dispose of, or put off, knowing the same to be forged or altered, any bill of exchange, or promissory note for the payment of money, or any endorsement on or assignment of any bill of exchange or promissory note for the
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payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant, or order for the payment of money, or any deed, bond, or writing obligatory for the payment of money (whether such deed, bond, or writing obligatory shall be made only for the payment of money, or for the payment of money together with some other purpose), in whatever place or country, whether under the dominion of Her Majesty or not, the money payable or secured by such bill, note, undertaking, warrant, order, deed, bond, or writing obligatory may be or may purport to be payable, and in whatever language the same respectively or any part thereof may be expressed, and whether such bill, note, undertaking, warrant, or order be or be not under seal, every such person, and every person aiding, abetting, or counselling such person, shall be deemed to be an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the money had been payable or had purported to be payable in the said Province.

10. In any indictment for forging or uttering any instrument it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile thereof, or otherwise describing the same or the value thereof.

Description of instrument in indictments for forgery.
14 & 15 Vict., c. 100, s. 5.

11. In any indictment for engraving or making the whole or any part of any instrument, matter, or thing whatsoever, or for using or having the unlawful possession of any plate or other material upon which the whole or any part of any instrument, matter, or thing whatsoever shall have been engraved or made, or for having the unlawful possession of any paper upon which the whole or any part of any instrument, matter, or thing whatsoever shall have been made or printed, it shall be sufficient to describe such instrument, matter, or thing by any name or designation by which the same may be usually known, without setting out any copy or fac-simile of the whole or any part of such instrument, matter, or thing.

Description of instrument in indictments for engraving, &c.
14 & 15 Vict., c. 100, s. 6.

12. It shall be sufficient, in any indictment for any offence punishable under this Act where it shall be necessary to allege an intent to defraud, to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person; and on the trial of any such offence it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud.

Intent to defraud particular persons need not be alleged or proved.
14 & 15 Vict., c. 100, s. 8.

13. Where the having any matter in the custody or possession of any person is in this Act expressed to be an offence, if any person shall have any such matter in his personal custody or possession, or shall knowingly and wilfully have any such matter in any dwelling-house or other building, lodging, apartment, field, or other place, open or enclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use or for
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Interpretation as to criminal possession.
1 W. 4, c. 66, s. 28.

the use or benefit of another, every such person shall be deemed and taken to have such matter in his custody or possession within the meaning of this Act.

Fine and sureties of the peace.

14. In all cases of felonies in this Act mentioned, it shall be lawful for the Court, if it shall think fit, to require the offender to find sureties for good behaviour, in addition to any of the punishments by this Act authorized.

Hard labor and solitary confinement.

15. Where imprisonment with or without hard labor may be awarded for any offence under this Act, the Court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labor, in any common gaol or labor prison; and where solitary confinement may be awarded for any offence under this Act, the Court may direct the offender to be kept in solitary confinement for any portion or portions of his imprisonment, or of his imprisonment with hard labor, not exceeding one month at any one time, and not exceeding three months in any one year.

Commencement of Act.

16. This Act shall commence and take effect from the passing thereof.