



ANNO VICESIMO SECUNDO ET VICESIMO TERTIO

VICTORIÆ REGINÆ.

A.D. 1859.

No. 5.

An Act for consolidating the Statute Law in force in South Australia relating to Indictable Offences (not being Treason) against Her Majesty the Queen and Her Government.

[Assented to, 1st September, 1859.]

WHEREAS it is expedient to consolidate the Statute Law in Preamble.
force in the Province of South Australia relating to indictable offences (not being treason) against Her Majesty the Queen and Her Government—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 embezzlement by public servants :

1. Whosoever, being employed in the public service of Her Majesty in the said Province, and intrusted by virtue of such employment with the receipt, custody, management, or control of any chattel, money, or valuable security, shall embezzle the same or any part thereof, or in any manner fraudulently apply or dispose of the same or any part thereof to his own use or benefit, or for any purpose whatsoever except for the public service, shall be deemed to have stolen the same, and 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 : Provided that every tally, order, or other security whatsoever entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, or to any share or interest in any fund of any body corporate, company, or society, or to any deposit in any Savings Bank, and every debenture, deed,

Embezzlement by persons in the Queen's service.

2 W. 4, c. 4, ss. 1, 5, 2.

"Valuable security"
defined.

deed, bond, bill, note, warrant, order, or other security whatsoever, for money or for payment of money, whether of the said Province, or of any other part of Her Majesty's Dominions, or of any Foreign State, and every warrant or order for the delivery or transfer of any goods or valuable thing, shall throughout this section be deemed for every purpose to be included under and denoted by the words "valuable security;" and if any person so employed and intrusted as aforesaid shall embezzle or fraudulently apply or dispose of any such valuable security as aforesaid, he shall be deemed to have stolen the same within the intent and meaning of this section, and shall be punishable thereby in the same manner as if he had stolen any chattel of like value with the share, interest, or deposit to which such security may relate, or with the money due on such security or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing mentioned in such security.

Indictment, &c.
2 W. 4, c. 4, ss. 3, 4.

2. It shall be lawful to charge in the indictment to be preferred against any offender under the preceding section, and to proceed against him for any number of distinct acts of embezzlement or of fraudulent application or disposition as in the last preceding section mentioned, not exceeding three, which may have been committed by him within the space of six months from the first to the last of such acts; and in every such indictment, except when the offence shall relate to any chattel, it shall be sufficient to allege the embezzlement or fraudulent application or disposition to be of money, without specifying any particular coin or valuable security; and such allegation, so far as it regards the description of the property, shall be sustained if the offender shall be proved to have embezzled any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved, or if he shall be proved to have embezzled any piece of coin or any valuable security, or any portion of the value thereof, although such piece of coin or valuable security may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to some other person, and such part shall have been returned accordingly; and in every such case of embezzlement or fraudulent application or disposition as aforesaid of any chattel, money, or valuable security, it shall be lawful, in the order of committal by the Justice of the Peace before whom the offender shall be charged, and in the indictment to be preferred against such offender, to lay the property of any such chattel, money, or valuable security as aforesaid in Her Majesty.

As to offences relating to the coin:

Counterfeiting gold
and silver coin.
2 W. 4, c. 34, ss. 3, 19.

3. Whosoever shall falsely make or counterfeit any coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin, 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; and

and every such offence shall be deemed to be complete although the coin so made or counterfeited shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected.

4. Whosoever shall gild or silver, or shall, with any wash or materials capable of producing the color of gold or of silver, wash, color, or case over, any coin whatsoever resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, or whosoever shall gild or silver, or shall, with any wash or materials capable of producing the color of gold or of silver, wash, color, or case over, any piece of silver or copper, or of coarse gold or coarse silver, or of any metal or mixture of metals respectively, being of a fit size and figure to be coined, and with intent that the same shall be coined, into false and counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin; or whosoever shall gild, or shall with any wash or materials capable of producing the color of gold, wash, color, or case over, any of the Queen's current silver coin, or file or in any manner alter such coin, with intent to make the same resemble or pass for any of the Queen's current gold coin; or whosoever shall gild or silver, or shall, with any wash or materials capable of producing the color of gold or of silver, wash, color, or case over, any of the Queen's current copper coin, or file or in any manner alter such coin, with intent to make the same resemble or pass for any of the Queen's current gold or silver coin, 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.

Gilding or silvering
coin.
2 W. 4, c. 34, ss. 4, 19.

5. Whosoever shall impair, diminish, or lighten any of the Queen's current gold or silver coin, with intent to make the coin so impaired, diminished, or lightened pass for the Queen's current gold or silver coin, 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.

Impairing the coin.
2 W. 4, c. 34, ss. 5, 19.

6. Whosoever shall deface any of the Queen's current gold, silver, or copper coin, by stamping thereon any names or words, whether such coin shall or shall not be thereby diminished or lightened, or shall use any machine or instrument for the purpose of bending the same, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to fine or imprisonment, or both, at the discretion of the Court.

Defacing the coin.
16 and 17 Vict., c. 102,
s. 1.

7. Whosoever shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay, or put off, any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin, at or for a lower rate or value than the same by its denomination imports or was coined or counterfeited

Buying, selling, or
importing counterfeit
coins.
2 W. 4, c. 34, ss. 6, 19.

feited for; or whosoever shall import into the said Province from beyond the seas any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, 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.

Uttering counterfeit coin.
2 W. 4, c. 34, ss. 7, 19.

8. Whosoever shall tender, utter, or put off any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding one year, with or without hard labor, and with or without solitary confinement.

Uttering and having base coin in possession.
2 W. 4, c. 34, ss. 7, 19.

9. Whosoever shall tender, utter, or put off any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, and shall, at the time of such tendering, uttering, or putting off, have in his possession, besides the false or counterfeit coin so tendered, uttered, or put off, any piece of false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin; or shall, either on the day of such tendering, uttering, or putting off, or within the space of ten days then next ensuing, tender, utter, or put off any more or other false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding two years, with or without hard labor, and with or without solitary confinement.

Uttering twice within ten days.

10. Whosoever, having been convicted of any of the misdemeanors in the last two preceding sections mentioned, shall afterwards commit any of the said misdemeanors, 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.

Uttering after a former conviction.
2 W. 4, c. 34, ss. 7, 19.

Having such coin with intent to utter it.
2 W. 4, c. 34, ss. 8, 19.

11. Whosoever shall have in his custody or possession three or more pieces of false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding three years,

years, with or without hard labor, and with or without solitary confinement.

12. Whosoever, being so convicted of the offence in the last preceding section mentioned, shall afterwards commit the like misdemeanor, 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.

The like, second offence.
2 W. 4, c. 34, ss. 8, 19.

13. Whosoever shall falsely make or counterfeit any coin resembling, or apparently intended to resemble or pass for, any of the Queen's current copper coin; or whosoever shall knowingly, and without lawful authority (the proof of which authority shall lie on the party accused), make or mend, or begin or proceed to make or mend, or buy or sell, or shall knowingly, and without lawful excuse (the proof of which excuse shall lie on the party accused), have in his custody or possession any instrument, tool, or engine adapted and intended for the counterfeiting any of the Queen's current copper coin; or shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay, or put off, any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current copper coin, at or for a lower rate or value than the same by its denomination imports, or was coined or was counterfeited for, 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.

Counterfeiting, &c., copper coin.
2 W. 4, c. 34, ss. 12, 19.

14. Whosoever shall tender, utter, or put off any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current copper coin, knowing the same to be false or counterfeit, or shall have in his custody or possession three or more pieces of false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current copper coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding one year, with or without hard labor, and with or without solitary confinement.

Uttering base copper coin.
2 W. 4, c. 34, ss. 12, 19.

15. Whosoever shall knowingly, and without lawful authority (the proof of which authority shall lie on the party accused), make or mend, or begin or proceed to make or mend, or buy or sell, or shall knowingly and without lawful excuse (the proof of which excuse shall lie on the party accused) have in his custody or possession any puncheon, counter puncheon, matrix, stamp, die, pattern, or mould, in or upon which there shall be made or impressed, or which will make or impress, or which shall be intended to make or impress, the figure, stamp, or apparent resemblance of both or either of the

Making or having, &c., coining tools.
2 W. 4, c. 34, ss. 10, 19.

sides of any of the Queen's current gold or silver coin, or any part of both or either of such sides; or whosoever shall, without lawful authority (the proof whereof shall lie on the party accused), make or mend, or begin or proceed to make or mend, or buy or sell, or shall, without lawful excuse (the proof whereof shall lie on the party accused), have in his custody or possession any edger, edging tool, collar, instrument, or engine, adapted and intended for the marking of coin round the edges with letters, grainings, or other marks of figures apparently resembling those on the edges of any of the Queen's current gold or silver coin, knowing the same to be so adapted and intended as aforesaid; or whosoever shall, without lawful authority, to be proved as aforesaid, make or mend, or begin or proceed to make or mend, or buy or sell, or shall, without lawful excuse, to be proved as aforesaid, have in his custody or possession, any press for coining, or any cutting engine for cutting by force of a screw or of any other contrivance round blanks out of gold, silver, or other metal, such person knowing such press to be a press for coinage, or knowing such engine to have been used or to be intended to be used for or in order to the counterfeiting of any of the Queen's current gold or silver coin, 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.

Interpretation clause.
2 W. 4, c. 34, s. 21.

16. Where "the Queen's current gold or silver coin," or "the Queen's current copper coin," shall be mentioned in any part of this Act, the same shall be deemed to include and denote any gold or silver coin or any copper coin respectively coined in any of Her Majesty's mints, and lawfully current in any part of Her Majesty's dominions, whether within the United Kingdom or elsewhere; and any of the Queen's current coin which shall have been gilt, silvered, washed, colored, or cased over, or in any manner altered so as to resemble, or be apparently intended to resemble or pass for, any of the Queen's current coin of a higher denomination, shall be deemed and taken to be counterfeit coin within the intent and meaning of those parts of this Act wherein mention is made of "false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin;" and where the having any matter in the custody or possession of any person is in this Act expressed to be an offence, whosoever 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 benefit or for that of another, shall be deemed and taken to have such matter in his custody or possession within the meaning of this Act.

As to offences relating to foreign coin:

Counterfeiting
foreign coin.
27 G. 3, c. 126, s. 2.

17. Whosoever shall make, coin, or counterfeit any kind of coin
not

not the proper coin of the Realm, nor permitted to be current within the same, but resembling, or made with intent to resemble or look like, any gold or silver coin of any foreign Prince, State, or country, or to pass as such foreign coin, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years, with or without hard labor, and with or without solitary confinement.

18. Whosoever shall bring into the said Province any such false or counterfeit foreign coin as in the last preceding section mentioned, resembling, or made with intent to resemble or look like, any gold or silver coin of any foreign Prince, State, or country, or to pass as such foreign coin, knowing the same to be false or counterfeit, to the intent to utter the same within the said Province, or elsewhere, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with or without hard labor, and with or without solitary confinement.

Bringing counterfeit foreign coin into the Province.
37 G. 3, c. 126, s. 3.

19. Whosoever shall utter or tender in payment, or give in exchange, or pay or put off to any person, any such false or counterfeit coin as in the seventeenth section of this Act mentioned, resembling, or made with intent to resemble or look like, any gold or silver coin of any foreign Prince, State, or country, or to pass as such foreign coin, knowing the same to be false or counterfeit, shall be guilty of a misdemeanor, and being convicted thereof, shall be imprisoned for the term of six calendar months, and find sureties for his good behaviour for six calendar months more, to be computed from the end of the said first six calendar months; and whosoever, after being so convicted, shall commit a second time the like offence of uttering, or tendering in payment, or giving in exchange, or paying or putting off, any such false or counterfeit coin as last aforesaid, knowing the same to be false or counterfeit, shall be guilty of a misdemeanor, and being convicted thereof, shall for such second offence be imprisoned for the term of two years, and find sureties for his good behaviour for two years more, to be computed from the end of the said first two years; and whosoever, after being so convicted of a second offence, shall offend a third time in uttering or tendering in payment, or giving in exchange, or paying or putting off, any such false or counterfeit coin as last aforesaid, knowing the same to be false or counterfeit, and shall be convicted of such third offence, shall be guilty of felony, and be liable to be imprisoned for life or for any less term, with or without hard labor, and with or without solitary confinement.

Uttering or putting off such.
37 G. 3, c. 126, s. 4.
1 W. 4, c. 66, s. 25.
1 Vict., c. 90, s. 5.

20. Whosoever shall make, coin, or counterfeit any kind of coin not the proper coin of the Realm, nor ordered by the Royal Proclamation of Her Majesty to be deemed and taken as current money of the Realm or any part thereof, but resembling, or made with intent to resemble, any copper coin, or any other coin made of any metal or mixed metals of less value than the silver coin of any foreign Prince, State, or country respectively, or to pass as such foreign coin, shall

Counterfeiting foreign copper coin.
43 G. 3, c. 139, s. 3.

shall be guilty of a misdemeanor, and being convicted thereof, shall for the first offence be imprisoned, with or without hard labor, for any term not exceeding one year, and for the second offence shall be imprisoned for any term not exceeding four years, with or without hard labor.

As to other matters :

Fine and sureties for the peace, in what cases.

21. In all cases where any person shall be convicted of a misdemeanor under this Act, it shall be lawful for the Court, if it shall think fit, in addition to or in lieu of any of the punishments by this Act authorized, to fine the offender, and to require him to find sureties for keeping the peace and being of good behaviour, both or either ; and 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 keeping the peace, in addition to any of the punishments by this Act authorized.

Hard labor and solitary confinement.

22. 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 the common gaol or house of correction ; 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.

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