



Forgery Act 1861

1861 CHAPTER 98

As to other Matters :—

39 Forging any Instrument, however designated, which is in Law a Will, Bill of Exchange, &c.

Where by this or by any other Act any Person is or shall hereafter be 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, shall be in Law a Will, Testament, Codicil, or Testamentary Writing, or a Deed, Bond, or Writing Obligatory, or a Bill of Exchange, or a Promissory Note for the Payment of Money, or an Indorsement 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, Order, Authority, or Request for the Payment of Money, or an Indorsement on or Assignment of an Undertaking, Warrant, Order, Authority, or Request 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.

40 Forging, &c. in England or Ireland Documents purporting to be made, or actually made, out of England and Ireland, forging, &c. in England or Ireland Bills of Exchange, &c. purporting to be payable out of England or Ireland.

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 *England* or *Ireland*, forge or alter, or offer, 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 *England* and *Ireland*, 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

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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 *England* or *Ireland*; and if any Person shall in *England* or *Ireland* forge or alter, or offer, utter, dispose of, or put off, knowing the same to be forged or altered, any Bill of Exchange, or any Promissory Note for the Payment of Money, or any Indorsement 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, Order, Authority, or Request for the Payment of Money, or for the Delivery or Transfer of any Goods or Security, 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), or any Indorsement on or Assignment of any such Undertaking, Warrant, Order, Authority, Request, Deed, Bond, or Writing Obligatory, in whatsoever Place or Country out of *England* and *Ireland*, whether under the Dominion of Her Majesty or not, the Money payable or secured by such Bill, Note, Undertaking, Warrant, Order, Authority, Request, 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, Order, Authority, or Request 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 *England* or *Ireland*,

41 Forgers, &c. may be tried in the County where they are apprehended or are in Custody.

If any Person shall commit any Offence against this Act, or shall commit any Offence of forging or altering any Matter whatsoever, or of offering, uttering, disposing of, or putting off any Matter whatsoever, knowing the same to be forged or altered, whether the Offence in any such Case shall be indictable at Common Law, or by virtue of any Act passed or to be passed, every such Offender may be dealt with, indicted, tried, and punished, in any County or Place in which he shall be apprehended or be in Custody, in the same Manner in all respects as if his Offence had been actually committed in that County or Place; and every Accessory before or after the Fact to any such Offence, if the same be a Felony, and every Person aiding, abetting, or counselling the Commission of any such Offence, if the same be a Misdemeanor, may be dealt with, indicted, tried, and punished, in any County or Place in which he shall be apprehended or be in Custody, in the same Manner in all respects as if his Offence, and the Offence of his Principal, had been actually committed in such County or Place.

42 Description of Instrument in Indictments for Forgery.

In any Indictment for forging, altering, offering, uttering, disposing, or putting off 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 Facsimile thereof, or otherwise describing the same or the Value thereof.

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43 Description of Instrument in Indictments for engraving, &c.

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 Custody or 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 Custody or Possession of any Paper upon which the whole or any Part of any Instrument, Matter, or Thing-whatever 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 Facsimile of the whole or any Part of such Instrument, Matter, or Thing.

44 Intent to defraud particular Persons need not be alleged or proved.

It shall be sufficient, in any Indictment for forging, altering, uttering, offering, disposing of, or putting off any Instrument whatsoever, 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.

45 Interpretation as to criminal Possession.

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 the actual Custody or Possession of any other Person, or shall knowingly and wilfully have any such Matter in any Dwelling House or other Building, Lodging, Apartment, Field, or other Place, open or inclosed, whether belonging to or occupied by himself or not, and whether such Matter shall be so had for his own Use or for 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.

46 Search for Paper or Implements employed in any Forgery, and for forged Instruments.

If it shall be made to appear, by Information on Oath or Affirmation before a Justice of the Peace, that there is reasonable Cause to believe that any Person has in his Custody or Possession, without lawful Authority or Excuse, any Note or Bill of the Governor and Company of the Bank of *England or Ireland*, or of any Body Corporate, Company, or Person carrying on the Business of Bankers, or any Frame, Mould, or Implement for making Paper in imitation of the Paper used for such Notes or Bills, or any such Paper, or any Plate, Wood, Stone, or other Material having thereon any Words, Forms, Devices, or Characters capable of producing or intended to produce the Impression of any such Note or Bill, or any Part thereof, or any Tool, Implement, or Material used or employed or intended to be used or employed in or about any of the Operations aforesaid, or any forged Security, Document, or Instrument whatsoever, or any Machinery, Frame, Mould, Plate, Die, Seal, Paper, or other Matter or Thing used or employed or intended to be used or employed in the Forgery of any Security, Document, or Instrument whatsoever, such Justice may, if he think fit, grant a Warrant to search for the same ; and if the same shall be found upon such Search, it shall be lawful to seize and carry the same before some Justice of the County or Place, to be

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by him disposed of according to Law; and all such Matters and Things so seized as aforesaid shall by Order of the Court where any such Offender shall be tried, or in case there shall be no such Trial then by Order of some Justice of the Peace, be defaced and destroyed or otherwise disposed of as such Court or Justice shall direct.

47 Other Punishments substituted for those of the 5 Eliz. c. 14., which have been adopted in other Acts.

Whosoever shall, after the Commencement of this Act, be convicted of any Offence which shall have been subjected by any Act or Acts to the same Pains and Penalties as are imposed by the Act passed in the Fifth Year of the Reign of Queen *Elizabeth*, intituled *An Act against Forgers of false Deeds and Writings*, for any of the Offences first enumerated in the said Act, shall be guilty of Felony, and shall, in lieu of such Pains and Penalties, be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Fourteen Years and not less than Three Years, —or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

48 All Forgeries which were Capital before the 1 W.4. c. 66., and are not otherwise punishable under this Act, shall be punished with Penal Servitude for Life, &c.

Where by any Act now in force any Person falsely making, forging, counterfeiting, erasing, or altering any Matter whatsoever, or uttering, publishing, offering, disposing of, putting away, or making use of any Matter whatsoever, knowing the same to have been falsely made, forged, counterfeited, erased, or altered, or any Person demanding or endeavouring to receive or have any Thing, or to do or cause to be done any Act, upon or by virtue of any Matter whatsoever, knowing such Matter to have been falsely made, forged, counterfeited, erased, or altered, would, according to the Provisions contained in any such Act, be guilty of Felony, and would, before the passing of the Act of the First Year of King *William* the Fourth, Chapter Sixty-six, have been liable to suffer Death as a Felon ; or where by any Act now in force any Person falsely personating another, or falsely acknowledging any Thing in the Name of another, or falsely representing any other Person than the real Party to be such real Party, or wilfully making a false Entry in any Book, Account, or Document, or in any Manner wilfully falsifying any Part of any Book, Account, or Document, or wilfully making a Transfer of any, Stock, Annuity, or Fund in the Name of any Person not being the Owner thereof, or knowingly taking any false Oath, or knowingly making any false Affidavit or false Affirmation, or demanding or receiving any Money or other Thing by virtue of any Probate or Letters of Administration, knowing the Will on which such Probate shall have been obtained to have been false or forged, or knowing such Probate or Letters of Administration to have been obtained by means of any false Oath or false Affirmation, would, according to the Provisions contained in any such Act, be guilty of Felony, and would before the passing of the said Act of the First Year of King *William* the Fourth have been liable to suffer Death as a Felon; or where by any Act now in force any Person making or using, or knowingly having in his Custody or Possession, any Frame, Mould, or Instrument for the making of Paper, with certain Words visible in the Substance thereof, or any Person making such Paper, or causing certain Words to appear visible in the Substance of any Paper, would, according to the Provisions contained in any such Act, be guilty of Felony, and would before the passing of the said Act of the First Year of King *William* the Fourth have been liable to suffer Death as a Felon; then, and in each of the several Cases aforesaid, if any Person shall after the Commencement of this Act be convicted of any such Felony

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as is herein-before in this Section mentioned, or of aiding, abetting, counselling, or procuring the Commission thereof, and the same shall not be punishable under any of the other Provisions of this Act, every such Person shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

49 Principals in the Second Degree and Accessories.

In the Case of every Felony punishable under this Act, every Principal in the Second Degree, and every Accessory before the Fact, shall be punishable in the same Manner as the Principal in the First Degree is by this Act punishable; and every Accessory after the Fact to any Felony punishable under this Act shall on Conviction be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement; and every Person who shall aid, abet, counsel, or procure the Commission of any Misdemeanor punishable under this Act shall be liable to be proceeded against, indicted, and punished as a principal Offender,

50 Offences committed within the Jurisdiction of the Admiralty.

All indictable Offences mentioned in this Act which shall be committed within the Jurisdiction of the Admiralty of *England* or *Ireland* shall be deemed to be Offences of the same Nature and liable to the same Punishments as if they had been committed upon the Land in *England* or *Ireland*, and may be dealt with, inquired of, tried, and determined in any County or Place in *England* or *Ireland* in which the Offender shall be apprehended or be in Custody, in the same Manner in all respects as if they had been actually committed in that County or Place; and in any Indictment for any such Offence, or for being an Accessory to such an Offence, the Venue in the Margin shall be the same as if the Offence had been committed in such County or Place, and the Offence shall be averred to have been committed on "the High Seas;" provided that nothing herein contained shall alter or affect any of the Laws relating to the Government of Her Majesty's Land or Naval Forces.

51 Fine and Sureties for keeping the Peace; in what Cases.

Whenever 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 enter into his own Recognizances, and to find Sureties, both or either, for keeping the Peace and being of good Behaviour; 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 enter into his own Recognizances, and to find Sureties, both or either, for keeping the Peace, in addition to any of the Punishments by this Act authorized; provided that no Person shall be imprisoned under this Clause for not finding Sureties for any Period exceeding One Year.

52 Hard Labour.

Whenever Imprisonment, with or without Hard Labour, 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 Labour, in the Common Gaol or House of Correction.

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53 Solitary Confinement.

Whenever 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 Labour, not exceeding One Month at any One Time, and not exceeding Three Months in any One Year.

54 The Costs of the Prosecution of Misdemeanor against this Act may be allowed.

The Court before which any indictable Misdemeanor against this Act shall be prosecuted or tried may allow the Costs of the Prosecution in the same Manner as in Cases of Felony; and every Order for the Payment of such Costs shall be made out, and the Sum of Money mentioned therein paid and repaid, upon the same Terms and in the same Manner in all respects as" in Cases of Felony.

55 Act not to extend to Scotland.

Nothing in this Act contained shall extend to *Scotland* except as otherwise herein-before expressly provided.

56 Commencement of Act.

This Act shall commence and take effect on the First Day of November One thousand eight hundred and sixty-one.