

No. III.

An Act to adopt an Act of the Imperial Parliament intituled “*An Act to abolish the punishment of Death in cases of Forgery.*” [28th August, 1845.]

IMPERIAL CAPITAL
PUNISHMENT
ABOLITION ACT
RE-ENACTED.

WHEREAS an Act of the Imperial Parliament was passed in the Preamble. first year of the reign of Her present Majesty intituled “*An 1 Vic. c. 84. Act to abolish the punishment of Death in cases of Forgery*” reciting that whereas by an Act passed in the first year of His late Majesty’s reign intituled “*An Act for reducing into one Act all such Forgeries 1 Wil. IV. c. 66. as shall henceforth be punished with Death and for otherwise amending the Laws relative to Forgery*” it was amongst other things enacted that if any person should forge or alter or should offer utter dispose of or put off knowing the same to be forged or altered any will testament codicil or testamentary writing with intent in any of the cases aforesaid to defraud any person whatsoever every such offender

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shall be guilty of felony and being convicted thereof shall suffer death as a felon and it was by the said Act further enacted that if any person should forge or alter or should 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 stock annuity or other public fund which then was or thereafter might be transferable at the Bank of England or at the South Sea House or of or in the capital stock of any body corporate company or society which then was or thereafter might be established by Charter or Act of Parliament or to receive any dividend payable in respect of any such share or interest with intent in any of the several cases aforesaid to defraud any person whatsoever every such offender shall be guilty of felony and being convicted thereof shall suffer death as a felon and it was by the said Act further enacted that in the case of every felony punishable under that Act every principal in the second degree and every accessory before the fact should be punishable with death or otherwise in the same manner as the principal in the first degree was by that Act punishable and whereas by an Act passed in the

2 and 3 Wil. IV. c. 59. second and third years of His late Majesty's reign intituled "An Act "to transfer the management of certain Annuities on Lives from the "receipt of His Majesty's Exchequer to the management of the Com- "missioners for the reduction of the National Debt and to amend an "Act for enabling the said Commissioners to grant life annuities and "annuities for terms of years" it was amongst other things enacted that if any person should forge counterfeit or alter or should cause or procure to be forged counterfeited or altered or should knowingly or wilfully act or assist in the forging counterfeiting or altering any declaration warrant order or other instrument or any affidavit or affirmation required to be made by that Act or by the Commissioners for the reduction of the National Debt under any of the provisions of that Act or under any authority given to them for that purpose or should forge counterfeit or alter or should cause or procure to be forged counterfeited or altered or should knowingly or wilfully act or assist in the forging counterfeiting or altering any certificate or order of any officer of the Commissioners for the reduction of the National Debt or the name or names of any person or persons in or to any transfer of any annuity or in or to any certificate order warrant or other instrument for the payment of money for the purchase of any annuity under the provisions of that Act or in or to any transfer or acceptance of any such annuity in the books of the Commissioners for the reduction of the National Debt or in or to any receipt or discharge for any such annuity or in or to any receipt or discharge for any payment or payments due or to become due thereon or in or to any letter of attorney or other authority or instrument to authorize or purporting to authorize the transfer or acceptance of any annuities or any life annuity of whatsoever kind or authorizing or purporting to authorize the receipt of any life annuity of whatsoever kind granted under any of the Acts therein recited or that Act or any payment or payments due or to become due thereon or if any person should wilfully falsely and deceitfully personate any true and real nominee or nominees or should wilfully utter or deliver or produce to any person or persons acting under the authority of that Act any forged register or copy of register of any birth baptism or marriage or any forged declaration affidavit or affirmation knowing the same to be forged counterfeited or altered with intent to defraud His Majesty His Heirs and Successors or with intent to defraud any person or persons whatsoever then and in every such case all and every person or persons so offending and being lawfully convicted thereof should be adjudged guilty of felony and suffer death And whereas by another Act passed in the said last mentioned years of His late Majesty's reign intituled "An Act for abolishing

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abolishing the punishment of Death in certain cases of Forgery" it was amongst other things enacted that notwithstanding anything therein-before contained that Act should not be construed to affect or alter the said recited Act of the first year of His late Majesty or any other Act or law then in force so far as the same might authorize the punishment of death to be inflicted upon any person convicted either in England Scotland or Ireland of forging or altering or of offering uttering or disposing of knowing the same to be forged or altered any will testament codicil or testamentary writing with intent to defraud any body corporate or person whatsoever or of forging or altering or of uttering 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 stock annuity or other public fund which then was or thereafter might be transferable at the Bank of England or South Sea House or at the Bank of Ireland or to receive any dividend payable in respect of any such share or interest with intent to defraud any body corporate or person whatsoever or of procuring aiding or assisting in the commission of any of the said offences but that the punishment for each and every of the said offences and for the procuring aiding or assisting in the commission thereof should continue to be the same as if the Act now in recital had not been passed and whereas by another Act passed in the said second and third years of His late Majesty's reign intituled "An Act 2 and 3 Wil. IV. for enabling His Majesty to direct the issue of Exchequer Bills c. 125. "to a limited amount for the purposes and in the manner therein mentioned and for giving relief to Trinidad British Guiana and Saint Lucie" it was amongst other things enacted that if any person or persons should forge counterfeit or alter or cause or procure to be forged counterfeited or altered or knowingly or wilfully act or assist in the forging counterfeiting or altering any certificate or certificates of the Commissioners by the said Act now in recital appointed as therein mentioned or any of them or any receipt or receipts to be given by the Cashier or Cashiers of the Governor and Company of the Bank of England in pursuance of that Act or should wilfully deliver to the Auditor of the receipt of His Majesty's Exchequer for the time being or to any officer appointed by him or to the said Commissioners by that Act appointed or any of them or to any officer or officers appointed by them or any of them in the execution of the powers of that Act or should utter any such forged counterfeited or altered certificate or certificates receipt or receipts knowing the same to be forged counterfeited or altered with intent to defraud His Majesty His Heirs or Successors or any body or bodies politic or corporate or any person whomsoever then and in every such case all and every person or persons so offending and being thereof lawfully convicted should be adjudged guilty of felony and should suffer death as in cases of felony and whereas by an Act passed in the fifth and sixth years of the reign of His late Majesty intituled "An Act to carry into further execution the pro- 5 and 6 Wil. IV. c. visions of an Act passed in the third and fourth years of His present 45. Majesty for compensating Owners of Slaves upon the abolition of Slavery" it was amongst other things enacted that if any person or persons should forge or counterfeit or cause or procure to be forged or counterfeited or should willingly act or assist in the forging or counterfeiting any receipt or receipts for the whole of or any part or parts of the contributions towards the sum of fifteen millions in the said Act now in recital mentioned to be part of a sum of twenty millions authorized to be raised by the said Act of the third and fourth years of His late Majesty's reign either with or without the name or names of any person or persons being inserted therein as the contributor or contributors thereto payer or payers thereof or of any part or parts thereof or any certificate or other instrument to be issued by the Commissioners

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missioners for the reduction of the National Debt or should alter any number figure or word therein or utter or publish as true any such false forged counterfeited or altered receipt or receipts certificate or certificates instrument or instruments with intent to defraud the Governor and Company of the Bank of England or the Commissioners for the reduction of the National Debt or any body politic or corporate or any person or persons whatsoever every such person or persons so forging or counterfeiting or causing or procuring to be forged or counterfeited or willingly acting or assisting in the forging or counterfeiting or altering uttering or publishing as aforesaid being thereof convicted in due form of law should be adjudged guilty of felony and should suffer death as a felon without benefit of clergy and whereas by another Act passed in the said fifth and sixth years of His late Majesty's reign intituled "*An Act for granting relief to the Island of Dominica*" and to amend an Act of the second and third years of His present Majesty for enabling His Majesty to direct the issue of Exchequer Bills to a limited amount for the purposes therein mentioned it was amongst other things enacted that all and every the several clauses powers provisions enactments penalties and restrictions in the said hereinbefore recited and lastly hereinbefore mentioned Act of the second and third years of His late Majesty's reign contained so far as the same could be made applicable and were not varied by the said Act now in recital should be taken to extend to that Act and to everything to be done in pursuance of that Act and as if all such clauses powers provisions and enactments were therein repeated and made applicable to the said Island of Dominica and to the loans and grants to be made in pursuance of the said Act now in recital and to every matter or thing to be done in pursuance of that Act and whereas the said lastly hereinbefore mentioned Act of the second and third years of His late Majesty so far as the same is hereinbefore recited is applicable to and in nowise varied by the said lastly hereinbefore recited Act and whereas it is expedient that none of the hereinbefore mentioned offences shall henceforth be punishable with death and whereas it is expedient to adopt the same in the Colony

Persons convicted of any of the offences hereinbefore mentioned to be liable to be transported.

of New South Wales Be it therefore enacted by His Excellency the Governor of the said Colony by and with the advice and consent of the Legislative Council thereof That the said recited Act shall be adopted accordingly and that if any person shall after the commencement of this Act be convicted of any of the offences hereinbefore mentioned such person shall not suffer death or have sentence of death awarded against him or her for the same but shall be liable at the discretion of the Court to be transported beyond the seas for life or for any term not less than seven years or to be imprisoned for any term not exceeding four years nor less than two years.

So much of 2 & 3 Wil. IV. c. 123 as inflicts punishment of death in certain cases repealed and transportation substituted.

4 Wil. IV. c. 44.

2. And whereas by the said recited Act of the second and third years of His late Majesty's reign for abolishing the punishment of death in certain cases of forgery persons convicted of the forgeries and other offences connected therewith therein respectively referred to are liable to be transported beyond the seas for life and whereas by an Act passed in the fourth year of the same reign intituled "*An Act to repeal so much of two Acts of the seventh and eighth years and ninth year of King George the Fourth as inflicts the punishment of Death upon persons breaking entering and stealing in a dwelling-house also for giving power to the Judges to add to the punishment of transportation for life in certain cases of Forgery and in certain other cases*" persons punishable by transportation for life under the said recited Act of the second and third years of His late Majesty's reign for abolishing the punishment of death in certain cases of forgery are liable previously to their being transported in case the Court before

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before whom such persons shall be convicted shall think fit to be imprisoned with or without hard labor in the common gaol or house of correction or to be confined in the penitentiary for any term not exceeding four years nor less than one year and whereas it is expedient to repeal the said two lastly hereinbefore in part recited Acts so far as relates to the punishment of persons liable to be transported for life in order that a more discretionary punishment may be substituted for the same Be it therefore enacted That so much of the two lastly hereinbefore in part recited Acts as relates to the punishment of persons convicted of offences for which they are liable under the said Act of the second and third years respectively of His late Majesty's reign to be transported for life shall from and after the commencement of this Act be and the same is hereby repealed and that from and after the passing of this Act every person convicted of any of such offences shall be liable at the discretion of the Court to be transported beyond the seas for the term of the natural life of such person or for any term not less than seven years or to be imprisoned for any term not exceeding four years nor less than two years.

3. And be it enacted That when any person shall be convicted of any offence punishable under this Act for which imprisonment may be awarded it shall be lawful for the Court to sentence the offender to be imprisoned with or without hard labor in the common gaol or house of correction and also to direct that the offender shall be kept in solitary confinement for any portion or portions of such imprisonment not exceeding one month at any one time and not exceeding three months in any one year as to the Court in its discretion shall seem meet.

4. And be it enacted That nothing in this Act contained shall be construed to extend to the alteration or repeal of any of the powers provisions or regulations contained in an Act of the Governor and Legislative Council of New South Wales made and passed in the fourth year of the reign of Her present Majesty Queen Victoria intituled "An Act for the regulation of Gaols Prisons and Houses of Correction in the Colony of New South Wales and its Dependencies and for other purposes relating thereto."

5. And be it enacted That this Act shall commence and take effect on the first day of September one thousand eight hundred and forty-five.

Persons convicted of offences punishable by imprisonment may be kept to hard labor and to solitary confinement.

Not to affect provisions of 4 Vic. No. 29.

Commencement of Act.