

No. XXV.

TREASON FELONY. **An Act for the better security of the Crown and Government of the United Kingdom and for the better suppression and punishment of seditious practices and attempts. [19th March, 1868.]**

Preamble.

11 Vic. No. 12
recited.

WHEREAS an Act was passed by the Parliament of the United Kingdom of Great Britain and Ireland in the eleventh year of the reign of Her Majesty intituled "*An Act for the better security of the Crown and Government of the United Kingdom*" and whereas it is expedient to enact in this Colony certain of the clauses contained in the said Act and to make additional provision for the suppression and punishment of seditious practices and attempts Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Provisions of 36 Geo. 3 c. 7 and 57 Geo. 3 c. 6 repealed except as to offences against the person of the Sovereign.

[11 Vic. c. 12 sec. 1.]

1. The provisions of the Act of the Parliament of Great Britain thirty-sixth George the Third chapter seven made perpetual by the Act of the Parliament of Great Britain and Ireland Fifty-seventh George the Third chapter six and all the provisions of the last-mentioned Act in relation thereto save such of the same respectively

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pectively as relate to the compassing imagining inventing devising or intending death or destruction or any bodily harm tending to death or destruction maim or wounding imprisonment or restraint of the person of the heirs and successors of His said Majesty King George the Third and the expressing uttering or declaring of such compassings imaginations inventions devices or intentions or any of them shall be and the same are hereby repealed.

2. If any person whatsoever shall within this Colony or without compass imagine invent devise or intend to deprive or depose Our Most Gracious Lady the Queen her heirs or successors from the style honor or Royal name of the Imperial Crown of the United Kingdom or of any other of Her Majesty's dominions and countries or to levy war against Her Majesty her heirs or successors within any part of the United Kingdom or any other of Her Majesty's dominions in order by force or constraint to compel her or them to change her or their measures or counsels or in order to put any force or constraint upon or in order to intimidate or overawe both Houses or either House of the Parliament of the United Kingdom or the Parliament of this Colony or to move or stir any foreigner or stranger with force to invade the United Kingdom or any other Her Majesty's dominions or countries under the obeisance of Her Majesty her heirs or successors and such compassings imaginations inventions devices or intentions or any of them shall express utter or declare by publishing any printing or writing or by open and advised speaking or by any overt act or deed every person so offending shall be guilty of felony and being convicted thereof shall be liable at the discretion of the Court to be ordered to be kept to hard labor on the roads or other public works of the Colony for the term of his natural life or for any term not less than seven years.

Offences declared felonies by this Act to be punishable by hard labor on roads or public works of the Colony for life or not less than seven years. [11 Vic. c. 12 sec. 3.]

3. No person shall be prosecuted for any felony by virtue of this Act in respect of such compassings imaginations inventions devices or intentions as aforesaid in so far as the same are expressed uttered or declared by open and advised speaking only unless information of such compassings imaginations inventions devices and intentions and of the words by which the same were expressed uttered or declared shall be given upon oath to one or more Justice or Justices of the Peace within six days after such words shall have been spoken and unless a warrant for the apprehension of the person by whom such words shall have been spoken shall be issued within ten days next after such information shall have been given as aforesaid and no person shall be convicted of any such compassings imaginations inventions devices or intentions as aforesaid in so far as the same are expressed uttered or declared by open or advised speaking as aforesaid except upon his own confession in open Court or unless the words so spoken shall be proved by two credible witnesses.

Time within which prosecution shall be commenced and warrant issued. [11 Vic. c. 12 sec. 4.]

4. It shall be lawful in any information for any felony under this Act to charge against the offender any number of the matters acts or deeds by which such compassings imaginations inventions devices or intentions as aforesaid or any of them shall have been expressed uttered or declared.

In informations more than one overt act may be charged. [11 Vic. c. 12 sec. 5.]

5. Nothing herein contained shall lessen the force of or in any manner affect anything enacted by the Statute passed in the twenty-fifth year of King Edward the Third "a declaration which offences shall be adjudged Treason."

Nothing herein to affect 25 Ed. 3 c. 2. [11 Vic. c. 12 sec. 6.]

6. If the facts or matters alleged in an information for any felony under this Act shall amount in law to treason such information shall not by reason thereof be deemed void erroneous or defective and if the facts or matters proved on the trial of any person informed against for any felony under this Act shall amount in law to treason such person shall not by reason thereof be entitled to be acquitted of such felony but

Information for felony under this Act valid though the facts may amount to treason. [11 Vic. c. 12 sec. 7.]

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but no person tried for such felony shall be afterwards prosecuted for treason upon the same facts.

As to the punishment of accessories.

[11 Vic. c. 12 sec 8.]

7. 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 such felony shall on conviction be liable to be imprisoned with or without hard labor for any term not exceeding two years.

Warrants may be issued to search for persons papers and arms in certain cases.

8. It shall be lawful for any Justice of the Peace on being satisfied by any statement made to him on oath or otherwise that there are grounds for suspecting that persons guilty of felony under this Act or of being accessories to any such felony or that papers which would tend to prove the commission of any such felony or that arms intended to be used in furtherance of any such felony are concealed in any house or place to issue his warrant directing any constable or other officer of the police force with such persons as he may call to his assistance to enter by force if necessary such house or place and to make search therein for such persons papers or arms Provided that no such warrant shall be enforced unless countersigned by at least three Members of the Executive Council.

Using language disrespectful to the Queen or expressing sympathy with certain offenders declared a misdemeanor punishable with imprisonment for two years.

9. If any person shall use any language disrespectful to Her Most Gracious Majesty or shall factiously avow a determination to refuse to join in any loyal toast or demonstration in honor of Her Majesty or shall by word or deed express sympathy with the crime of any persons stated or suspected to be or to have been engaged in the commission of or in the attempt to commit any felony under this Act or shall express any approval of the conduct of any persons stated or suspected to be engaged in the commission of or in the attempt to commit any such felony or shall hold out by word or deed as worthy of praise honor or commendation the conduct of any persons who may have been or may be condemned and punished for such conduct in due course of law every such person shall be deemed guilty of a misdemeanor and may thereupon be apprehended by any constable or any other person without any warrant for such purpose and on conviction shall be imprisoned with or without hard labor for any period not exceeding two years.

Writing and publishing words disrespectful to the Queen or expressing sympathy with or approval of certain offenders declared a misdemeanor punishable with imprisonment for three years.

10. If any person shall write or publish any words disrespectful to Her Most Gracious Majesty or expressing sympathy with the crime of any person stated or suspected to be or to have been engaged in the commission of or in the attempt to commit any felony under this Act or expressing any approval of the conduct of any persons stated or suspected to be or to have been engaged in the commission of or in the attempt to commit any such felony or holding out as worthy of praise honor or commendation the conduct of any persons who may have been or may be condemned and punished for such conduct in due course of law every such person so offending shall be deemed guilty of a misdemeanor and shall for such offence on conviction be imprisoned with or without hard labor for any term not exceeding three years.

Warrants under the 8th section and prosecutions under the 9th and 10th sections not to be issued or commenced after the expiration of two years from the time of the passing of this Act. Short title.

11. No warrant shall be issued under the eighth section nor shall any prosecution be commenced for any offence under the ninth or tenth sections of this Act after the expiration of two years from the time of the passing of this Act.

12. This Act may be cited as the "Treason Felony Act of 1868."