



ANNO VICESIMO SECUNDO ET VICESIMO TERTIO  
**VICTORIÆ REGINÆ.**  
A.D. 1859.

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**No. 3.**

*An Act for consolidating the Statute Law in force in South Australia relating to Accessories to and Abettors of Indictable Offences.*

[Assented to, 1st September, 1859.]

**W**HEREAS it is expedient to consolidate and amend the statute law in force in the Province of South Australia, relating to accessories to, and abettors of, indictable offences: 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:

Preamble.

As to accessories before the fact:

1. Whosoever shall become an accessory before the fact to any felony, whether the same be a felony at common law or by virtue of any Act in force in the said Province, or to be hereafter passed, may be indicted, tried, convicted, and punished in all respects as if he were a principal felon.

Accessories before the fact may be tried and punished as principals. 11 & 12 Vict. c. 46. s. 1.

2. Whosoever shall counsel, procure, or command any other person to commit any felony, whether the same be a felony at common law or by virtue of any Act in force in the said Province, or to be hereafter passed, shall be guilty of felony, and may be prosecuted and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be prosecuted and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may be punished in the same manner as any accessory before the fact to the same felony, if

Accessories before the fact may be tried as such, or as substantive felons. 7 G. 4. c. 64. s. 9.

convicted as an accessory, may be punished; and the offence of the person so counselling, procuring, or commanding, howsoever indicted, may be inquired of, tried, determined, and punished by any Court which shall have jurisdiction to try the principal felon, in the same manner as if such offence had been committed at the same place as the principal felony, although such offence may have been committed either on the sea or on land whether within the said Province or without: Provided, that no person who shall be once duly tried for any such offence, whether as an accessory before the fact or as for a substantive felony, shall be liable to be again prosecuted or tried for the same offence.

Punishment of accessories before the fact.

3. Every accessory before the fact to any felony, whether the same be a felony at common law, or by virtue of any Act in force in the said Province, or to be hereafter passed, shall be punishable, with death or otherwise, in the same manner as the principal.

As to accessories after the fact:

Trial and conviction of accessories after the fact.  
11 & 12 Vict. c. 46. s. 2.  
7 G. 4. c. 64. s. 10.

4. Whosoever shall become an accessory after the fact to any felony, whether the same be a felony at common law or by virtue of any Act passed or to be passed, may be prosecuted, tried, and convicted either as an accessory after the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be prosecuted and convicted of a substantive felony whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and may thereupon be punished in like manner as any accessory after the fact to the same felony, if convicted as an accessory, may be punished; and the offence of such person, howsoever prosecuted, may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if the act by reason of which such person shall have become an accessory had been committed at the same place as the principal felony, although such act may have been committed either on the sea or on land, whether within the said Province or without: Provided that no person who shall be once duly tried for any such offence, whether as an accessory after the fact or as for a substantive felony shall be liable to be again prosecuted or tried for the same offence.

Punishment of accessories after the fact.

5. Every accessory after the fact to any felony (except where it is otherwise specially enacted), whether the same be a felony at common law or by virtue of any Act in force in the said Province, or to be hereafter passed, shall be liable to be imprisoned, in any Common Gaol or Labor Prison, for any term not exceeding two years, with or without hard labor; and 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 such punishment.

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As to accessories generally :

6. If any principal offender shall be in anywise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall die or be pardoned, or otherwise delivered before attainder; and every such accessory shall upon conviction suffer the same punishment as he would have suffered if the principal had been attainted.

Prosecution of accessory after principal has been convicted but not attainted.  
7 G. 4. c. 64. s. 11.

As to abettors in misdemeanors :

7. Whosoever shall aid, abet, counsel, or procure the commission of any misdemeanor, whether the same be a misdemeanor at common law or by virtue of any Act in force in the said Province, or to be hereafter passed, shall be liable to be prosecuted and punished as a principal offender.

Abettors in misdemeanors.  
7 & 8 G. 4. c. 30. s. 26.

As to other matters :

8. Any number of accessories to any felony or of receivers of any property which shall have been stolen at any one time, whether they received such property at one time or at different times, may be charged with substantive felonies in the same indictment or information notwithstanding the principal felon shall not be included in the same indictment or information, or shall not be in custody or amenable to justice.

Any number of accessories may be charged in the same indictment.

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

Commencement of Act.