

No. VIII.

An Act to provide for the reservation and RESERVED CRIMINAL CASES.
 decision of points of Law in Criminal Cases.
 [20th July, 1849.]

WHEREAS it is expedient to provide a better mode than that Preamble.

now in use of deciding any difficult question of law which may arise in criminal trials in any Court of Criminal Jurisdiction and to make further amendments in the administration of the Criminal Law Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That when any person shall have been convicted of any treason felony or misdemeanor before any Court of Criminal Jurisdiction within the Colony the Judge or Chairman or Justices of the Peace before whom the case shall have been tried shall on the application of Counsel made during the trial or without such application in his own discretion reserve any question or questions of law which shall have arisen on the trial for the consideration of the Judges of the Supreme Court and thereupon shall have authority to respite execution of the judgment on such conviction until such question or questions shall have been considered and decided and in every such case the Court in its discretion shall commit the person convicted to prison or shall take a recognizance of bail with one or more sufficient sureties and in such sum as the Court shall think fit conditioned to appear at such time or times as the Court shall direct and render himself in execution.

Questions of law may be reserved at Courts of Criminal Jurisdiction for consideration of Judges.

2. And be it enacted That the Judge Chairman or Justices as Questions reserved to be certified to Judges.
 the case may be shall thereupon state in a case signed in the manner now usual the question or questions of law which shall have been so reserved with the special circumstances upon which the same shall have arisen and such case shall be transmitted to the Judges of the Supreme Court and the said Judges shall thereupon have full power and authority to hear and finally determine the said question or questions and thereupon to reverse affirm or amend the judgment which shall have been given on the indictment or information on the trial whereof such question or questions shall have arisen or to avoid such judgment and to order an entry to be made on the record that in the opinion of the said Judges or a majority of them the party convicted ought not to have been convicted or to arrest the judgment or to make such other order as justice may require and such opinion and order of the said Judges shall be certified under the hand of the Prothonotary to the Clerk of Assize or Clerk of the Peace as the case may be who shall enter the same on the original record in proper form and another certificate of the same tenor under the hand of the Prothonotary shall by him as soon as possible be transmitted to the Sheriff or Gaoler in whose custody the person convicted shall be and the said certificate shall be a sufficient warrant to such Sheriff or Gaoler and all other persons for the execution of the judgment as the same shall be so certified to have been affirmed or amended and execution shall be thereupon executed on such judgment and for the discharge of the person convicted from further imprisonment if the judgment shall be reversed avoided or arrested and in that case such Sheriff or Gaoler shall forthwith discharge him or when he shall be at large on bail the next Court of Gaol Delivery or Sessions of the Peace as the case may be shall vacate the recognizance of such bail.

Moreton Bay a Warehousing Port.

Judgments to be
delivered in open
Court.

3. And be it enacted That the jurisdiction and authorities by this Act given to the said Judges or a majority of them shall be exercised at the Supreme Court House King-street Sydney or other convenient place and the judgment or judgments of the said Judges shall be delivered in open Court after hearing Counsel or the parties in case the Attorney General or other prosecutor or the person convicted shall think it fit that the case shall be argued in like manner as the judgments of the Supreme Court are now delivered.

Case or certificate
may be sent back for
amendment.

4. And be it enacted That the said Judges when a case has been reserved for their opinion shall have power if they think fit to cause the case or certificate to be sent back for amendment and thereupon the same shall be amended accordingly and judgment shall be delivered after it shall have been amended.

Penalty for forgery.

5. And be it enacted That every person who shall forge or alter or shall offer utter dispose of or put off knowing the same to be forged or altered any certificate of the Prothonotary with intent to cause any person to be discharged from custody or otherwise prevent the due course of justice shall be guilty of felony and being convicted thereof shall be liable at the discretion of the Court to be transported beyond the seas for any term not exceeding ten years or be imprisoned for any term not exceeding three years with or without hard labor and solitary confinement both or either at the discretion of the Court before which he shall be tried.
