ANNO UNDECIMO & DUODECIMO

VICTORIÆ REGINÆ.

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C A P. LXXVIII.

An Act for the further Amendment of the Administration of the Criminal Law.

[31st *August* 1848.]

WHEREAS it is expedient to provide a better Mode than that now in use of deciding any difficult Question of Law which may arise in Criminal Trials in any Court of Oyer and Terminer and Gaol Delivery, and to make further Amendments in the Administration of the Criminal Law: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That when any Person shall have been convicted of any Treason, Felony, or Misdemeanor before any Court of Oyer and Terminer or Gaol Delivery, or Court of Quarter Sessions, the Judge or Commissioner, or Justices of the Peace before whom the Case shall have been tried may, in his or their Discretion, reserve any Question of Law which shall have arisen on the Trial for the Consideration of the Justices of either Bench and Barons of the Exchequer; and thereupon shall have Authority to respite Execution of the Judgment on such Conviction, or postpone the Judgment until such Question shall have been considered and decided, as he or they may think fit; and in either Case the Court in its Discretion shall commit the Person convicted to Prison, or shall take a Recognizance of Bail, with One or

Questions of Law may be reserved at Sessions of the Peace for Consideration of Judges.

or Two 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 receive Judgment, or to render himself in Execution, as the Case may be.

Questions reserved to be certified to the Judges.

II. And be it enacted, That the Judge or Commissioner or Court of Quarter Sessions 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 said Justices and Barons; and the said Justices and Barons shall thereupon have full Power and Authority to hear and finally determine the said Question or Questions, and thereupon to reverse, affirm, or amend any Judgment which shall have been given on the Indictment or Inquisition on the Trial whereof such Question or Questions have arisen, or to avoid such Judgment, and to order an Entry to be made on the Record, that in the Judgment of the said Justices and Barons the Party convicted ought not to have been convicted, or to arrest the Judgment, or order Judgment to be given thereon at some other Session of Oyer and Terminer or Gaol Delivery, or other Sessions of the Peace, if no Judgment shall have been before that Time given, as they shall be advised, or to make such other Order as Justice may require; and such Judgment and Order, if any, of the said Justices and Barons, shall be certified under the Hand of the presiding Chief Justice or Chief Baron to the Clerk of Assize or his Deputy, or to the Clerk of the Peace or his Deputy, as the Case may be, who shall enter the same on the original Record in proper Form; and a Certificate of such Entry, under the Hand of the Clerk of Assize or his Deputy, or the Clerk of the Peace or his Deputy, as the Case may be, in the Form, as near as may be or to the Effect mentioned in the Schedule annexed to this Act, with the necessary Alterations to adapt it to the Circumstances of the Case, shall be delivered or transmitted by him 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, and also the next Court of Oyer and Terminer and Gaol Delivery or Sessions of the Peace shall vacate the Recognizance of Bail, if any; and if the Court of Oyer and Terminer and Gaol Delivery or Court of Quarter Sessions shall be directed to give Judgment, the said Court shall proceed to give Judgment at the next Session.

Quorum of Judges; their Judgments to be delivered in open Court.

III. And be it enacted, That the Jurisdiction and Authorities by this Act given to the said Justices of either Bench, and Barons of the Exchequer, shall and may be exercised by the said Justices and Barons, or Five of them at the least, of whom the Lord Chief Justice of the Court of Queen's Bench, the Lord Chief Justice of the Court of Common Pleas, and the Lord Chief Baron of the Court of

Exchequer, or One of such Chiefs at least, shall be Part, being met in the Exchequer Chamber or other convenient Place; and the Judgment or Judgments of the said Justices and Barons shall be delivered in open Court, after hearing Counsel or the Parties, in case the Prosecutor or the Person convicted shall think it fit that the Case shall be argued, in like Manner as the Judgments of the Superior Courts of Common Law at *Westminster* or *Dublin*, as the Case may be, are now delivered.

Case or Certificate may be sent back for Amendment.

IV. And be it enacted, That the said Justices and Barons, 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.

When Judgment is reversed on Writ of Error, Record may be remitted to Court below for Judgment.

V. And be it enacted, That whenever any Writ of Error shall be brought upon any Judgment on any Indictment, Information, Presentment, or Inquisition, in any Criminal Case, and the Court of Error shall reverse the Judgment, it shall be competent for such Court of Error either to pronounce the proper Judgment or to remit the Record to the Court below, in order that such Court may pronounce the proper Judgment upon such Indictment, Information, Presentment, or Inquisition.

Penalty for Forgery.

VI. 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 or Copy certified by a Chief Justice, or any Certificate of or Copy certified by a Clerk of Assize or his Deputy, or the Clerk of the Peace or his Deputy, as the Case may be, 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 Discrétion 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 Labour and solitary Confinement, both or either, at the Discretion of the Court before which he shall be tried.

Act not to extend to Scotland.

VII. And be it enacted, That this Act shall not extend to *Scotland*.

Act may be amended,&c.

VIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed during this present Session of Parliament.

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SCHEDULE.

WHEREAS at the Session of the Peace for the County of held on before and others their Fellows, [*or* at the Session of Oyer and Terminer and Gaol Delivery held for the County of on before, among others, Sir *A. B.* Knight, One of the Justices of the Court of and *here name the Quorum Commissioners*, Justices of Oyer and Terminer and Gaol Delivery,] *A. B.*, late of Labourer, having been found guilty of Felony, and Judgment thereupon given, that [*state the Substance*], the Court before whom he was tried reserved a certain Question of Law for the Consideration of the Justices of either Bench and the Barons of the Exchequer, and Execution was thereupon respited in the meantime:

This is to certify, That the said Justices and Barons having met in the Exchequer Chamber at Westminster [*or* Dublin, *as the Case may be*,] on the Day of it was considered by the said Justices and Barons there that the Judgment aforesaid should be annulled, and an Entry made on the Record, that the said *A. B.* ought not, in the Judgment of the said Justices and Barons, to have been convicted of the Felony aforesaid; and you are therefore hereby required forthwith to discharge the said *A. B.* from your Custody.

To the Gaoler of and the Sheriff of and all others whom it may concern.

(Signed) *E. F.*
Clerk of the Peace for the County of
[*or*, Clerk of Assize for
as the Case may be].

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