

A BILL

To amend the law relating to New Trials and Writs of Error in Criminal Cases.

WHEREAS it is reasonable and just that persons prosecuting or Preamble.
being prosecuted for indictable offences tried in Courts of Criminal
Jurisdiction should enjoy the same opportunities of setting aside wrong
verdicts and reversing erroneous judgments as of right belong to and from
5 time immemorial have been exercised by parties to civil actions 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

10 1. In the interpretation of this Act the following words shall have Interpretation.
the respective meanings hereunder assigned to them " Courts of Criminal
" Jurisdiction" shall mean the Supreme Court the Circuit Courts and
Courts of Quarter Sessions " the Presiding Judge" shall mean any Judge
or Chairman presiding at a criminal trial.

15 2. Nothing in this Act contained shall be construed so as to alter Act not to alter or
repeal 13 Vict.,
No. 8.
or repeal any of the provisions of the Act of Council passed in the
thirteenth year of the reign of Her present Majesty and numbered
eight.

20 3. From and after the passing of this Act it shall be lawful for If prisoner acquitted
prosecutor may apply
to the Supreme
Court for a New
Trial.
the Attorney General of the Colony or any other Officer duly appointed
to prosecute on the behalf of the Crown or any person prosecuting with
the leave of the Supreme Court in the name of the Attorney General
any prisoner charged with an indictable offence or offences if such prisoner
shall upon his trial be acquitted of any such charge to apply to the
25 Supreme Court within such time as may be limited by any rule or order
hereafter to be made by the Judges of the Supreme Court or any two
of them for a New Trial of the information upon which such prisoner stood
charged or of any count contained in the said information.

30 4. It shall be lawful for the Attorney General or other Officer Attorney General or
other Public Prose-
cutor may issue war-
rant for detention of
prisoner so acquitted.
appointed to prosecute on the behalf of the Crown as aforesaid upon
giving notice in writing to such prisoner his counsel or attorney of his
intention to apply for a New Trial to issue a warrant for the detention in
custody of such prisoner until the decision of the Supreme Court upon
such application for a New Trial shall have been obtained Provided always
35 that the presiding Judge may in his discretion admit such prisoner in the
meantime to bail.

Party prosecuting in name of Attorney General may apply to presiding Judge for an order for such prisoner's detention.

5. It shall be lawful for any person so prosecuting in the name of the Attorney General as aforesaid upon giving a like notice in writing as aforesaid to apply to the presiding Judge for an order to detain such prisoner in custody until the decision of the Supreme Court upon such application for a New Trial shall have been obtained but such order shall not be made unless the person so prosecuting shall enter into a recognizance in the sum of _____ pounds to apply for a New Trial within the time limited by the practice of the Court Provided always that the said Judge may in his discretion admit such prisoner to bail Provided also that if the person so prosecuting as aforesaid shall make default in applying for a New Trial as aforesaid or if the Supreme Court shall dismiss such application the amount of such recognizance shall be forfeited to the use of such prisoner and shall be recoverable upon summons before any two Justices of the Peace.

If prisoner convicted he or his counsel or attorney may declare in open Court that he means to apply for a New Trial.

6. It shall be lawful for any prisoner convicted of any indictable offence or offences or for his counsel or attorney to declare in open Court after such conviction that he intends to apply to the Supreme Court for a New Trial of the information or of any count contained therein upon which such prisoner shall have been convicted and thereupon execution of the judgment upon such conviction shall be respited until such prisoner shall have made default in applying for such New Trial within the time limited by the practice of the Supreme Court or until such application shall have been dismissed.

Execution of the judgment respited thereupon.

Judge presiding at the trial to transmit a copy of his notes and opinion to Supreme Court.

7. The presiding Judge shall if required on the behalf of the prosecutor or the prisoner transmit to the Judges of the Supreme Court a copy of his notes taken at the trial and shall also state therein whether he assents to or dissents from the verdict of the Jury and thereupon the said Judges shall have full power and authority to set aside the said verdict and to grant a New Trial and the said Judges are hereby required to grant such New Trial upon and for the same grounds and reasons as are sufficient in law for granting New Trials between parties to civil actions.

New Trial granted for same reasons upon which New Trials are grantable in civil actions.

Judges of Supreme Court to issue writs and make rules to carry into effect provisions of Act.

8. The Judges of the said Court or any two of them are hereby authorized from time to time to issue such Writs and to make such Rules and Orders as may to them seem necessary for the purpose of carrying into effect the provisions hereinbefore contained.

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Attorney General to grant Writs of Error as in civil cases.

9. The Attorney General of the Colony shall and is hereby required to grant a Writ of Error to any prisoner or his attorney applying for the same if any apparent error be assigned in the record of such prisoner's conviction.

Commencement and short title of Act.

10. This Act shall commence on the second day of October next and shall be cited as the "The Criminal Trials Amendment Act of 1857."