



1849.

No. 15.

No. 290 of 1843 sec. 4.8.11.

ORDINANCE enacted by the Governor of South Australia, with the advice and consent of the Legislative Council thereof.

To Facilitate the Performance of the Duties of Justices of the Peace out of Sessions, with respect to Persons charged with Indictable Offences.

[10th October 1849.]

WHEREAS it would conduce much to the Improvement of the Administration of Criminal Justice in this Province, if the Laws relating to the duties of Her Majesty's Justices of the Peace therein with respect to persons charged with Indictable Offences were clearly defined by positive enactment.

Preamble.

BE IT THEREFORE ENACTED by THE GOVERNOR OF SOUTH AUSTRALIA, with the advice and consent of THE LEGISLATIVE COUNCIL thereof—
THAT in all cases where a charge or complaint (A) shall be made before any one or more of Her Majesty's Justices of the Peace within the Province, that any person has committed or is suspected to have committed any treason, felony, or indictable misdemeanor, or other indictable offence whatsoever within the said Province

For what Offences a Justice of the Peace may grant a warrant or summons to cause a person charged therewith to be brought before him. In what cases the party may be summoned instead of issuing a warrant in the

first instance. If the summons be not obeyed, then a warrant may be issued.

Province, or that any person guilty or suspected to be guilty of having committed any such crime or offence elsewhere, is residing or being, or is suspected to reside, or be within the said Province, then and in every such case, if the person so charged or complained against, shall not then be in custody, it shall be lawful for such Justice or Justices of the Peace, to issue his or their warrant, (B) to apprehend such person and to cause him to be brought before such Justice or Justices, or any other Justice or Justices of the said Province, to answer to such charge or complaint, and to be further dealt with according to law. PROVIDED ALWAYS that in all cases it shall be lawful for such Justice or Justices to whom such charge or complaint shall be preferred, if he or they shall so think fit, instead of issuing in the first instance his or their warrant to apprehend the person so charged or complained against, to issue his or their summons (C) directed to such person, requiring him to appear before the said Justice or Justices at a time and place to be therein mentioned, or before such other Justice or Justices of the said Province, as may then be there, and if after being served with such summons in manner herein-after mentioned, he shall fail to appear at such time and place in obedience to such summons, then and in every such case, the said Justice or Justices, or any other Justice or Justices of the said Province, may issue his or their warrant (D) to apprehend such person so charged or complained against, and cause such person to be brought before him or them, or before some other Justice or Justices of the Peace for the said Province, to answer to the said charge or complaint, and to be further dealt with according to law. PROVIDED NEVERTHELESS that nothing herein contained shall prevent any Justice or Justices of the Peace, from issuing the Warrant hereinbefore first mentioned, at any time before or after the time mentioned, in such Summons for the appearance of the said accused party.

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Warrant to apprehend a party against whom an indictment is found. If person indicted be already in prison for some other offence. Justices may order him to be detained until removed by writ of Habeas.

II. AND BE IT ENACTED that where any Indictment shall be found by the Grand Jury in any Court of Oyer and Terminer, or general Gaol Delivery, or other Court of Criminal Jurisdiction, against any person who shall then be at large, and whether such person shall have been bound by any Recognizance to appear to answer to the same or not, the proper Officer of such Court, shall at any time after the end of the Sessions, or sitting of such Court at which such Indictment shall have been found, upon application of the Prosecutor, or of any person on his behalf, and on payment of a fee of one shilling, if such person shall not have already appeared and pleaded to such Indictment, grant unto such Prosecutor or person a Certificate (F) of such Indictment having been found; and upon production of such Certificate to any Justice or Justices of the Peace for the said Province, it shall be lawful for such Justice or Justices, and he and they are hereby required to issue his or their warrant (G) to apprehend such person so indicted, and to cause him to be brought

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brought before such Justice or Justices, or any other Justice or Justices for the said Province, to be dealt with according to law, and afterwards, if such person be thereupon apprehended, and brought before any such Justice or Justices, such Justice or Justices, upon its being proved upon Oath or Affirmation before him or them, that the person so apprehended is the same person, who is charged and named in such Indictment, shall without further inquiry, or examination, commit (H) him for Trial, or admit him to bail, in manner herein-after-mentioned; or if such person so indicted, shall be confined in any Gaol or Prison for any other offence than that charged in the said Indictment, at the time of such application and production of the said Certificate to such Justice or Justices as aforesaid, it shall be lawful for such Justice or Justices, and he and they are hereby required, upon it being proved before him or them upon Oath or Affirmation, that the person so indicted and the person so confined in prison are one and the same person, to issue his or their warrant, (I) directed to the Gaoler or Keeper of the Gaol or Prison, in which the person so indicted shall then be confined as aforesaid, commanding him to detain such person in his custody, until by Her Majesty's Writ of HABEAS CORPUS he shall be removed therefrom, for the purpose of being tried upon the said Indictment, or until he shall otherwise be removed or discharged out of his custody by due course of law.

III. AND BE IT ENACTED, that it shall be lawful for any Justice or Justices of the Peace, to grant, or issue, any warrant as aforesaid, or any such warrant on a Sunday, as well as on any other day.

Power to Justices to issue Warrants on Sundays.

IV. AND BE IT ENACTED, that in all cases where a charge or complaint for any indictable offence shall be made before such Justice or Justices as aforesaid, if it be intended to issue a Warrant in the first instance against the party, or parties so charged, an information and complaint thereof, (A) in writing, on the Oath or Affirmation of the informant, or of some witness, or witnesses, in that behalf, shall be laid before such Justice or Justices: PROVIDED ALWAYS, that in all cases where it is intended to issue a Summons instead of a Warrant in the first instance, it shall not be necessary that such information and complaint shall be in writing, or be sworn to or affirmed in manner aforesaid, but in every such case, such information and complaint may be by parole, merely and without any Oath or Affirmation whatsoever, to support or substantiate the same: PROVIDED ALSO, that no objection shall be taken or allowed to any such information, or complaint, for any alleged defect therein, in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices, who shall take the examination of the witnesses in that behalf, as hereinafter mentioned.

When charge, &c. is made, if a warrant is to be issued, Information, &c. on Oath, to be laid before Justices; if summons to be issued instead, Information, &c. not necessary to be on oath; no objection allowed for alleged defect in form.

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Upon complaint being laid, Justices receiving the same may issue summons or warrant for appearance of person charged. How summons to be served. If party summoned do not attend, Justice may issue a warrant to compel attendance; no objection allowed for alleged defect in form, &c.

V. AND BE ENACTED, that upon such information and complaint, being so laid as aforesaid, the Justice or Justices receiving the same, may, if he or they shall think fit, issue his, or their summons or warrant respectively, as hereinbefore is directed, to cause the person charged as aforesaid, to be, and appear before him or them, or any other Justice or Justices of the Peace for the Province, to be dealt with according to law; and every such summons (C) shall be directed to the party so charged in, and by such information, and shall state shortly the matter of such information, and shall require the party to whom it is so directed, to be and appear at a certain time and place therein-mentioned, before the Justice, who shall issue such summons, or before such other Justice or Justices of the Peace of the Province, as may be there, to answer to the said charge, and to be further dealt with according to law; and every such Summons shall be served by a Constable, or other Peace Officer, upon the person to whom it is so directed, by delivering the same to the party personally, or if he cannot conveniently be met with, then by leaving the same with some person for him, at his last or most usual place of abode; and the Constable or other Peace Officer, who shall have served the same in manner aforesaid, shall attend at the time and place, before the Justices in the said Summons mentioned, to depose, if necessary, to the service of such Summons; and if the person so served, shall not be, and appear before the Justice or Justices, at the time and place mentioned in such Summons, in obedience to the same, then it shall be lawful for such Justice or Justices, to issue his or their Warrant (D) for apprehending the party so summoned, and bringing him before such Justice or Justices, or some other Justice or Justices of the Peace of the Province, to answer the charge in the said information and complaint mentioned, and to be further dealt with according to law: PROVIDED ALWAYS, that no objection shall be taken or allowed to any such Summons or Warrant, for any alleged defect therein, in substance, or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices, who shall take the examinations of the Witnesses in that behalf, as herein-after mentioned; but if any such variance shall appear to such Justice or Justices, to be such that the party charged, has been thereby deceived or misled, it shall be lawful for such Justice or Justices, at the request of the party so charged, to adjourn the hearing of the case to some future day, and in the meantime, to remand the party so charged, or admit him to bail, in manner hereinafter-mentioned.

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Warrant to apprehend parties to be under hand and seal of Justice. How warrant to be directed, and to whom. How

VI. AND BE IT ENACTED, that every Warrant (B) hereafter to be issued by any Justice or Justices of the Peace, to apprehend any person charged with any Indictable Offence, shall be under the hand and seal, or hands and seals, of the Justice or Justices issuing the

the same, and may be directed either to any Constable, or other person by name, or generally to all Constables, or Peace Officers, of the Province; and it shall state shortly the offence on which it is founded, and shall name, or otherwise describe the offender, and it shall order the person or persons to whom it is directed, to apprehend the offender, and bring him before the Justice or Justices issuing the said Warrant, or before some other Justice or Justices of the Peace of the Province, to answer to the charge contained in the said information, and to be further dealt with according to law; and it shall not be necessary to make such Warrant returnable at any particular time, but the same may remain in force until it shall be executed, and such Warrant may be executed, by apprehending the offender at any place within the Province: PROVIDED ALWAYS, that no objection shall be taken or allowed to any such Warrant, for any defect therein, in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices, who shall take the examinations of the witnesses in that behalf, as hereinafter mentioned; but if any such variance shall appear to such Justice or Justices, to be such, that the party charged, has been thereby deceived or misled, it shall be lawful for such Justice or Justices, at the request of the party so charged, to adjourn the hearing of the case to some future day, and in the meantime, to remand the party so charged, or to admit him to bail, in manner hereinafter mentioned.

warrant to be executed. No objection allowed for alleged defect in form, &c.

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VII. AND BE IT ENACTED, that if it shall be made to appear to any Justices of the Peace of the Province by the oath or affirmation of any credible person, that any person is likely to give material evidence for the prosecution, and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the examination of the witnesses against the accused; such Justice may, and is hereby required, to issue a summons (L1) to such person, under his hand and seal, requiring him to be and appear at a time and place mentioned in such summons before the said Justice or before such other Justice or Justices of the Peace for the Province as shall then be there to testify what he shall know concerning the charge made against such accused party; and if any person so summoned shall neglect or refuse to appear at the time and place appointed by the said summons, and no just excuse shall be offered for such neglect or refusal, then (after proof upon oath or affirmation of such summons having been served upon such person, either personally or by leaving the same for him with some person at his last or most usual place of abode) it shall be lawful for the Justice or Justices before whom such person should have appeared to issue a warrant (L2) under his or their hands and seals, to bring and have such person at a time and place to be therein mentioned before the Justice who issued the said summons, or before such other

Power to Justices to summon witnesses to attend, and give evidence. If summons not obeyed, warrant may be issued to compel attendance. In certain cases, warrant may be issued in the first instance. Persons appearing on summons, &c., refusing to be examined, may be committed.

Justice or Justices of the Peace as shall then be there to testify as aforesaid; or if such justice shall be satisfied by evidence upon oath or affirmation that it is probable that such person will not attend to give evidence without being compelled so to do; then, instead of issuing such summons, it shall be lawful for him to issue his warrant (L3) in the first instance; and if, on the appearance of such person so summoned before the said last mentioned Justice or Justices, either in obedience to the said summons, or upon being brought before him or them by virtue of the said warrant, such person shall refuse to be examined upon oath or affirmation concerning the premises, or shall refuse to take such oath or affirmation, or having taken such oath or affirmation, shall refuse to answer such questions concerning the premises as shall then be put to him, without offering any just excuse for such refusal, any Justice of the Peace then present, and having jurisdiction, may, by warrant (L4) under his hand and seal, commit the person so refusing to the nearest common Gaol or House of Correction, there to remain and be imprisoned for any time not exceeding seven days, unless he shall, in the mean time, consent to be examined, and to answer concerning the premises.

As to the examination of witnesses. Justice to administer oath or affirmation. Depositions of persons who have died, or who are absent, may in certain cases, be read in evidence.

VIII. AND BE IT ENACTED, that in all cases where any person shall appear, or be brought before any Justice or Justices of the Peace, charged with any indictable offence, whether such person appear voluntarily upon summons, or have been apprehended, with or without warrant, or be in custody for the same, or any other offence, such Justice or Justices, before he or they shall commit such accused person to prison for trial, or before he or they shall admit him to bail, shall, in the presence of such accused person, who shall be at liberty to put questions to any witness produced against him, take the statement (M) on oath or affirmation of those who shall know the facts and circumstances of the case, and shall put the same into writing, and such depositions shall be read over to, and signed respectively by, the witnesses who shall have been so examined, and shall be signed also by the Justice or Justices taking the same; and the Justice or Justices before whom any such witness shall appear to be examined as aforesaid shall, before such witness is examined, administer to such witness the usual Oath or Affirmation, which such Justice or Justices shall have full power and authority to do; and if, upon the Trial of the person so accused as first aforesaid, it shall be proved by the Oath or Affirmation of any credible witness, that any person whose deposition shall have been taken as aforesaid is dead, or so ill as not to be able to travel, and if, also, it be proved that such deposition was taken in the presence of the person so accused, and that he, or his Counsel or Attorney, had a full opportunity of cross-examining the witness, then, if such deposition purport to be signed by the Justice, by or before whom the same purports to have been taken, it shall be lawful to read such deposition as evidence in such prosecution

prosecution, without further proof thereof, unless it shall be proved that such deposition was not, in fact, signed by the Justice purporting to sign the same.

IX. AND BE IT ENACTED that after the examinations of all the Witnesses on the part of the prosecution as aforesaid shall have been completed, the Justice of the Peace, or one of the Justices by or before whom such examinations shall have been so completed as aforesaid, shall, without requiring the attendance of the witnesses, read or cause to be read to the accused the Depositions taken against him, and shall say to him these words, or words to the like effect: "Having heard the Evidence, do you wish to say any thing in answer to the Charge, you are not obliged to say any thing unless you desire to do so, but whatever you say will be taken down in writing, and may be given in Evidence against you upon your Trial." And whatever the Prisoner shall then say in answer thereto, shall be taken down in writing (N) and read over to him, and shall be signed by the said Justice or Justices, and kept with the Depositions of the Witnesses, and shall be transmitted with them as hereinafter mentioned; And afterwards upon the Trial of the said accused person, the same may if necessary be given in Evidence against him without further proof thereof, unless it shall be proved that the Justice or Justices purporting to sign the same, did not in fact sign the same: PROVIDED ALWAYS that the said Justice or Justices, before such accused person shall make any statement, shall state to him and give him clearly to understand that he has nothing to hope from any promise of favour, and nothing to fear from any threat which may have been holden out to him, to induce him to make any admission or confession of his guilt, but that whatever he shall then say, may be given in Evidence against him upon his Trial, notwithstanding such promise or threat: PROVIDED NEVERTHELESS that nothing herein enacted or contained, shall prevent the Prosecutor in any case from giving in Evidence any admission, or confession, or other statement of the person accused or charged, made at any time, which by law would be admissible, as Evidence against such person.

After examination of the accused, Justice to read depositions taken against him, and caution him as to any statement he may make; and inform him that he has nothing to hope or fear from either promise or threat.

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X. AND BE IT DECLARED AND ENACTED, that the Room or Building in which such Justice or Justices shall take such examinations and statement as aforesaid, shall not be deemed an open Court for that purpose: And it shall be lawful for such Justice or Justices in his or their discretion, to order that no person shall have access to, or be, or remain in such Room or Building, without the consent or permission of such Justice or Justices, if it appear to him or them that the ends of Justice will be best answered by so doing.

Place where examination taken not to be deemed an open court, and no person to remain without consent.

XI. AND BE IT ENACTED that it shall be lawful for the Justice or Justices before whom any such Witness shall be examined as aforesaid,

Power to Justice to bind over the prosecutors and witnesses by recognizances. Re-

recognizances, depositions, &c. to be transmitted to the court in which the trial is to be had. Witnesses refusing to enter into recognizances, may be committed.

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aforesaid, to bind by Recognizance (O 1) the Prosecutor and every such Witness, to appear at the next Court of Oyer and Terminer, or Gaol Delivery, or Court of Criminal Jurisdiction, at which the accused is to be tried, then and there to prosecute, or to prosecute and give Evidence, or to give Evidence as the case may be, against the party accused, which said Recognizance shall particularly specify the profession, art, mystery, or trade, of every such person, entering into or acknowledging the same, together with his Christian and Surname, and the place of his residence, and if his residence be in a City or Town, the Recognizance shall also particularly specify the name of the Street, and the number [if any] of the house in which he resides, and whether he is owner or tenant thereof, or a lodger therein: And the said Recognizances being duly acknowledged by the person so entering into the same, shall be subscribed by the Justice or Justices before whom the same shall be acknowledged, and a Notice (O 2) thereof, signed by the said Justice or Justices, shall at the same time be given to the person bound thereby: And the several Recognizances so taken together with the written Information [if any] the Depositions, the Statement of the accused, and the Recognizances of Bail, [if any] in every such case shall be delivered by the said Justice or Justices, or he or they shall cause the same to be delivered, to the proper Officer of the Court in which the Trial is to be had, before or at the opening of the said Court, on the first day of the sitting thereof, or at such other time as the Judge or Justice who is to preside in such Court at the said Trial shall order and appoint: PROVIDED ALWAYS that if any such Witness shall refuse to enter into or acknowledge such Recognizance as aforesaid, it shall be lawful for such Justice or Justices of the Peace, by his or their Warrant (P 1) to commit him to the Common Gaol or House of Correction, nearest to the place in which the accused party is to be tried, there to be imprisoned and safely kept until after the Trial of such accused party, unless in the meantime such Witness shall duly enter into such Recognizance as aforesaid, before some one Justice of the Peace of the Province: PROVIDED NEVERTHELESS that if afterwards, from want of sufficient Evidence in that behalf, or other cause, the Justice or Justices before whom such accused party shall have been brought, shall not commit him or hold him to Bail for the offence with which he is charged, it shall be lawful for such Justice or Justices, or any other Justice or Justices by his or their order (P 2) in that behalf, to order and direct the Keeper of such Common Gaol or House of Correction, where such Witness shall be so in Custody, to discharge him from the same, and such Keeper shall thereupon forthwith discharge him accordingly.

Power to Justice to remand the accused from time to time not exceeding eight days

XII. AND BE IT ENACTED that if from the absence of Witnesses or from any other reasonable cause, it shall become necessary or advisable to defer the examination or further examination of the Witnesses

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Witnesses for any time, it shall be lawful to and for the Justice or Justices before whom the accused shall appear or be brought, by his or their Warrant (Q 1) from time to time to remand the party accused, for such time, as by such Justice or Justices in their discretion shall be deemed reasonable, not exceeding eight clear days, to the Common Gaol or House of Correction, or other Prison or Lock-up House, or place of security; or if the remand be for a time not exceeding three clear days, it shall be lawful for such Justice or Justices verbally to order the Constable, or other person in whose custody such party accused may then be, or any other Constable, or person to be named by the said Justice or Justices in that behalf, to continue or keep such party accused in his custody, and to bring him before the same, or such other Justice or Justices as shall be there acting at the time appointed, for continuing such examination: PROVIDED ALWAYS that any such Justice or Justices may order such accused party to be brought before him or them, or before any other Justice or Justices of the Peace, at any time before the expiration of the time for which such accused party shall be so remanded, and the Gaoler or Officer in whose custody he shall then be, shall duly obey such order: PROVIDED ALSO, that instead of detaining the accused party in custody during the period for which he shall be so remanded, any one Justice of the Peace before whom such accused party shall appear or be brought as aforesaid, may discharge him, upon his entering into a Recognizance (Q 2, 3) with or without a Surety or Sureties, at the discretion of such Justice, conditioned for his appearance at the time and place appointed for the continuance of such examination: And if such accused party shall not afterwards appear at the time and place mentioned in such Recognizance, then the said Justice or any other Justice of the Peace, who may then and there be present, upon certifying (Q 4) on the back of the Recognizance, the non-appearance of such accused party, may transmit such Recognizance to the Clerk of the Peace, or Bench of Magistrates, of the Jurisdiction within which such Recognizance shall have been taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed *prima facie* Evidence of such non-appearance of the said accused party.

by warrant. If remand be for three days only by verbal order. Party accused may be admitted to bail, on the examination being adjourned. If party does not appear upon recognizances, Justices may transmit the same to the Clerk of the Bench

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XIII. AND BE IT ENACTED, that where any person shall appear, or be brought before a Justice of the Peace, charged with any Felony, or with any Assault with intent to commit any felony, or with any attempt to commit any felony, or with obtaining or attempting to obtain property by false pretences, or with a misdemeanour in receiving property stolen, or obtained by false pretences, or with perjury, or subornation of perjury, or with concealing the birth of a child, by secret burying, or otherwise, or with wilful or indecent exposure of the person, or with riot, or with assault in pursuance of a conspiracy to raise wages; or assault

Power to Justice to admit to bail persons charged with felony and certain misdemeanours. Justices may admit to bail in the like cases, after commitment for trial. Justices may admit to bail persons charged with other misdemeanours. Certain recognizances to be transmitted to committing Justices. Where defendant entitled to traverse.

upon a peace officer in the execution of his duty, or upon any person acting in his aid, or with neglect or breach of duty as a Peace Officer, or with any other misdemeanour, such Justice of the Peace may, in his discretion, admit such person to bail, upon his procuring and producing such surety, or sureties, as, in the opinion of such Justice, will be sufficient to ensure the appearance of such accused person at the time and places when and where he is to be tried for such offence; and thereupon such Justice shall take the recognizance (S 1. 2) of the said accused person and his surety or sureties, conditioned for the appearance of such accused person at the time and place of trial, and that he will then surrender and take his trial, and not depart the Court without leave; and in all cases where a person charged with any indictable offence shall be committed to prison to take his trial for the same, it shall be lawful, at any time afterwards and before the first day of the Sitting or Session at which he is to be tried, or before the day to which such Sitting or Session may be adjourned, for the Justice or Justices of the Peace who shall have signed the warrant for his commitment, in his or their discretion, to admit such accused person to bail in manner aforesaid; or, if such Committing Justice or Justices shall be of opinion that for any of the offences hereinbefore-mentioned, the said accused person ought to be admitted to bail, he or they shall in such cases and in all other cases of misdemeanours, certify (S 3) on the back of the warrant of commitment, his or their consent to such accused party being bailed, stating also the amount of bail which ought to be required, and it shall be lawful for any Justice of the Peace, attending or being at the Gaol or Prison where such accused party shall be in custody, on production of such Certificate, to admit such accused person to bail in manner aforesaid; or if it shall be inconvenient for the Surety or Sureties in such a case to attend at such Gaol or Prison to join with such accused person in the recognizance of bail, then such Committing Justice or Justices may make a Duplicate of such Certificate (S 4.) as aforesaid, and upon the same being produced to any Justice of the Peace, it shall be lawful for such last-mentioned Justice to take the recognizance of the Surety or Sureties in conformity with such Certificate, and upon such Recognizance being transmitted to the Keeper of such Gaol or Prison, and produced together with the Certificate on the Warrant of Commitment as aforesaid, to any Justice of the Peace attending or being at such Gaol or Prison, it shall be lawful for such last mentioned Justice, thereupon to take the Recognizance of such accused party, and to order him to be discharged out of custody as to that commitment as hereinafter mentioned; and where any person shall be charged before any Justice of the Peace, with any indictable Misdemeanour other than those herein-before mentioned, such Justice, after taking the Examinations in writing as aforesaid, instead of committing him to Prison for such offence, shall admit him to Bail in manner aforesaid

said, or if he have been committed to prison, and shall apply to any one of the Visiting Justices of such Prison, or to any other Justice of the Peace, before the first day of the Sitting or Session at which he is to be tried, or before the day to which such Sitting or Session may be adjourned, to be admitted to Bail, such Justice shall accordingly admit him to Bail in manner aforesaid: And in all cases where such accused person in custody, shall be admitted to Bail by a Justice of the Peace, other than the committing Justice or Justices as aforesaid, such Justice of the Peace so admitting him to Bail, shall forthwith transmit the Recognizance or Recognizances of Bail to the Committing Justice or Justices, or one of them, to be by him or them, transmitted with the Examinations to the proper Officer: PROVIDED NEVERTHELESS that when in cases of Misdemeanour, the Defendant shall be entitled to a Traverse at the next Sittings or Sessions, and shall not be bound to take his Trial, until the second Sittings or Sessions, in every such case the Recognizance (S 1) of Bail shall be conditioned that he shall appear and plead at the next Sittings or Sessions, and then traverse the Indictment, and that he shall surrender and take his Trial at such second Sittings or Sessions, unless such accused party shall, before he enter into such Recognizance, choose and consent to take his Trial at such first Sittings or Sessions, in which case the Recognizance may be in the ordinary form herein-before mentioned.

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XIV. AND BE IT ENACTED that in all cases where a Justice or Justices of the Peace shall admit to Bail any person who shall then be in any Prison, charged with the offence for which he shall be so admitted to Bail, such Justice or Justices shall send to or cause to be lodged with the Keeper of such Prison, a Warrant of Deliverance, (S 5) under his or their hand and seal, or hands and seals, requiring the said Keeper to discharge the person so admitted to Bail, if he be detained for no other offence, and upon such Warrant of Deliverance being delivered to or lodged with such Keeper, he shall forthwith obey the same.

When a Justice admits a person to bail, after commitment, a writ of deliverance shall be sent to him, if not detained for any other offence.

Keeper of Prison
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XV AND BE IT ENACTED that when all the Evidence offered upon the part of the Prosecution against the accused party shall have been heard, if the Justice or Justices of the Peace then present shall be of opinion, that it is not sufficient to put such accused party upon his Trial for any indictable offence, such Justice or Justices shall forthwith order such accused party, if in custody, to be discharged as to the Information then under inquiry; But if, in the opinion of such Justice or Justices, such Evidence is sufficient to put the accused party upon his Trial for an indictable offence, or if the Evidence given raise a strong or probable presumption of the guilt of such accused party, then such Justice or Justices shall, by his or their Warrant (T 1) commit him to the Common Gaol or House of Correction

If after hearing evidence against the accused, it is not thought sufficient to warrant commitment, he shall be discharged, but if evidence considered sufficient, Justice shall by warrant commit the accused for trial.

Correction for the place to which by law he may now be committed, to be there safely kept until he shall be thence delivered by due course of law, or admit him to Bail as herein-before mentioned.

Regulations for conveying prisoners to gaol.

XVI. AND BE IT ENACTED that the Constable, or any of the Constables, or other persons to whom the said Warrant of Commitment shall be directed, shall convey such accused person therein named or described, to the Gaol or other Prison mentioned in such Warrant, and there deliver him, together with such Warrant, to the Gaoler, Keeper, or Governor of such Gaol or Prison, who shall thereupon give such Constable, or other person so delivering such Prisoner into his custody, a Receipt (T 2) for such Prisoner, setting forth the state and condition in which such Prisoner was, when he was delivered into the custody of such Gaoler, Keeper, or Governor.

After examinations are completed, defendant entitled to copies of the depositions.

XVII. AND BE IT ENACTED that at any time after all the Examinations aforesaid shall have been completed, and before the first day of the Sittings or Sessions, or other first Sitting of the Court, at which any person so committed to Prison, or admitted to Bail as aforesaid, is to be tried, such person may require, and shall be entitled to have, of and from the Officer or person having the custody of the same, Copies of the Depositions on which he shall have been committed or bailed, on payment of a reasonable sum for the same, not exceeding at the rate of two-pence for each folio of ninety words.

Forms in Schedule deemed valid.

XVIII. AND BE IT ENACTED that the several forms in the Schedule hereto, or forms to the same or the like effect, shall be deemed good, valid, and sufficient in law.

Nothing to affect powers, &c. contained in Ordinances conferring on Stipendiary Magistrates the power of two Justices.

XIX. AND BE IT ENACTED that nothing in this Ordinance contained, shall alter or affect in any manner whatsoever any of the Provisions or Enactments contained in any Statute or Ordinance now or hereafter to be in force within the Province, whereby the powers of two Justices of the Peace, or any other jurisdiction and authority are conferred on any Resident, Police, or Stipendiary Magistrates, or Magistrates specially nominated, acting alone in manner provided by such Statute or Ordinance.

Commencement of Ordinance.

XX. AND BE IT ENACTED that this Ordinance shall commence and take effect from and after the thirty-first day of December next ensuing.

H. E. F. YOUNG,
Lieutenant-Governor.

*Passed the Legislative Council this
Tenth day of October, One Thousand
eight Hundred and Forty-nine.*

W. L. O'HALLORAN,
Clerk of Council.

SCHEDULE A.

Information and Complaint for an Indictable Offence.

SOUTH AUSTRALIA, } The Information and Complaint of C. D. of
 TO WIT. } (Yeoman) taken this
 day of _____ in the year of our Lord 18____, before the under-
 signed (one) of Her Majesty's Justices of the Peace in and for the
 Province of South Australia, who saith that, &c. (*stating the offence.*)
 Sworn before (me) the day and year first above mentioned, at

J. S.

SCHEDULE B.

Warrant to apprehend a Person charged with an Indictable Offence.

SOUTH AUSTRALIA } To _____ and to all Constables and
 TO WIT. } Peace Officers of the Province of South Australia:

Whereas A. B. of _____ (Labourer) hath this
 day been charged upon Oath before the undersigned, (one) of Her
 Majesty's Justices of the Peace in and for the said Province of South
 Australia, for that he on _____ at _____ did, &c.
 (*stating shortly the offence.*) These are therefore to command you
 in Her Majesty's Name, forthwith to apprehend the said A. B. and
 to bring him before (me) or some other of Her Majesty's Justices of
 the Peace, in and for the said Province, to answer unto the said
 charge, and to be further dealt with according to law.

Given under my hand and seal this _____ day of _____ in the
 year of our Lord _____ at _____ in the Province aforesaid.

J. S. (L. S.)

SCHEDULE C.

Summons to a Person charged with an Indictable Offence.

SOUTH AUSTRALIA } To A. B. of (Labourer)
 TO WIT. }

Whereas you have this day been charged before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said Province of South Australia, for that you on at &c. (*stating shortly the offence.*) These are therefore to command you in Her Majesty's Name, to be and appear before me, on at o'clock in the forenoon at or before such other Justice or Justices of the Peace for the said Province, as may then be there, to answer to the said charge, and to be further dealt with according to law. Herein fail not.

Given under my hand and seal, this day of
 in the year of our Lord at in the Province
 aforesaid.

J. S. (L. S.)

SCHEDULE D.

Warrant when the Summons is disobeyed.

SOUTH AUSTRALIA, } To _____ and to all Constables and
 TO WIT. } Peace Officers in the Province of South
 Australia.

Whereas on the _____ day of _____
 last past, A. B. of _____ Labourer, was charged before the
 undersigned, (one) of Her Majesty's Justices of the Peace, in and for
 the said Province, for that, &c. (*as in the Summons.*)
 And whereas (I) then issued (my) Summons to the said A. B. com-
 manding him in Her Majesty's Name, to be and appear before (me)
 on _____ at _____ o'clock in the forenoon at
 or before such other Justice or Justices of the Peace for the said
 Province, as might then be there, to answer to the said charge, and
 to be further dealt with according to law. And whereas the said
 A. B. hath neglected to be or appear at the time and place appointed
 in and by the said Summons, although it hath now been proved to
 me upon Oath that the said Summons was duly served upon the
 said A. B. These are therefore to command you in Her Majesty's
 Name, forthwith to apprehend the said A. B. and to bring him
 before me, or some other of Her Majesty's Justices of the Peace in
 and for the said Province, to answer to the said charge, and to be
 further dealt with according to law.

Given under my hand and seal, this _____ day of _____ in
 the year of our Lord _____ at _____ in the Province aforesaid.

J. S. (L. S.)

SCHEDULE F.

Certificate of Indictment being found.

SOUTH AUSTRALIA } I hereby certify, that at (a Court of Oyer and
 TO WIT. } Terminer and General Gaol Delivery, or as the
 case may be,) holden in and for the _____, at
 _____ day of _____ in the Province of South Australia, on
 the Grand Jury against A. B. therein described as A. B. late of
 (Labourer,) for that he, &c. (*stating shortly the offence.*)
 And that the said A. B. hath not appeared or pleaded to the said
 Indictment.

Dated this _____ day of _____ 18

J. D. (Officer of the Court as the case may be.)

SCHEDULE G.

Warrant to apprehend a Person indicted.

SOUTH AUSTRALIA, } To _____ and to all Con-
 TO WIT. } stables and Peace Officers of the Province
 of South Australia.

Whereas it hath been duly certified by J. D. (proper Officer of the Court, as the case may be, that &c. (*stating the Certificate.*))

These are therefore to command you in Her Majesty's Name, forthwith to apprehend the said A. B. and to bring him before (me) or some other Justice or Justices of the Peace in and for the said Province, to be dealt with according to law.

Given under my hand and seal, this _____ day of _____
 in the year of our Lord _____ at _____ in the Province aforesaid.

J. S. (L. S.)

SCHEDULE H.

Warrant of Commitment of a Person indicted.

SOUTH AUSTRALIA,) To Constable, and to the Keeper
 of the [Common Gaol or House of Cor-
 rection, at] in the Province of
 South Australia.
 TO WIT.)

Whereas by (my) Warrant under my hand and seal dated the _____ day of _____ After reciting that it had been certified by J. D. &c. (*as in the Certificate*) (I) commanded and all other Constables and Peace Officers in the said Province, in Her Majesty's Name, forthwith to apprehend the said A. B. and to bring him before (me) the undersigned (one) of Her Majesty's Justices of the Peace in and for the said Province, or before some other Justice or Justices of the Peace, in and for the said Province, to be dealt with according to law. And whereas the said A. B. hath been apprehended under and by virtue of the said Warrant, and being now brought before (me) it is hereupon duly proved to (me) upon Oath, that the said A. B. is the same person who is named and charged in and by the said Indictment. These are therefore to command you the said Constable, in Her Majesty's Name, forthwith to take and safely convey the said A. B. to the said (House of Correction) at _____ in the said Province, and there to deliver him to the Keeper thereof, together with this precept: And I hereby command you the said Keeper, to receive the said A. B. into your custody, in the said House of Correction, and him there safely to keep, until he shall be thence delivered by due course of law.

Given under my hand and seal this _____ day of _____
 in the year of our Lord _____ at _____ in the Province aforesaid.

J. S. (L. S.)

SCHEDULE I.

Warrant to detain a Person indicted who is already in Custody for another Offence.

SOUTH AUSTRALIA, } To the Keeper of the (Common Gaol or House
TO WIT. } of Correction,) at in the
Province of South Australia.

Whereas it hath been duly certified by J. D. (*Officer of Court*) that &c. (*stating the Certificate.*) And whereas (I am) informed that the said A. B. is in your Custody in the said (Common Gaol) at aforesaid, charged with some offence or other matter: And it being now duly proved upon Oath before (me) that the said A. B. so indicted as aforesaid, and the said A. B. in your custody as aforesaid, are one and the same person: These are therefore to command you, in Her Majesty's name, to detain the said A. B. in your custody in the (Common Gaol) aforesaid, until by Her Majesty's Writ of Habeas Corpus, he shall be removed therefrom for the purpose of being tried upon the said Indictment, or until he shall otherwise be removed or discharged out of your custody by due course of law.

Given under my hand and seal this day of in the year of our Lord at in the Province aforesaid.

J. S. (L. S.)

SCHEDULE L 1.

Summons of a Witness.

SOUTH AUSTRALIA, } To E. F. of Labourer.
TO WIT. }

Whereas Information hath been laid before the undersigned (one) of Her Majesty's Justices of the Peace in and for the Province of South Australia, that A. B. &c. (*as in the Summons or Warrant against the accused*) and it hath been made to appear to me upon (Oath) that you are likely to give material Evidence for the (prosecution): These are therefore to require you to be and to appear before me, on next, at o'clock in the forenoon, at or before such other Justice or Justices of the Peace for the said Province, as may then be there, to testify what you shall know concerning the said charge so made, against the said A. B. as aforesaid. Herein fail not. Given under my hand and seal this day of in the year of our Lord at in the Province aforesaid.

J. S. (L. S.)

SCHEDULE L 2.

Warrant where a Witness has not obeyed a Summons.

SOUTH AUSTRALIA, } To _____ and
 TO WIT. } to all Constables and Peace Officers of
 the Province of South Australia.

Whereas Information having been laid before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said Province, that A. B. &c. (*as in the Summons,*) and it having been made to appear to (me) upon Oath, that E. F. of (Labourer) was likely to give material Evidence for the Prosecution, I did duly issue my Summons to the said E. F. requiring him to be and appear before me on _____ at _____ or before such other Justice or Justices of the Peace for the said Province, as might then be there, to testify what he should know respecting the said charge so made against the said A. B. as aforesaid : And whereas proof hath this day been made before me upon Oath of such Summons having been duly served upon the said E. F. And whereas the said E. F. hath neglected to appear at the time and place appointed by the said Summons, and no just excuse has been offered for such neglect : These are therefore to command you to bring and have the said E. F. before me, on _____ at _____ o'clock in the forenoon, at _____ or before such other Justice or Justices of the Peace for the said Province, as may then be there, to testify what he shall know concerning the said charge so made against the said A. B. as aforesaid.

Given under my hand and seal, this _____ day of _____
 in the year of our Lord _____ at _____ in the Province aforesaid.

J. S. (L. S.)

SCHEDULE L 3.

Warrant for a Witness in the first instance.

SOUTH AUSTRALIA, } To _____ and to all Constables
 TO WIT. } and Peace Officers in the Province of
 South Australia.

Whereas Information hath been laid before the undersigned [one] of Her Majesty's Justices of the Peace in and for the said Province, that &c. (*as in Summons.*) And it having been made to appear to (me) upon Oath, that E. F. of _____ (Labourer) is likely to give material Evidence for the Prosecution, and that it is probable that the said E. F. will not attend to give Evidence without being compelled so to do : These are therefore to command you to bring and have the said E. F. before (me,) on _____ at _____ o'clock in the forenoon at _____ or before such other Justice or Justices of the Peace for the said Province, as may then be there, to testify what he shall know concerning the said charge so made against the said A. B. as aforesaid.

Given under my hand and seal, this _____ day of _____
 in the year of our Lord _____ at _____ in the Province aforesaid.

J. S. (L. S.)

SCHEDULE L 4.

*Warrant of Commitment of a Witness for refusing to be sworn
or to give Evidence.*

SOUTH AUSTRALIA, } To Constable, and to the Keeper of the
TO WIT. } (House of Correction) at
in the Province of South Australia.

Whereas A. B. was lately charged before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said Province, for that, &c. (*as in the Summons;*) and it having been made to appear to (me) upon Oath, that E. F. of was likely to give material Evidence for the Prosecution, I duly issued my Summons to the said E. F. requiring him to be and appear before me on at or before such other Justice or Justices of the Peace as should then be there, to testify what he should know concerning the said charge so made against the said A. B. as aforesaid: And the said E. F. now appearing before me, (or being brought before me by virtue of a Warrant in that behalf to testify as aforesaid,) and being required to make Oath or Affirmation as a Witness in that behalf, hath now refused so to do,) or being duly sworn as a Witness doth now refuse to answer certain questions concerning the Premises which are here put to him, without offering any just excuse for such his refusal: These are therefore to command you the said to take the said E. F. and him safely to convey to the (House of Correction) at in the said Province, and there deliver him to the said Keeper thereof, together with this Precept: And I do hereby command you the said Keeper of the said (House of Correction) to receive the said E. F. into your Custody in the said (House of Correction) and him there safely keep for the space of days, for his said contempt, unless he shall in the meantime consent to be examined and to answer concerning the Premises, And for your so doing this shall be your sufficient Warrant.

Given under my hand and seal, this day of
in the year of our Lord at in the Province aforesaid.

J. S. (L. S.)

SCHEDULE M.

Depositions of Witnesses.

SOUTH AUSTRALIA, } The Examination of C. D. of
 TO WIT. } (Farmer) and E. F. of (Labourer)
 taken on [Oath] this day of in the year of our
 Lord at in the Province aforesaid, before the
 undersigned [one] of Her Majesty's Justices of the Peace for the said
 Province, in the presence and hearing of A. B. who is charged this
 day before [me] for that he, the said A. B., on at
 &c. (*describing the Offence as in a Warrant of
 Commitment*).

This Deponent C. D. on his [Oath] saith as follows, &c. [*stating
 the Deposition of the Witness as nearly as possible in the words he
 uses. When his Deposition is complete, let him sign it.*]

And this Deponent E. F. upon his [Oath] saith as follows, &c.

The above Depositions of C. D. and E. F. were taken and
 [sworn] before me, at on the day and year first above
 mentioned.

J. S.

(*To be signed by the Magistrate on every page, and initialed at
 all alterations.*)

SCHEDULE N.

Statement of the Accused.

SOUTH AUSTRALIA, } A. B. stands charged before the undersigned,
 TO WIT. } [one] of Her Majesty's Justices of the Peace in
 and for the Province aforesaid, this day of in
 the year of our Lord For that he, the said A. B., on
 the at &c. [*as in the Caption of the
 Depositions,*] and the said charge being read to the said A. B. and
 the Witnesses for the Prosecution, C. D. and E. F. being severally
 examined in his presence, the said A. B. is now addressed by me as
 follows: "Having heard the Evidence, do you wish to say anything
 in answer to the charge? you are not obliged to say any thing unless
 you desire to do so; but whatever you say will be taken down in
 writing, and may be given in Evidence against you upon your Trial."
 Whereupon the said A. B. saith as follows: [*Here state whatever the
 Prisoner may say, and in his very words, as nearly as possible. Get
 him to sign it if he will.*]

Taken before me, at the day and year first above
 mentioned.

J. S.

SCHEDULE O 1.

Recognizance to Prosecute or give Evidence

SOUTH AUSTRALIA, } Be it remembered, That on the day
 TO WIT. } of in the Year of our Lord
 C. D. of in the of in the said
 Province, [Farmer] or C. D. of No. 2, Street, in the
 of in the said Province, [Surgeon, of which said House
 he is Tenant,] personally came before me, one of Her Majesty's
 Justices of the Peace for the said Province, and acknowledged
 himself to owe to our Sovereign Lady the Queen her heirs and succes-
 sors the sum of of good and lawful Money of Great Britain,
 to be made and levied of his Goods and Chattels, Lands and Te-
 nements, to the use of our said Lady the Queen, her Heirs and Suc-
 cessors, if he the said C. D. shall fail in the Condition indorsed.

Taken and acknowledged the day and year first above
 mentioned, at before me

J. S.

Condition to prosecute.

The Condition of the within-written Recognizance is such, that
 whereas one A. B. was this day charged before me, J. S., Justice of
 the Peace within-mentioned, for that, &c. [*as in the Caption of the
 Depositions,*] if therefore, he, the said C. D., shall appear at the next
 Court of Oyer and Terminer, or general Gaol Delivery, [or as the
 case may be] to be holden in and for in the Province
 of South Australia, and there prefer, or cause to be preferred, a Bill
 of Indictment for the offence aforesaid against the said A. B. and
 there also duly prosecute such Indictment, then the said Recogni-
 zance to be void, or else to stand in full force and virtue.

Conditions to Prosecute and give Evidence.

The Condition of the within-written Recognizance is such, that, Whereas, one A. B. was this day charged before me, J. S., Justice of the Peace within-mentioned, for that, &c. (*as in the Caption of the Depositions*); if, therefore, he, the said C. D., shall appear at the next Court of Oyer and Terminer, or General Gaol Delivery, or as the case may be, to be holden in and for _____, in the Province of South Australia, and there prefer, or cause to be preferred, a Bill of Indictment against the said A. B., for the Offence aforesaid, and duly prosecute such Indictment, and give evidence thereon, as well to the Jurors who shall then inquire of the said Offence, as also to them who shall pass upon the Trial of the said A. B., then the said Recognizance to be void, or else to stand in full force and virtue.

Condition to give Evidence.

The Condition of the within-written Recognizance is such that, Whereas, one A. B. was this day charged before me, J. S., Justice of the Peace within-mentioned, for that, &c. (*as in the Caption of the Depositions*); if, therefore, he, the said C. D., shall appear at the next Court of Oyer and Terminer, or General Gaol Delivery, or as the case may be, to be holden in and for _____, in the Province of South Australia, and there give such evidence as he knoweth upon a Bill of Indictment to be then and there preferred against the said A. B. for the offence aforesaid, as well to the Jurors who shall there inquire of the said offence, as also to the Jurors who shall pass upon the Trial of the said A. B., if the said Bill shall be found a True Bill, then the said Recognizance to be void, or else to stand in full force and virtue.

SCHEDULE O 2.

Notice of the said Recognizance to be given to the Prosecutor and his Witnesses.

SOUTH AUSTRALIA, } Take Notice, that you, C. D., of
 TO WIT. } are bound in the sum of _____ to appear
 at the next Court of (*as the case may be*), in and for _____, in
 the Province of South Australia, to be holden at _____, in the
 said Province, and then and there [prosecute and] give evidence
 against A. B. : and unless you then appear there, and [prosecute
 and] give evidence accordingly, the Recognizance entered into by
 you will be forthwith levied on you.

Dated this _____ day of _____ 18
 J. S.

SCHEDULE P 1.

Commitment of Witness for refusing to enter into the Recognizance.

SOUTH AUSTRALIA, } To
 TO WIT. } Constable
 of Correction) at and to The Keeper of the (House
 in the Province of South Australia.

Whereas, A. B. was lately charged before the undersigned, [one] of Her Majesty's Justices of the Peace in and for the said Province of South Australia for that, &c. [*as in the Summons to the Witness*], and it having been made to appear to [me], upon Oath, that E. F., of , was likely to give material evidence for the prosecution, [I] duly issued [my] summons to the said E. F., requiring him to be and appear before [me] on , at , or before such other Justice or Justices of the Peace as should then be there, to testify what he should know concerning the said charge so made against the said A. B., as aforesaid; And the said E. F. now appearing before [me] or being brought before [me], by virtue of a warrant in that behalf, to testify as aforesaid), hath been now examined by [me], touching the premises, but being by [me] required to enter into a Recognizance conditioned to give evidence against the said A. B., hath now refused so to do; These are therefore to command you, the said (Constable) to take the said E. F., and him safely to convey to the [House of Correction] at , in the Province aforesaid, and there deliver him to the said Keeper thereof, together with this precept; and I do hereby command you, the said Keeper of the said [House of Correction], to receive the said E. F. into your custody in the said House of Correction, there to imprison and safely keep him until after the Trial of the said A. B., for the offence aforesaid, unless, in the meantime, the said E. F. shall duly enter into such Recognizance as aforesaid, in the sum of pounds, before some one Justice of the Peace for the said Province, conditioned in the usual form to appear at the next [Court of Oyer and Terminer, and General Gaol Delivery, or as the case may be], to be holden in and for the said Province, and there to give evidence before the Grand Jury upon any Bill of Indictment which may then and there be preferred against the said A. B. for the offence aforesaid, and also to give evidence upon the Trial of the said A. B. for the said offence, if a true Bill should be found against him for the same.

Given under my Hand and Seal this day of
 , in the year of Our Lord , at
 , in the Province aforesaid.

J. S. (L. S.)

SCHEDULE P 2.

Subsequent Order to discharge the Witness.

SOUTH AUSTRALIA, } To the Keeper of the (House of Correction)
 TO WIT. } at in the Province of
 South Australia.

Whereas by (my) order dated the
 day of (instant), reciting that A. B. was lately before
 them charged before (me), for a certain offence therein mentioned;
 and that E. F., having appeared before (me), and being examined as
 a witness for the prosecution in that behalf, refused to enter into a
 Recognizance to give evidence against the said A. B., and I, therefore,
 thereby committed the said E. F. to your custody, and required you
 safely to keep him until after the trial of the said A. B. for the of-
 fence aforesaid, unless, in the mean-time, he should enter into such
 recognizance as aforesaid. And whereas, for want of sufficient evi-
 dence against the said A. B., the said A. B. has not been committed,
 or holden to bail for the said offence, but on the contrary thereof has
 been since discharged, and it is, therefore, not necessary that the
 said E. F. should be detained longer in your custody. These are,
 therefore, to order and direct you, the said Keeper, to discharge the
 said E. F. out of your custody as to the said commitment, and suffer
 him to go at large.

Given under my hand and seal this day of
 in the year of our Lord at in the Province aforesaid.

J. S. (L. S.)

SCHEDULE Q 1.

Warrant remanding a Prisoner.

SOUTH AUSTRALIA, } To Constable,
 } and to the Keeper of the (House of Correc-
 } tion), at Adelaide, in the Province of South
 TO WIT. } Australia.

Whereas A. B. was this day charged before the undersigned, [one] of Her Majesty's Justices of the Peace in and for the said Province for that &c., [*as in the warrant to apprehend*]; and it appears to me to be necessary to remand the said A. B. These are therefore to command you, the said (Constable), in Her Majesty's name, forthwith to convey the said A. B. to the [House of Correction] at in the said Province, and there to deliver him to the Keeper thereof, together with this precept: And I hereby command you, the said Keeper, to receive the said A. B. into your custody in the said House of Correction, and there safely keep him until the day of instant, when I hereby command you to have him at at o'clock in the forenoon of the same day before me, or before such other Justice or Justices of the Peace for the said Province as may then be there, to answer further to the said charge and to be further dealt with according to Law, unless you shall be otherwise ordered in the mean time.

Given under my hand and seal this day of
 in the year of our Lord at in the Province aforesaid.

J. S. (L. S.)

SCHEDULE Q 2.

Recognizance of Bail instead of Remand on an adjournment of Examination.

SOUTH AUSTRALIA, } Be it remembered, that on the _____ day of
 TO WIT. } _____, in the _____ year of Our
 Lord _____, A. B., of _____, Labourer; L. M., of
 _____, Grocer, and N. O., of _____, Butcher, per-
 sonally came before me, one of Her Majesty's Justices of the Peace
 for the said Province, and severally acknowledged themselves to owe
 to Our Lady the Queen, the several Sums following: that is to say,
 the said A. B., the sum of _____; and the said L. M. and
 N. O., the sum of _____ each, of good and lawful Money
 of Great Britain, to be made and levied of their several goods and
 chattels, lands and tenements respectively, to the use of Our said
 Lady the Queen, her heirs and successors, if he, the said A. B., fail
 in the condition indorsed.

Taken and acknowledged the day and year first above-
 mentioned at _____, before me

J. S.

Condition.

The Condition of the within-written Recognizance is such,
 that, Whereas, the within bounden A. B. was this day [or on
 _____ last past] charged before me for that, &c. (*as in the war-
 rant*): and, Whereas, the examination of the witnesses for the pro-
 secution in this behalf is adjourned until the _____ day of
 _____ instant; if, therefore, the said A. B. shall appear
 before me on the said _____ day of _____ instant, at
 _____ o'clock in the forenoon, or before such other Justice or
 Justices of the Peace for the said Province, as may then be there, to
 answer [further] to the said Charge, and to be further dealt with
 according to Law, then the said Recognizance to be void, or else to
 stand in full force and virtue.

SCHEDULE Q 3.

Notice of such Recognizance to be given to the Accused and his Sureties.

SOUTH AUSTRALIA, } Take Notice, that you, A. B., of
 TO WIT. } are bound in the sum of _____, and your
 Sureties, L. M. and N. O., in the sum of _____ each, that
 you, A. B., appear before me, J. S., one of Her Majesty's Justices
 of the Peace for the Province of South Australia, on _____,
 the _____ day of _____ instant, at _____ o'clock
 in the forenoon, at _____, or before such other Justice or
 Justices of the Peace for the said Province, as may then be there,
 to answer further to the charge made against you by C. D., and to
 be further dealt with according to Law; and unless you, A. B.,
 personally appear accordingly, the Recognizances entered into by
 yourself and sureties will be forthwith levied on you and them.

Dated, this _____ day of _____, 18

J. S.

SCHEDULE Q 4.

Certificate of Non-appearance to be Indorsed on the Recognizance.

I hereby certify that the said A. B. hath not appeared at the time and place in the above condition mentioned, but therein hath made default, by reason whereof the within-written Recognizance is forfeited.

J. S.

SCHEDULE S 1.

Recognizance of Bail.

SOUTH AUSTRALIA, } Be it Remembered, that on the
 TO WIT. } day of _____, in the year of Our Lord
 _____, A. B., of _____, Labourer, S. M. of _____,
 Grocer, and N. O. of _____, Butcher, personally
 came before [us], the undersigned, (two) of Her Majesty's Justices
 of the Peace for the Province of South Australia, and severally
 acknowledged to owe to Our Lady the Queen the several sums
 following: [that is to say] the said A. B., the sum of _____
 and the said L. M. and N. O., the sum of _____ each, of good
 and lawful money of Great Britain, to be made and levied of their
 several goods and chattels, lands and tenements, respectively, to the
 use of Our said Lady the Queen, her heirs and successors, if he, the
 said A. B., fail in the condition indorsed.

Taken and acknowledged, the day and year first above-
 mentioned at _____, before us

J. S.

J. N.

Condition in Ordinary Cases.

The Condition of the within-written Recognizance is such, that, Whereas, the said A. B. was this day charged before [us], the Justices within-mentioned, for that, &c. [*us in the warrant*]; if, therefore, the said A. B. will appear at the next Court of Oyer and Terminer and General Gaol Delivery [or as the case may be], to be holden in and for the Province of South Australia, and there surrender himself into the custody of the Keeper of the [Common Gaol] there, and plead to such Indictment as may be found against him by the Grand Jury, for or in respect of the charge afore-said, and take his Trial upon the same, and not depart the said Court without leave, then the said Recognizance to be void, or else to stand in full force and virtue.

Condition where the Defendant is entitled to a Traverse.

The Condition of the within-written Recognizance is such, that, Whereas, the said A. B. was this day charged before [me], the Justice within-mentioned, for that, &c. [*as in the warrant or summons*]; if, therefore, the said A. B. will appear at the next Court of (as the case may be) to be holden in and for the Province of South Australia, and there plead to such Indictment as may be found against him by the Grand Jury, for or in respect of the charge aforesaid, and shall afterwards at the then next Court of, [as the case may be] surrender himself into the Custody of the Keeper of the [House of Correction] there, and take his Trial upon the said Indictment, and not depart the said Court without leave, then the said Recognizance to be void, or else to stand in full force and virtue.

SCHEDULE S 2.

Notice of the said Recognizance to be given to the Accused and his Bail.

Take Notice, that you A. B. of _____, are bound in the Sum of _____ and your [Sureties L. M. and N. O.] in the Sum of _____ each, that you A. B. appear, &c. [*as in the Condition of the Recognizance,*] and not depart the said Court without leave: And unless you, the said A. B., personally appear and plead, and take your Trial accordingly, the Recognizance entered into by you and your Sureties, shall be forthwith levied on you and them.

Dated this _____ day of _____ 18 _____

J. S.

SCHEDULE S 3.

Certificate of consent to Bail by the committing Justice, indorsed on the commitment.

I hereby certify, that I consent to the within-named A. B. being bailed by Recognizance, himself in _____, and (Two) Sureties in _____ each.

J. S.

SCHEDULE S 4.

The like on a separate paper.

Whereas A. B. was on the _____ committed by me to the (House of Correction) at _____ charged with, &c. (*naming the Offence shortly.*)

I hereby certify, that I consent to the said A. B. being bailed by Recognizance, himself in _____, and [Two] Sureties in _____ each

Dated the _____ day of _____ 18

J. S.

SCHEDULE S 5.

Warrant of Deliverance, on Bail being given for a Prisoner already committed.

SOUTH AUSTRALIA, } To the Keeper of the [House of Correction]
 TO WIT. } at in the Province
 of South Australia.

Whereas A. B. late of Labourer, hath
 before [us Two] of Her Majesty's Justices of the Peace in and for
 the said Province, entered into his own Recognizance, and found
 sufficient Sureties for his appearance at the next Court of Oyer and
 Terminer and general Gaol Delivery, [or as the case may be] to be
 holden in and for the said Province, to answer
 our Sovereign Lady the Queen, for that, &c. [as in the Commitment,
 or which he was taken and committed to your said [House of
 Correction]: These are, therefore, to command you in Her said
 Majesty's Name, that if the said A. B. do remain in your Custody,
 in the said [House of Correction] for the said cause, and for no
 other, you shall forthwith suffer him to go at large.

Given under our hands and seals, this _____ day of _____
 in the year of our Lord _____ at _____ in
 the Province aforesaid.

J. S. (L. S.)
 J. N. (L. S.)

SCHEDULE T 1.

Warrant of Commitment.

SOUTH AUSTRALIA,) To Constable, and to the
) Keeper of the [House of Correction]
) at in the Province of
) South Australia.
 TO WIT.

Whereas A. B., was this day charged before me, J. S. one of Her Majesty's Justices of the Peace in and for the said Province of South Australia, on the Oath of C. D. of Farmer and others, for that &c. [*stating shortly the Offence.*] These are therefore to command you the said to take the said A. B. and him safely to convey to the [House of Correction] at aforesaid, and there to deliver him to the Keeper thereof, together with this Precept: And I do hereby command you the said Keeper of the said [House of Correction,] to receive the said A. B. into your Custody, in the said [House of Correction] and there safely keep him until he shall be thence delivered by due course of Law.

Given under my hand and seal, this day of
 in the year of our Lord at in the Province
 aforesaid.

J. S. (L. S.)

SCHEDULE T 2.

Gaolor's Receipt to the Constable for the Prisoner.

I hereby certify, that I have received from W. T. the Body of A. B. together with a Warrant under the hand and seal of J. S. Esquire, One of Her Majesty's Justices of the Peace for the Province of South Australia, and that the said A. B. was, [sober, or as the case may be] at the time he was so delivered into my custody.

P. K.
 Keeper of the House of Correction, or
 [Common Gaol,] at