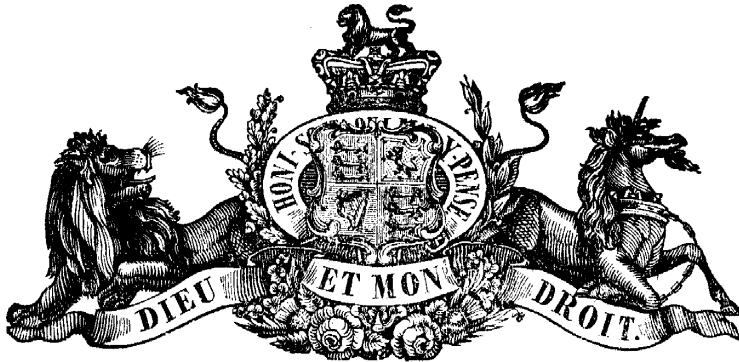


3-1843
20-1852
24-1874



ANNO QUINTO

VICTORIÆ REGINÆ.

No. 15.

Repealed: 2253-1935

AN ACT to regulate the Appointment and the Duties of the Sheriff of the Province of South Australia.

WHEREAS it is expedient to provide for the appointment of a Sheriff for the Province of South Australia and to define the duties to be performed by him BE IT THEREFORE ENACTED BY HIS EXCELLENCY GEORGE GREY ESQUIRE Governor and Comander-in-Chief of the Province of South Australia and its Dependencies by and with the advice and consent of the Legislative Council thereof ~~That it shall be lawful for His Excellency the Governor or Acting-Governor for the time being of this Province annually in or about the month of January in each year to nominate and appoint by warrant under his hand and seal a fit person to be Sheriff of the Province of South Australia which person so appointed shall continue in office until the First day of January then next and thereafter until a new appointment shall be made of a Sheriff who shall take upon himself the said office by making the declaration hereinafter mentioned Provided always that nothing herein contained shall be construed so as to prevent the appointment of the same person to be Sheriff for two or more years.~~

3-1843

II. And whereas Charles Burton Newenham Esquire is now acting as Sheriff of the said Province Be it Enacted That the said Charles
Burton

Burton Newenham shall be and continue to be Sheriff until the First day of January next and until a new appointment shall be made of a person who shall take upon himself the said office by making the declaration hereinafter mentioned. And in case any such Sheriff shall die in his office or depart from the Province or be suspended from his said office then another person shall as soon as conveniently may be after the death or departure or suspension of such Sheriff be in like manner appointed to the said office.

III. And be it Enacted That before any person so appointed shall take upon himself the office of Sheriff he shall in the presence of such Governor or Acting-Governor make a declaration that he will faithfully execute his office of Sheriff which declaration shall be in the following form that is to say—

“I A.B. do solemnly and sincerely declare that I will truly faithfully and honestly execute the office of Sheriff of the Province of South Australia in all things according to my skill and ability.

IV. And be it Enacted That the Sheriff shall have the charge and superintendence of all gaols and the custody of all imprisoned debtors and criminals. Provided that he shall not be liable to answer for the escape of any person imprisoned within the walls of any authorized prison or gaol unless the same shall happen by or through his wilful neglect or default.

V. And be it Enacted That the Sheriff shall be and be deemed an officer of the Supreme Court and shall be attendant thereon and be obedient to all the rules and orders thereof and shall execute all such process criminal and civil as shall be directed to him from the said Court for that purpose. Provided always that in any case where process may be awarded against the Sheriff or under such circumstances as would according to the Law of England make it improper for the Sheriff to execute the same then and in every such case it shall be lawful for the Supreme Court or any Judge thereof as the case may require to direct such process to any fit person to be appointed by such Court or Judge for that purpose. And the cause of such special proceeding shall be suggested and entered on the records of the said Court. Provided also and it is hereby Enacted That the Supreme Court shall from time to time appoint certain places within this Province where the Sheriff shall appoint deputies to act in his name and on his behalf either generally or in the granting of replevins only as to the Court shall seem fit and that the said Court shall from time to time fix certain limits beyond which the Sheriff shall not be compelled or compellable to go in person or by his
deputies

Repealed: 22-53-1935.

deputies or officers for the execution of the process of the said Court in any case between party and party and when the process of the said Court shall be so executed in any place beyond the limits so fixed the Supreme Court or some Judge thereof shall upon motion or summons direct by what person or persons and in what manner such process shall be executed and the terms and conditions which the party at whose instance the same shall be issued shall enter into in order to prevent any improper use or abuse of the process of the Court and the Sheriff shall in such case direct his special warrant to such person or persons as the Court shall direct for the execution of such process and shall not be responsible or liable for any act to be done in or in any way respecting the execution of such process but any person aggrieved under or by pretence of such special warrant shall and may seek his remedy under any security which may have been directed to be taken upon the occasion and which the said Court is hereby authorized to direct to be taken. Provided also that the Sheriff shall not be liable for the acts or defaults of any deputy appointed by him in any place appointed by the Court as aforesaid unless he shall have been wilfully negligent in making such appointment but every such deputy shall be liable for his own acts and defaults and for the acts and defaults of his sub-officers as if he were a principal Sheriff.

VI. And be it Enacted That the Sheriff shall have power by himself or his deputy in that behalf to grant replevin of goods distrained and shall in every case of replevin granted before any deliverance be made of the distress take in his own name from the plaintiff and two responsible persons as sureties a bond in double the value of the goods distrained (such value to be ascertained by the oath of one or more credible witness or witnesses not interested in the goods or distress which oath the Sheriff or his deputy is hereby authorized and required to administer) and for prosecuting the suit in the Supreme Court with effect and without delay and for duly returning the goods and chattels distrained in case a return shall be awarded and such bond shall be in the form of the Schedule hereunto annexed and may be assigned in such manner and such remedy and relief had and given thereunder as is directed in and by an Act of Parliament made and passed in the Eleventh year of His Majesty King George the Second intituled "An Act for the more effectual securing the payment of rents and preventing frauds by tenants."

VII. And be it Enacted That it shall be lawful for the Supreme Court or any Judge thereof upon the application of the Sheriff or any of his officers either on motion or summons to give him or them such relief by rule or order in the case of conflicting claims arising out of the execution of any process against goods and chattels issued
by

Repealed: 2253-1935

by or under the authority of the said Court as any Court in England can give to a Sheriff under and by virtue of an Act of Parliament made and passed in the second year of His late Majesty King William the Fourth intituled "An Act to enable Courts of Law to give relief against adverse claims made upon persons having no interest in the subject of such claims" And in every case in which it shall appear that the Sheriff and his officers have acted with diligence impartiality and fairness it shall be further lawful for such Court or Judge to make such order as shall seem just for the payment to the Sheriff by the conflicting claimants or such of them as the Court or Judge shall direct of all such reasonable costs as shall be incurred by the Sheriff in or about obtaining such rule or order.

VIII. And be it Enacted That in every case in which the Sheriff shall have taken bail for the appearance in Court of a defendant in any action in pursuance of any writ or process and such party shall make default in appearance according to the rules of the Court it shall be lawful for the plaintiff to take an assignment of such bail bond and to proceed thereon as he might do in any superior Court in England but it shall not be lawful for him to proceed in the first instance against the Sheriff for such default of appearance but the Sheriff shall be answerable for the sufficiency of the bail taken by him in the same manner and degree as he is by the law of England answerable for the sufficiency of sureties taken by him in an action of replevin Provided that at any time after default shall be so made in appearance by putting in and perfecting bail according to the rules of the Court it shall be lawful for the Sheriff to take the defendant and lodge him in prison to answer the plaintiff in such action and such taking shall be deemed to be a taking according to the exigency of the writ Provided also that in such last mentioned case the Sheriff shall be liable to pay the plaintiff such costs as he may have incurred after and by reason of such default in appearance and before notice to him or his attorney of the lodging of such defendant in prison.

IX. And be it Enacted That it shall be lawful for the Sheriff from time to time to take and receive such sums of money for poundage on the execution of writs of execution as the Sheriffs of England are by any statute authorized to take and receive in the like case and that the Sheriff and his officers shall and may take and receive such other fees for the granting of warrants and other matters as shall from time to time be allowed by the Judge or Judges of the Supreme Court a Schedule of which fees shall as soon as conveniently may be after the allowance thereof be published in the *Government Gazette* of this Province

Repealed by Act

20-52

Province all which poundage and fees shall be duly accounted for and paid over by the Sheriff to the Colonial Treasurer for the public uses of the Province at the end of every quarter of a year or otherwise applied and appropriated as His Excellency the Governor by and with the advice and consent of the Executive Council may be pleased from time to time to direct.

Repealed by Act.

20/52

GEORGE GREY,
Governor of South Australia.

*Passed in Council this Twenty-second day
of March One Thousand Eight Hundred
and Forty-two.*

A. M. MUNDY,
Clerk of Council.

SCHEDULE.

SCHEDULE REFERRED TO IN THIS ACT.

REPLEVIN BOND.

Know all Men by these presents that We

A. B. of	Carpenter
C. D. of	Grocer and
E. F. of	Merchant

are jointly and severally bound to C. B. Newenham Esqr. Sheriff of the Province of South Australia in the sum of
of lawful money to be paid to the said Sheriff or his certain Attorney executors administrators or assigns for which payment to be well and truly made we bind ourselves and each and every of us in the whole and each and every of our heirs executors and administrators Sealed with our Seals this day of

The condition of this obligation is such that if the above bounden A. B. do within one calendar month from the date hereof commence a suit in Her Majesty's Supreme Court of this Province for the taking and unjustly detaining of his goods and chattels to wit (here set forth the goods &c. distrained) and do prosecute the same with effect and without delay and make a return of the said goods and chattels if a return thereof shall be adjudged then this present obligation shall be void and of none effect or else shall be and remain in full force and virtue.