

New Zealand.



ANALYSIS.

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1883, No. 5.

AN ACT to consolidate certain Enactments regulating the Appointment and Duties of Sheriffs. Title.
[10th August, 1883.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Sheriffs Act, 1883." Short Title.
2. The Acts and enactments enumerated in the Schedule are hereby repealed. Repeals.
3. Where any unrepealed Act or statutory rule refers to any Act or enactment repealed by this Act, such reference shall be construed and shall operate as if it had been made to the corresponding provisions of this Act. References to repealed Acts.

SHERIFFS AND THEIR DUTIES.

4. The Governor may appoint fit persons to be Sheriffs within the colony, who shall hold their offices during pleasure; and may define the districts within which the jurisdiction of the several Sheriffs shall be exercised, and the limits of such districts from time to time may alter as occasion may be. Appointment of Sheriffs. Districts to be defined.

5. The several Sheriffs who are now acting shall be deemed to have been appointed, and the several defined districts for which they are respectively acting shall be deemed to have been defined, by the Governor under this Act. Sheriffs now acting and districts defined to be deemed appointed under this Act.

Sheriff's oath.

6. Every Sheriff shall, upon his appointment, take the oaths or affirmations prescribed by "The Promissory Oaths Act, 1873," and such oaths or affirmations shall be taken before a Judge of the Supreme Court, or some person specially appointed by such Judge.

Security to be given.

7. Every Sheriff shall, from time to time, give security for good behaviour in his office by bond to Her Majesty, by himself and such sureties, and in such reasonable sum or sums respectively, as the Governor may direct.

Existing securities to remain in force.

All bonds or other securities for good behaviour in office given by or for any Sheriff, under the provisions of any law heretofore in force or otherwise, shall remain in full force, and may be put in suit in like manner as if the same had been given under this Act.

Sureties may withdraw.

8. Every such surety may withdraw from any liability for the future under any such bond by giving to the Minister of Justice three months' notice of his intended withdrawal, without prejudice, nevertheless, to any previous liability for breach of the condition of the bond.

Duties, &c., of Sheriffs.

9. Every Sheriff shall have such powers and privileges, duties and responsibilities, as a Sheriff by law hath or is liable to in England as a ministerial officer of one of Her Majesty's Courts at Westminster.

Sheriff to act as Queen's bailiff.

10. In addition to his powers and privileges, duties and responsibilities, as a ministerial officer, each Sheriff shall also have and exercise within his district the powers and duties of the Queen's bailiff.

Sheriff not to act as barrister or solicitor.

11. No Sheriff shall be in any way concerned in any suit in any Court within the colony either as barrister, solicitor, or agent.

Service of process when Sheriff disqualified.

12. Whenever any process shall issue which the Sheriff ought not by law to execute, the Supreme Court shall authorize some fit person to execute the same; and in every such case the cause of such special proceeding shall be entered upon the records of the Court.

Persons arrested by Sheriffs may be committed to prison at once.

13. Whenever any Sheriff, Deputy-Sheriff, bailiff, or other officer has arrested any person, under or by virtue of any writ or process whatsoever, such Sheriff, Deputy-Sheriff, bailiff, or other officer forthwith thereafter may convey such person, or cause him to be conveyed, to such prison as he ought to be sent to by virtue of the writ or process against him.

POUNDAGE AND FEES.

Calculation of Sheriffs' poundage.

14. Whenever a Sheriff makes a levy under due authority he shall be entitled to levy poundage thereon as follows:—

- (1.) Where the goods are sold the poundage shall be calculated on the gross amount realized by the sale;
- (2.) Where the Sheriff is authorized or directed by the execution creditor to withdraw before sale, or the execution debtor pays the sum to be levied indorsed on the writ, with fees and expenses, the poundage shall be calculated on the sum so indorsed:

Provided that the execution debtor may, if he thinks fit, require in writing that the goods shall be appraised, and in such case the Sheriff shall appoint a competent appraiser.

Appointment of, and oath taken by, appraiser.

15. Where an appraiser is appointed the Sheriff shall deliver to him an inventory of the goods in his possession under the execution,

and shall administer to the appraiser the following oath: "You shall well and truly appraise the goods and chattels mentioned in this inventory according to the best of your judgment."

The poundage payable shall be calculated on the amount so fixed, instead of on the amount indorsed on the writ to be levied.

A commission shall be payable to the appraiser, of such sum as the Sheriff thinks fit, not exceeding sixpence in the pound on the sum appraised. Commission to appraiser.

16. The word "goods" in the last two preceding sections includes every description of personal property liable to be taken in execution. "Goods" defined.

17. In any case not provided for by this Act the Chief Justice of the Supreme Court may, from time to time, fix, alter, and abolish the fees and poundage to be paid and taken by any Sheriff, Sheriff's officer, bailiff, or other person employed under the Sheriff upon any proceedings in the Supreme Court or otherwise in respect of his office or employment. Sheriffs' and poundage fees.

Such fees and poundage shall be paid and taken as soon as they shall have been approved of by the Governor in Council.

All fees leviable or that may be taken under any Acts repealed by this Act, and in force at the passing of this Act, shall continue to be levied and taken until altered or revoked under this Act.

18. Any Judge of the Supreme Court, on the application of the Sheriff in any case, may fix the amount of any fee, and may order that the same may be taken and received by any Sheriff, or his officer, bailiff, or other person employed as aforesaid, for or in respect of the execution of any writ of *habere facias possessionem*, or any other proceeding. Fee in special cases.

On the making of such order such fee shall be payable to and receivable by the Sheriff as if the same had been fixed and approved under the last preceding section.

19. All fees taken by any Sheriff under any regulations made by virtue of this Act, and all poundage levied as aforesaid, shall be forthwith paid into the Public Account, and shall form part of the Consolidated Fund. Fees and poundage to be paid into Public Account.

DEPUTY-SHERIFFS AND ACTING-SHERIFFS.

20. Wherever the Sheriff of the Sheriff's district within which any Court is sitting shall not be present at such sitting such Court, or the Judge thereof, may, by order, appoint the Registrar or Clerk of such Court, or such other person as the Court or Judge may think fit, to exercise and perform, in the name and on behalf of such Sheriff, at and during such sitting or any other period the Court or Judge may order, or in a particular case only, all or any of the powers and duties conferred on, vested in, or imposed upon such Sheriff by this Act or "The Juries Act, 1880," or any other Act. Where Sheriff not present at sitting of Court, duties of Sheriff may be performed by any person appointed by the Court or Judge.

And the Court may make to such person, instead of to the Sheriff, any such precept or command as it is authorized to make to such Sheriff.

21. Upon the happening of any vacancy in the office of Sheriff of any Sheriff's district the Governor may, by warrant under his hand, appoint any Registrar or Deputy-Registrar of the Supreme Court, Provision in cases of vacancy in office of Sheriff.

acting in and for the Supreme Court district within which such Sheriff's district wholly or partly lies, to perform the duties of Sheriff within and for such Sheriff's district.

Any such Registrar or Deputy-Registrar shall, within and for such Sheriff's district, have, perform, exercise, and be subject to all the powers, duties, responsibilities, and liabilities of Sheriff of such Sheriff's district, whether such duties, powers, responsibilities, and liabilities are created by or arise by common law or statute.

In all cases where by any law or statute any writ, warrant, instrument, or other matter or thing is to be delivered or addressed by a Registrar of the Supreme Court to a Sheriff of a Sheriff's district, or by a Sheriff of a Sheriff's district to a Registrar of the Supreme Court, then, notwithstanding that such offices are held by one and the same person, the like proceedings shall be had and taken as nearly as possible as if the offices were held by distinct persons.

Governor may
appoint Deputy-
Sheriffs.

22. The Governor at any time may appoint a fit and proper person to be Deputy-Sheriff for any district, to act in case of the death, illness, or unavoidable absence of any Sheriff; and such Deputy shall, during the time he shall so act, have all the powers and privileges, and shall perform all the duties, and be subject to the responsibilities of the Sheriff.

When Deputies to
act.

23. Whenever the Sheriff of any district shall die the Deputy-Sheriff shall act as such from the day of such death; and, in the case of illness or absence, shall act as such from such day as the Sheriff shall certify under his hand to the Deputy-Sheriff that he is ill and unable to perform his duties, or that he is about to leave his district; and such Deputy-Sheriff shall cease to act as such on the day on which he shall receive from the Sheriff a certificate under his hand to the effect that he has resumed his duties.

No Sheriff of any district shall have any power to act during such time as the Deputy-Sheriff shall be lawfully acting.

Schedule.

SCHEDULE.

ACTS REPEALED.

1858, No. 24.—The Sheriffs Act, 1858.

1863, No. 19.—The Sheriffs Act Amendment Act, 1863. Section 4.

1864, No. 16.—The Sheriffs Act Amendment Act, 1864.

1871, No. 43.—The Sheriffs Act Amendment Act, 1871.

1873, No. 4.—The Sheriffs Act Amendment Act, 1873.

1882, No. 12.—The Sheriffs Act 1858 Amendment Act, 1882.